



W.P.(MD).No.11330 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.11330 of 2022

M.Padmini

... Petitioner

Vs.

1.The Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
Represented by its Chairman-cum-Managing Director,
6th Floor, TANTRANSCO Building,
144, Anna Salai,
Chennai-600 002.

2.The Chief Engineer (Establishment),
Represented by its Principal Secretary,
The Tamil Nadu Generation & Distribution
Corporation Limited,
Chennai.

3.The Superintending Engineer,
Madurai Distribution Circle,
The Tamil Nadu Generation & Distribution
Corporation Limited,
Madurai-625 007.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for the
records relating to the order passed by the third respondent in Letter No.



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010592/மேபொ/மமிபவ/ம/நிஅ/நிபி2/உத3/கோ.வா.வே/2020, dated 22.10.2020
quash the same and consequently direct the respondents to provide
compassionate appointment to the petitioner's daughter Geethanjali based on
the petitioner's application, dated 04.03.2020.

For Petitioner : Mr.D.Sivaraman

For Respondents : M/s.M.Parameshwari
Standing Counsel

ORDER

The present writ petition has been filed for a Writ of Certiorarified
Mandamus, calling for the records relating to the order passed by the third
respondent in Letter No.
010592/மேபொ/மமிபவ/ம/நிஅ/நிபி2/உத3/கோ.வா.வே/2020, dated 22.10.2020
quash the same and consequently direct the respondents to provide
compassionate appointment to the petitioner's daughter Geethanjali based on
the petitioner's application, dated 04.03.2020.

2. Heard the learned Counsel for the petitioner and the learned Standing
Counsel for the respondents and carefully perused the materials available on
record.



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3. The petitioner is the wife of one late A.Maasanam, who served as Masdhoor in the respondent's Corporation on 14.01.2009. While in service, the said Maasanam died on 02.02.2018. He was survived by his wife (i.e) the petitioner, two sons, namely, Senthil Kumar, Shankar and two daughters, namely, Vasantha and Geethanjali. Well within three years from the date of death of the employee on 04.03.2020, the petitioner made an application seeking appointment on compassionate ground to her younger daughter, namely, Geethanjali. However, after consideration of the said application, the respondent Corporation passed the impugned order, dated 22.10.2020, rejecting the petitioner's application seeking appointment on compassionate ground for two reasons, namely, the employee's son one Shankar, is employed in the Police Department and the other reason is that the petitioner has not enclosed any documents, which would prove that the said Shankar is living separately. Assailing the same, this writ petition came to be filed.

4. The learned Standing Counsel for the respondent Corporation has filed a counter and vehemently submitted that after the death of the said Maasanam, the Legal Heir Certificate was issued by the Tahsildar concerned on 12.02.2018



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and the said certificate would reveal that both the sons, namely, Senthil Kumar and Shankar (employed in Police Department) were un-married at that point of time and one of the daughters, namely, Vasantha was married and another daughter Geethanjali was un-married. A perusal of the said Legal Heir Certificate itself would prove that the family was not in penury, immediately after the death of the employee, since one of the sons, namely, Shankar is employed in the Police Department and hence, the impugned order is need not be interfered.

5. It is also further submitted by the learned Standing Counsel that the Board also constituted a Committee to verify the indigent circumstances of the family of the deceased and the respondent Corporation has noticed that the second son of the deceased is already in employment and hence, the family was not suffering under penurious condition as per the Board proceedings of the respondent Corporation bearing No.330, dated 02.11.1993 and Board Proceedings No.11, dated 11.06.2020. On the basis of these two Board proceedings, the impugned order came to be passed and the impugned order need not be interfered.



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6. Per contra, the learned Counsel for the petitioner submitted that it is not at all in dispute that one of the sons, namely, Shankar is employed in the Police Department. However, he is living separately after 17.05.2019 (i.e) from the date of his marriage with his family. The surviving wife of the deceased (i.e) the petitioner and the other un-married son Senthil Kumar and the un-married daughter Geethanjali are living together as on date and only due to the penurious condition, which arose after the marriage of the son, namely, Shankar on 04.03.2020, this application seeking compassionate appointment for the un-married daughter, namely, Geethanjali has been made and there is no reference with respect to the Board Proceedings of the respondent Corporation in the impugned proceedings and the employment of one of the sons of the deceased in Police Department will not be a bar for the respondent Corporation to provide the petitioner's un-married daughter, namely Geethanjali with an appointment on compassionate ground. For which, the learned Counsel for the petitioner relied on the order passed by this Court in ***W.P.Nos.39076 and 39077 of 2006, (V.Ramesh VS. The Director of Town Panchayats, Kuralagam, Chennai-600 109 and Others)*** dated 24.06.2008, wherein a



similar case was dealt with and a favorable order was passed in favour of the petitioner and the relevant portion of which is extracted as follows:

10. One of the earlier conditions in the scheme of appointment on compassionate ground formulated in the above Government Order is that the family of the deceased Government Servant should be in indigent circumstance. Subsequent the Government have introduced another condition in the G.O(Ms)No. 998 (Labour and Employment), dated 02.05.1981 is that, if there is already an earning member in the family of the Government Servant who died harness, the other dependents of the deceased Government Servant will not be eligible for compassionate appointment. As the expression 'indigent circumstance' has not been precisely defined, and since it has been left mostly to the subjective satisfaction of the appointing authorities, the service associations have represented that the above condition be deleted. Thereafter the Government have come forward to the issue the above order.

