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WA.No.2743 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN**  
**and**  
**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Writ Appeal No.2743 of 2022

K.Valarmathi  
Appellant

..

Versus

1. The Chief Secretary to Government,  
Secretariat, Fort St. George,  
Chennai - 600 009.
2. The Additional Secretary to Government,  
Energy Department, Secretariat,  
Fort St.George, Chennai - 600 009.
3. The Chairman Cum Managing Director,  
TANGEDCO Ltd., N.P.K.R.R.Maalgai,  
144, Anna Salai, Chennai - 600 002.
4. The Chief Engineer / Personnel,  
TANGEDCO Ltd., N.P.K.R.R.Maalgai,  
144, Anna Salai, Chennai - 600 002.
5. The Superintending Engineer,  
TANGEDCO Ltd., Capper Malai,  
Cuddalore District.
6. The Assistant Executive Engineer,  
TANGEDCO, Kovilpatti,  
Tuticorin District.

.. Respondents



WA.No.2743 of 2022

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 07.09.2022 made in WP.No.12557 of 2017.

For Appellant : M/s. Dakshayani Reddy, Senior Advocate  
for Mr.P.Arumugavel

For R1 & R2 : Mr.S.Balamurugan,  
Government Advocate

For R3 to R6 : Mr.P.Subramanian,  
Standing Counsel

### **JUDGMENT**

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

Challenging the order of dismissal passed by the learned Judge in W.P.No.12557 of 2017 on 07.09.2022, the present writ appeal has been filed by the writ petitioner.

2.The appellant's father by name K.Kalyanasundaram, was working as Assistant Executive Engineer in TANGEDCO, Virudhachalam, and he died on 25.05.2012 while he was in service. The appellant, who completed B.E.Degree, submitted an application before the authorities on 22.03.2013 for providing her compassionate appointment. At that time, she was unmarried and her mother and brother expressed no objection for providing compassionate appointment to the appellant. While so, she got married on 12.05.2013, with a person employed in a



private firm at Dubai. Resultantly, by order dated 06.08.2016, the application submitted by the appellant was rejected on the ground that her husband was earning a substantial sum as salary and hence, the family of the appellant was not in indigent circumstances. Stating that the husband of the appellant lost his job at Dubai and further, the concerned Tahsildar gave a certificate to the effect that the family of the appellant was in indigent circumstances, the appellant filed a writ petition in W.P.No.12557 of 2017 for quashing the rejection order and for directing the fifth respondent to conduct enquiry afresh, and pass appropriate orders with respect to compassionate appointment. By order dated 07.09.2022, the learned Judge dismissed the writ petition, on the premise that soon after submitting the application for compassionate appointment, the appellant got married and her husband was earning a substantial sum as salary. Challenging the same, the present appeal has been filed.

3.The learned senior counsel for the appellant submitted that even though the appellant submitted her application along with relevant records on 12.03.2013 to the fifth respondent seeking for compassionate appointment, ie., within ten months from the date of death of her father, the respondents deliberately kept her application pending for three years and thereafter, passed the rejection order on 06.08.2016 and hence, there is no fault on the part of the appellant for the delay. It is further submitted that the appellant was not married either at the time of death of her father



or on the date of submission of her application and therefore, rejecting her application after three years, on the ground that her husband was gainfully employed, is unsustainable. In fact, on the date of passing of the rejection order by the authority, the appellant's husband was not employed anywhere; and that, the appellant's husband deserted the appellant and treated her with cruelty. It is also submitted that when the fact remained that the Tahsildar, Kovilpatti has issued the Indigent Circumstance Certificate on 18.04.2013 stating that nobody from the family of the appellant's father is employed in Government job or in a private company and that, after the demise of the appellant's father, there is no income for his family and his family is in indigent circumstances, thereby making it crystal clear that the family is in indigent circumstances, it is not correct on the part of the learned Judge to pass an order justifying the rejection order passed by the authority. Therefore, the learned counsel sought to quash the order of the learned Judge and allow this writ appeal.

4. On the other hand, the learned counsel appearing for the respondents / TANGEDCO submitted that the learned Judge has passed the impugned order after taking note of all the facts and circumstances in a proper manner and hence, the same does not warrant any interference in the hands of this Court.

5. Heard the learned counsel on either side and perused the records



carefully and meticulously.

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6.It is not in dispute that the father of the appellant died on 25.05.2012, while he was in service in the respondent department and thereafter, the appellant sought compassionate appointment within the limitation period, by making application on 12.03.2013, enclosing no objection expressed by the other legal heirs of the deceased employee. Without properly verifying the actual facts, the respondent authorities rejected the claim of the appellant. The said rejection order was put to challenge by the appellant by filing writ petition, which was dismissed by the learned Judge by the order impugned in this writ appeal. While so, it was observed that the father of the appellant / writ petitioner died in the year 2012 and almost 10 years had elapsed; that soon after the submission of the application seeking compassionate appointment, she got married and her husband was working at Dubai earning a substantial amount of salary and the same was verified by the authorities and they came to the conclusion that her family was not in indigent circumstances.

