



W.P.(MD).No.3284 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.3284 of 2021

and

W.M.P(MD)No.2621 of 2021

P.S.Rajangam

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.800, Anna Salai,
Chennai.

2 .The Chief Engineer
Tamil Nadu Generation and Distribution
Corporation Limited,
No.800, Anna Salai,
Chennai.

3.The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation Limited Distribution,
K.Pudur,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceeding of the 3rd Respondent through



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Ga.No.MEPO/PERU/MADU/Ni.A/Ni.Pi.2/E.Ni.U/Ko.Varisu Velai/A.No. 351/2020, Dated 22.07.2020 and quash the same consequently direct the 3rd Respondent to appoint the petitioner on Compassionate ground based on his qualification.

For Petitioner : Mr.R.Santhanam

For R2 & R3 : M/s.M.Parameshwari

ORDER

The present writ petition has been filed to call for the records relating to the proceeding of the 3rd Respondent through Ga.No.MEPO/PERU/MADU/Ni.A/Ni.Pi.2/E.Ni.U/Ko.Varisu Velai/A.No. 351/2020, Dated 22.07.2020 and quash the same consequently direct the 3rd Respondent to appoint the petitioner on Compassionate ground based on his qualification.

2. The petitioner's father P.Sannasi, worked as a Field Assistant with 3rd respondent office and while in service, he died on 06.10.2015. Thereafter, the family of the said P.Sannasi was suffering in penury and difficulty. Hence, the petitioner's mother, namely Radhika applied for compassionate appointment on



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04.10.2018. However, the said application was returned specifically stating that the educational qualification certificate of 8th standard produced by the said applicant was bogus. Thereafter, by that time, the petitioner was minor and the petitioner attained majority on 24.01.2020. Pursuant to the age of attaining majority, the petitioner made an application seeking compassionate appointment on 21.05.2020. However, the 3rd respondent rejected the petitioner's application on 22.07.2020 for the reason that the petitioner did not apply within a period of 3 years from the date of the death of his father and passed the impugned order, dated 22.07.2020. Hence, this writ petition came to be filed.

3. The learned counsel for the petitioner would rely on an order passed by the Division bench of this Court in ***W.A(MD)No.578 of 2013 (A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board & Others)*** and the relevant portion of which is extracted as follows:

“15. My learned Brother in his said decisions reviewed the case-law on the point and held that within 3 years of death of her husband, when the widow applied for appointment on compassionate ground, and due to bar of age etc., when she could not be appointed and the request for appointment has been followed



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by her son/daughter, who has then not attained majority and subsequently, applied within three years of attaining majority, such request shall be considered as continuation of their mother's application and the application given by him/her during the minority also could be considered as continuation of such earlier application and it cannot be denied on the ground that the application has been presented beyond 3 years of death of the father.”

4. Per contra, the learned counsel for the 3rd respondent vehemently submitted that the said judgment has been overruled and the date of the death of the employee has to be taken into account to reckon with the 3 years period limitation. Hence, in this case, the application made after attaining majority after a period of more than 4 years from the date of death of the employee cannot be entertained. Hence, the impugned order passed by the 3rd respondent is in order.

5. Heard Mr.R.Santhanam, learned counsel for the petitioner and M/s.Parameshwari, learned counsel for the respondents and perused the materials available on record.

6. This Court is of the considered view that every appointment must be made strictly by adhering to the mandates of Article 14 and 16 of the



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Constitution of India. Appointment on compassionate ground is an exception to the regular mode of recruitment as it is intended to safeguard the family of the deceased employee which is thrown out both financially and otherwise due to the sudden death of the Government Servant. However, beyond the existing guidelines and the available rules for compassionate appointment, the competent authority cannot reckon the date of limitation for the purpose of granting compassionate appointment. In this case, the respondent has specifically relied upon the Board Proceedings No.11 (Administrative Branch), dated 11.06.2020. It is specifically mentioned in their counter which is extracted hereunder:

4.(ii). After that, the petitioner has submitted the compassionate appointment application form I on 21.05.2020 received in this office 22.05.2020, after the completion of three years from the date of death of his father. As per the Board Proceedings No.11(Administrative Branch), dated 11.06.2020

1) The legal heir of the deceased employee must have passed in 8th standard and should apply for the legal heir appointment application in form I, within three year from the date of death of the employee.



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2) While applying for the compassionate appointment by the legal heir, the applicant who is a son/daughter of the employee should have completed the age of 18 years subjected to maximum of 40 years of age limit. If the applicant is a widow, she/he (husband or wife) can apply upto 50 years of age within three years from the date of death of the employee.)

7. In view of the above, the petitioner fails to convince this Court that the application was made in time. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

06.07.2023

NCC : No
Index : No
Internet : No

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L.VICTORIA GOWRI, J.

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