11. A reading of the G.O(Ms)No.155 (Labour and Employment Department) dated 16.07.1998, makes it clear that if a member of the deceased Government servant is already in employment and supports his family then the restriction may be applied. When a member of the family is already employed, the factors to be ascertained are (1) whether he is regularly employed (2) whether he is actually supporting his family or not. If any member of the family is already employed even before the death of



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the Government Servant on his own merits and living separately without extending any financial assistance to the family, then the case of other eligible dependents will have to be considered.

12. The above clarification has been issued by the Government taking into consideration of the family of the deceased Government Servant, where there is no financial assistance. It is evident that the clarification is issued with the object of extending the benefit of compassionate appointment to the family of deceased Government Servant, which is in 'indigent circumstance'.

13. In the light of the clarification, the respondent had already conducted a detailed enquiry to ascertain the 'indigent circumstances' of the family of the deceased Government Servant and whether the family receives any financial assistance from the member of the deceased Government Servant who is already in employment."

7. In another case in ***W.P(MD)No.6606 of 2020 (K.Ilayarani Vs. The District Collector, Madurai District, Madurai)***, dated 09.07.2020 while dealing with the similar case, this Court has passed favorable order to the petitioner and the relevant portion of which is extracted as follows:

"11. The paragraph 3 of G.O(Ms)No.155 and Clause 4 of G.O(Ms)No.18 were sought to be given an interpretation by the respondent to state that, since the said clauses enabling the employer to consider the other legal heir for the purpose of compassionate appointment, if the family of the deceased



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Government servant is not looked after by other legal heir, who is already in service and getting a permanent salary even prior to the death of the Government servant. Therefore, the respondent has come to the conclusion that, here in the case in hand, it is not the case, where, one of the legal heir of the deceased Government servant, who not got a job prior to the death of the Government servant, but only after the death of the Government servant. Therefore, even though the said legal heir, who, after getting a Government job permanently, is not able to look after the family of the deceased Government servant, the other legal heir cannot be considered for the compassionate appointment, as such kind of situation is not supported either under paragraph No.3 of the G.O(Ms)No.155 or under Clause 4 of the G.O(Ms)No.18. This interpretation, in the considered opinion of this Court, as has been given by the respondent through the impugned order, is thoroughly detrimental to the intention of the Government, where the Government issued these two G.Os., as illustratively given a situation, where, even if already a legal heir of the deceased Government servant is in a permanent job or a Government job well prior to the death of the Government servant, the other legal heir of the deceased Government servant can be considered for compassionate appointment, provided the other legal heir, who is already in Government job or permanent job, is not looking after the family of the deceased Government servant. The said position or situation is noway inferior than the present situation faced by the writ petitioner and her rest of the family, where, the widow and



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two children of the deceased Government servant, have been left in lurch without any support and they have been in continuous indigent circumstances or penurious situation, where no one is there in their family to look after or bail out their family."

8. In addition to that clause 4 of the G.O(Ms)No.18 of the Labour and Employment (Q1) Department, dated 23.01.2020 mandates that if any person in the deceased Government Servants family was employed even before the death of the Government Servant but was living separately without extending any help to the family, then the case of the other eligible dependent will be considered. This particular Clause 4 of the said Government Order will be squarely applicable to this case as well. Even in this case, though one of the sons, namely, Shankar is employed in the Police Department, after marriage he is living separately without supporting the petitioner and the other un-married brother and sister and in view of the same, the benefit of the said Clause 4 shall be extended to the petitioner. Whenever an application seeking appointment on compassionate ground is made, it is the primordial duty of the employer to verify the indigent circumstances of the family of the deceased. Though it is categorically stated in the counter affidavit filed by the respondent Corporation that a Committee was constituted to verify the indigent circumstances nothing has been elaborated as to the findings or the report arrived at by the Committee



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on verification of the indigent circumstances of the deceased employee, namely, Maasanam and the question of providing with employment on compassionate ground for one of the eligible dependents of a deceased Government employee, even though another person in the same family was employed even before the date of death of the employee is no more *res integra*.

9. Hence, this Court is of the considered view that considering the age of the claimant, Geethanjali and also other dependents, the un-married un-educated brother and the wife of the deceased Maasanam, this Court hereby quashes the impugned order and direct the respondent Corporation to forthwith provide employment to Geethanjali within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. This writ petition stands allowed, accordingly. There shall be no order as to costs.

21.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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- To
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L.VICTORIA GOWRI, J.

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