7.According to the appellant, after marriage, the husband of the appellant lost his job in Dubai and further, the family of the appellant was in indigent circumstances, which has been substantiated by producing the certificate issued by the concerned Tahsildar. That apart, during the course of hearing, the learned senior counsel for the appellant filed an affidavit dated 24.08.2023 of the appellant, in



which it is stated that the appellant, her mother and younger brother are the legal heirs of the deceased employee and nobody in the family was employed and they are living depending upon her father's monthly family pension of Rs.30,000/-. It is further stated that after her marriage on 12.05.2013, she went with her husband to Dubai on a temporary residence visa and stayed with her husband during the periods from 21.11.2013 to 17.01.2014, 24.01.2014 to 08.06.2014 and 10.07.2014 to 30.10.2014 and thereafter, she was residing with her mother till June 2016. Subsequently, her husband was ordered to leave Dubai and therefore, he returned to India on 16.06.2016; and he deserted her and treated her with cruelty; and at present, the appellant and her son are residing along with her mother and are struggling for daily essentials. It is also stated that she filed a petition for divorce in IDOP No.197 of 2022, which was decreed by the Principal District Court, Srivilliputhur on 22.11.2022. In the year 2018, she requested her husband to pay maintenance to her, but he has not paid any amount, saying that he is getting only a sum of Rs.27,000/- per month and staying with his parents and they are dependent on him. The appellant's husband further went on to threaten the appellant that if she asks for maintenance, he will take the child from her custody. In fact, on 15.04.2023, he really took her child from custody and escaped from there. In this connection, the appellant had lodged a complaint in CSR. No. 136 of 2023 before the Inspector of Police, Krishnankovil Police Station, Virudhunagar District, and thereafter, she got



back her child at the intervention of the Police. It is also stated that after getting divorce, she lodged a complaint before the Inspector, AWPS, Srivilliputhur and the same has been registered in CSR No.219 of 2023 for recovery of Stridhana Articles and the same is pending for action. To substantiate the averments so made in the affidavit dated 24.08.2023, additional typed set of papers have been filed by the appellant, containing the copies of the passport and visa of the appellant, pay slip of her husband, CSR Nos.136 of 2023 and 219 of 2023 in respect of the complaints given by her.

8.At the outset, it is important to refer to Board order (Ms) No.13 dated 08.08.2011, issued by the respondent, as per which, the compassionate appointment be granted to the girl also, who is not married at the time of application and thereafter being married, subject to production of declaration that she will help the family of her parents and that, the person who is going to marry the unmarried girl, who had requested for appointment on compassionate grounds, has to give a declaration that he will not object the help being extended by her to her parents, in future.

9.As already stated above, the application seeking compassionate appointment was made by the appellant on 22.03.2013 i.e., well within the limitation time; and that, the other legal heirs of the deceased employee expressed their consent



for providing employment to the appellant on compassionate grounds. Subsequently, she got married on 12.05.2013, but her husband lost his job and returned to India on 16.06.2016. Without verifying the actual position, the respondent authorities rejected the appellant's application on 06.08.2016. Within the reasonable time, the appellant preferred the writ petition on 19.04.2017 challenging the said rejection order and the same was dismissed only on 07.09.2022 and thus, there is no delay on the part of the appellant in approaching the court for claiming the relief.

10. That apart, the claim of the appellant was rejected mainly on the ground that her family was not in indigent circumstances. Now, the documents filed by the appellant by way of additional typed set of documents as referred to above, would make it clear that she got divorce from her husband and now, living with her son in her mother's house and the entire family of the appellant is depending upon the family pension of her father; and that, the appellant is not getting any help from her husband, even maintenance.

11. In view of the above stated reasons, the orders impugned herein as well as in the writ petition, are set aside and a direction is issued to the respondent authorities to consider the claim of the appellant for compassionate appointment, if she is otherwise eligible, and offer her an appointment in the respondent-Department.



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The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this judgment.

12. Accordingly, the writ appeal is allowed. No costs.

[R.M.D., J.] [M.S.Q., J.]

03.10.2023

Index : Yes / No  
Internet : Yes / No  
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To

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**R. MAHADEVAN, J**  
and  
**MOHAMMED SHAFFIQ, J**



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6. The Assistant Executive Engineer,  
TANGEDCO, Kovilpatti,  
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