



W.P.No.32991 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.32991 of 2023

R.Divya

...Petitioner

Vs

1. The Chief Engineer (Appointing Authority),
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai 600 002.

2. The Superintending Engineer,
Tamil Nadu Electricity Board (Central),
Chennai 600 034

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 06.10.2023 and provide employment to the petitioner on compassionate grounds.

For Petitioner : Mr.T.N.Rajagopalan

For Respondents : Mr.David Sundar Singh
Standing counsel for R1 and R2



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ORDER

The petitioner is the daughter of one S.Ramesh and while he was serving as a Field Assistant under the TANGEDCO, had died in an accident on 26.09.2015. The petitioner's mother R.Amudha had made an application on 10.05.2018, seeking for compassionate appointment for her daughter / the petitioner herein, which application was within a period of three years from the date of death of the employee. Thereafter, the petitioner had also made an application seeking for compassionate appointment for herself on 19.12.2019. The petitioner became a major on 11.11.2022 only. In this background, the petitioner's mothers' application seeking for compassionate appointment was initially rejected on 02.07.2018 on the ground that at the time of application, the petitioner was a minor. In the light of these developments, the present writ petition has been filed seeking for mandamus to consider the petitioner representation dated 06.10.2023 seeking for compassionate appointment.

2. The Government in GO Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020, had issued a comprehensive



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guidelines for appointment on compassionate grounds. This Government order was adopted by TANGEDCO in FB TANGEDCO Proceedings No.11 dated 11.06.2020 and among those guidelines, one of the condition is that the legal heirs seeking for compassionate appointment should have crossed 18 years of age. However, the Government had thereafter framed the Tamil Nadu Civil Services Appointment on Compassionate Grounds Rules 2023 and in modification of GO Ms.No.18 dated 23.01.2020, had relaxed the minimum age for a legal heir to seek for compassionate appointment. Rule 6 of the aforesaid rules reads as follows :-

6. Age Limit – (1) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made.

(a) the spouse of the deceased or medically invalidated Government Servant or the parent of the deceased Government Servant, must not have completed fifty years of age; and

(b) the son, daughter, brother or sister of the deceased or medically invalidated Government Servant must not have completed forty years of age.

(2) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate



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grounds is to be made, there shall be no minimum age limit for the applicant on the date of application for appointment: Provided that appointment shall not be provided unless the applicant completes 18 years of age.

3. The scheme of compassionate appointment, whenever introduced by the Government, has been successively adopted by TANGEDCO, till the last GO MS No.18 dated 23.01.2020. This apart, this Court on several occasions have held that whenever an application by spouse of the deceased employee is made within a period of three years, while the son or daughter of the late employee is a minor, the subsequent application by the son or daughter, within three years from the date of which he or she become attains major, can be sustainable. One such decision of this Court in the case of ***[S.Nagarajan Vs. The Superintending Engineer, Tamilnadu Electricity Distribution Circle, Tirunelveli - 627 002]*** in ***WP No. No.15658 of 2012 dated 04.04.2014***, the learned Single Judge of this Court placed reliance on various orders of the Hon'ble Division Bench of this Court and had come to the conclusion that an application by a legal heir within three years after attaining majority would be maintainable. The relevant portion of the order reads



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as follows :-

18. The above judgment is squarely applicable to the present case. Admittedly, in the present case, the widow of the deceased has submitted the application within time and the application seeking appointment for the petitioner was submitted within 3 years after attaining majority. Nothing is brought before this Court to show that the family is not in indigent circumstances and this Court is of the opinion that the widow of the deceased must have appointed on compassionate grounds in some job based on her qualification. This Court is also of the view that when a person cannot be employed in government services before the completion of 18 years, he could not make an application seeking appointment during his period of minority. Therefore the period of three years for a minor son/daughter can commence only after he/she attains majority. Therefore, for all the reasons stated above, the application made on behalf of the son cannot be treated as time barred.



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4. The learned counsel for the petitioner submitted that at the time of death of the employee, the family was in indigent circumstances and there was no earning member in the family. The deceased employee was survived by the petitioner's mother, who was working as a servant maid and one elder sister, who is also mentally challenged. He also submitted that the indigent circumstances of the family and the severe financial crisis continues till date.

5. Taking these submissions into account, this Court is of the view that when the petitioner's mother had made an application within three years from the date of death of the employee and the petitioner also having made an application within three years from the date of which she had attained majority, the petitioner's claim for compassionate appointment can be considered. Accordingly, there shall be a direction to the respondents herein to forthwith pass orders on the petitioner's application dated 06.10.2023 and pass appropriate orders appointing the petitioner to any suitable post on compassionate grounds. Such orders shall be passed atleast within a period of three months from the date of receipt of a copy of this order.



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6. Accordingly, this writ petition stands allowed. No costs.

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Index:Yes/No

Speaking order/Non-speaking order

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