



W.P.No.15368 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.15368 of 2017

Indira

... Petitioner

-VS-

1. The Chairman,
The Tamil Nadu Generation and Distribution Corporation,
TANGEDCO,
Anna Salai,
Chennai-2.

2. The Chief Engineer (Personnel),
TANGEDCO,
Anna Salai,
Chennai-2.

3. The Superintending Engineer,
Thiruvannamalai Electricity Distribution Circle,
TANGEDCO,
Thiruvannamalai-606 604.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India



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praying to issue a Writ of Mandamus for a direction to the respondents to consider the representation dated 16.06.2016 of the petitioner and consequently, direct the respondents to provide job assistance on compassionate ground and to disbursement of death-cum-terminal and pay family pension.

For Petitioner : Mr.B.Manoharan

For Respondents : Mr.K.Rajkumar
Standing Counsel

ORDER

This Writ Petition has been filed for a direction to the respondents to consider the representation dated 16.06.2016 of the petitioner and consequently, direct the respondents to provide job assistance on compassionate ground as also to disburse the death-cum-terminal benefits and pay family pension.

2.It is the case of the petitioner that her husband joined as a Contract Labour in the Respondent Board and was subsequently absorbed as a Temporary Causal Labour (TCL) vide proceedings of the 3rd



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respondent dated 26/06/2010. While he was on duty on 22.01.2011, he met with an accident and died on account of falling down of wires, leaving behind the petitioner (wife), two female children aged 14 and 12, a male child aged 6 years, aged in-laws. It is further case of the petitioner that a case was registered in Crime No.128/2011 on the file of Thiruvanamalai East Police Station based on the complaint given by Junior Engineer TANGEDCO. It is the grievance of the petitioner that inspite of the repeated request, till date, the Respondent Board neither settled death benefits and payment of family pension nor provided job assistance on compassionate ground. In a similar case, where a Temporary Causal Labour died due to fallen from the post, this Court, by order dated 09.09.2014 made in W.P.No.23101 of 2012, directed the respondent Board to settle death cum terminal and also pay family pension and further directed to provide job assistance to the legal heir of the deceased employee following the Hon'ble Division Bench of this Hon'ble Court in reported in CDJ 2012 MHC 3840 and various other Judgments.



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3. It is also the case of the petitioner that the petitioner made a fresh representation on 02.06.2016 to the 1st Respondent for seeking death cum terminal benefits and job assistance on compassionate ground and there is no response on the same till now. Since her husband was identified as a Contract Labour working for a long time, a formal order was issued and absorbed as Temporary Causal Labour (TCL) vide proceedings of the 3rd respondent dated 26.06.2010 and died while on duty. The petitioner, having left with no other efficacious remedy, has approached this Court, seeking for the afore-mentioned relief.

4. The 3rd respondent has filed a counter affidavit, stating that though the application for compassionate appointment had been filed within three years, the deceased employee was a Temporary Casual Labourer and therefore, as per the guidelines dated 11.06.2020 issued by TANGEDCO, the request for employment on compassionate ground cannot be acceded to. However, all other benefits of the deceased were disbursed to the petitioner. It is also stated in the counter affidavit that in a catena of judgments of the Apex Court, reported in 2000 (7) SCC 192, 1994 (4) SCC 138,



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1995 (6) SCC 476, 1998 (5) SCC 192, 2008 (15) SCC 560, etc., it was held that there is no vested right to claim appointment by the deceased heirs of the employee. It is pointed out that in the absence of Notification under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970, no claim can be made by the petitioner for absorption/appointment. Thus, it is prayed that the Writ Petition is to be dismissed.

5. Heard the learned counsel appearing on either side and perused the material on record.

6. On a perusal of the records, it is seen that while the petitioner's husband was on duty on 22.01.2011, he met with an accident and died on account of falling down of wires, leaving behind the petitioner, two female children aged 14 and 12, a male child aged 6 years and aged in-laws. In spite of repeated request, the respondents neither settled the death benefits and payment of family pension nor provided job assistance on compassionate ground till date. Though the application for compassionate



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appointment had been filed within three years, the deceased employee was a Temporary Casual Labourer and therefore, as per the guidelines dated 11.06.2020 issued by TANGEDCO, the request for employment on compassionate ground cannot be acceded to. It is the contention of the learned counsel for the petitioner that the husband of the petitioner was a contract labourer, who had worked continuously under the respondents.

7.In special cases, the proposal for compassionate appointment to the legal heirs of Bonafide Contract Labourer, who happened to die in fatal electrical accident could be considered by the respondents. In view of all these aspects, this Court holds that the respondents have an obligation to discharge their duty, recognising the work done by the husband of the petitioner and that obligation is to provide employment on compassionate basis to the one of the legal heirs of the deceased. The claim made by the petitioner has to be considered by the respondents.

8.Accordingly, this Writ Petition is disposed of. The respondents are



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directed to pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

23.11.2023

Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

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