



W.A.(MD)No.573 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2023

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD)No.573 of 2022
and
C.M.P.(MD)No.4950 of 2022**

S.Gowtham Balu

... Appellant

-vs-

1.The Chairman,
Tamil Nadu Electricity Generation and
Distribution Corporation (TANGEDCO),
10th Floor, NPKRR Maaligai,
No.144, Anna Salai,
Chennai – 600 002.

2.The Superintending Engineer,
Virudhunagar Electricity Generation and
Distribution Circle, TANGEDCO,
No.65/1, Ramamoorthy Road,
Virudhunagar – 626 001.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent,
against the order dated 15.03.2022, made in W.P.(MD)No.4920 of 2021.



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For Appellant

: Mr.B.Saravanan
Senior Counsel
for Mr.N.Jeyaram Sidharth

For Respondents

: Mr.S.Arivalagan
Standing Counsel

JUDGMENT

[Delivered by the Hon'ble CHIEF JUSTICE]

Heard the learned Senior Counsel for the appellant and the learned Standing Counsel for the respondents.

2. The present appellant had filed Writ Petition, bearing W.P.(MD)No. 4920 of 2021, seeking appointment on compassionate ground. The claim of the appellant for appointment on compassionate ground was negated by the respondents.

3. The undisputed factual matrix is culled out as under:-

The mother of the appellant had obtained divorce from the father of the appellant. The appellant was residing with the mother. The mother of the appellant was in service with the respondents. The mother of the appellant died in harness while in service on 25.01.2010. The appellant, in



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the year 2012, applied for appointment on compassionate ground. The appellant on the said date was minor. The appellant attained the age of majority in May, 2013. The claim of the appellant was rejected on the ground that the claim could not have been considered after three years of the death of his mother. The learned Single Judge on the basis of the Policy governing the parties for appointment on compassionate ground, dismissed the petition. Aggrieved thereby, the present appeal is filed.

4. The learned Senior Counsel for the appellant submits that the scheme for compassionate appointment could not have been interpreted in a narrow manner. The scheme is a beneficial scheme and ought to be interpreted liberally. On hyper technical ground, the claim of the appellant was negated. The appellant had already applied within the period of three years and only because, the appellant became major after three years of the death of the mother, it would not be sufficient to negate the claim of the appellant. The learned Senior Counsel for the appellant relies upon the judgment of the Division Bench of this Court in **W.A.(MD)No.1400 of 2011, dated 16.12.2015 [S.Velraj vs. The Superintendent Engineer and another]**.



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5. The learned Standing Counsel for the respondents submits that the respondents have adopted the scheme of the Government for appointment on compassionate ground. A scheme has been framed. The persons entitled for the benefit of compassionate appointment, eligibility criteria has been detailed in the scheme. A person is not entitled for employment on compassionate ground after the period of three years from the date of death of the employee. The appellant was not eligible to be appointed after the period of three years from the date of death of the mother of the appellant. The learned Standing Counsel relies upon the judgment of the Division Bench of this Court in **W.A. (MD)No.533 of 2021, dated 03.08.2022 [The Superintending Engineer, TNEB and another vs. K.Periannan]**.

6. We have considered the submissions canvassed by the learned counsel appearing for the parties.

7. The scheme for appointment on compassionate ground is a benevolent scheme, meant to provide immediate succour to the family of the deceased dying in harness.



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8. At the same time, the Hon'ble Apex Court time and again has held that the appointment on compassionate ground is not as a matter of right. The appointment on compassionate ground would flow from the scheme and the policy in force at the time of death of the deceased. Though the scheme as framed in the year 2020 has been relied upon, the same certainly would not apply to the present case, as the scheme prevalent on the date of the death of the mother of the appellant, would be relevant.

9. The second respondent has also in his counter affidavit, spelt out the scheme as was applicable prior to 2010. The criteria for eligibility and the time for making application is similar to 2020 scheme. The said scheme has been interpreted by a Division Bench of this Court in **W.A.(MD)No.533 of 2021**. The Division Bench of this Court, in its judgment, **dated 03.08.2022**, relied upon the judgment of Full Bench of this Court in case of **Nandini Dev vs. Secretary to Government [W.P.(MD)No.7016 of 2011 etc. batch, dated 11.03.2020]**.

10. This Court would be bound by the judgment of the Full Bench of this Court.



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11. It has been held by the Full Bench, as reproduced by the Division Bench in its judgment, as under:-

"4.

"32. In view of the above, the reference is answered as under:-

a) Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the scheme that has been framed by the employer. Any deviation from the scheme is not permissible.

b) In view of the above the judgment of the Division Bench in E.Ramasamy Vs. Tamil Nadu Electricity Board and the Secretary to Government Vs. Renugadevi, lays down the correct law and the judgment of the Division Bench dated 06.08.2013 in A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board, which is contrary to the scheme framed by the Tamil Nadu Electricity Board does not lay down the correct proposition. Reference is answered accordingly."

5.

"3. The main issue that has been canvassed before us is about the caption of three years imposed under the rules as a limit from the date of death of the employee for the dependent to move an application for compassionate appointment. This period of three years, in our opinion, is a reasonable period within which even a person of ordinary prudence, particularly one who is in dire need of employment, will come to know about the possibilities of any such employment.



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4. It is well settled that ignorance of law is no excuse, but as argued by the learned Senior Counsel that there are illiterate people having no access to all sorts of information either beneficial or otherwise, the said presumption is explainable inasmuch as when an employee is in Government service or in the service of a Corporation, etc. his family knows the source of earning and the source of employment. The existence and locus of the office of employment is not unknown as the dependents immediately get information with regard to terminal benefits and other pecuniary benefits that flow in the shape of family pension or other residual benefits, the disbursement whereof takes from the office where the deceased employee was employed. Thus, the plea of total illiteracy or ignorance of benefits available or about their doubts can be cast aside by seeking simple information from the office of employment. This is not a task like climbing Mt. Everest to find out the benefits to which a dependent of the deceased employee is entitled to. Thus, such information is not buried so deep so as to uncover the ignorance of even a widow or a dependent of a family who can gather such information and for which the period of three years can be reasonably said to be sufficient. In today's modern world, with various forms of communications and websites with all information available through internet services even in the remotest corners of the world, the exercise of getting information is not in a fathomless pit, but is almost available on the press of a few sensors." "



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WEB COPY 12. In the light of the above, no case for interference is made out. The Writ Appeal, as such, is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.V.G., .C.J.]

01.12.2023

[L.V.G., J.]

Index : Yes / No
Neutral Citation : Yes / No
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To

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