



W.P.(MD).No.15068 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.07.2023

PRONOUNCED ON : 27.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.15068 of 2022

K.Udayakumar

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Electricity Board,
800 Annasalai,
Chennai – 600 002.

2.The Chief Engineer (Personnel),
TANGEDCO,
8th Floor, Eastern Wing,
NPKRR Maaligai,
144, Annasalai,
Chennai – 2.

3.The Superintending Engineer,
Trichy Tamil Nadu Electricity Board,
Distribution Division,
Trichy Corporation,
Trichy - 20.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent herein in his proceedings letter No.48/Nee Pee.1/E

1/10



W.P.(MD).No.15068 of 2022

Nee.OO/Ko.Va.VEE/2021, dated 29.01.2021 and quash the same as illegal and consequently direct the respondents to provide employment in the respondents department under compassionate ground.

For Petitioner : Mr.S.Sarvagan Prabhu
for Mr.P.Jeyasankar

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

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the third respondent, dated 29.01.2021 and consequently direct the respondents to provide employment in the respondent department under compassionate grounds.

2.The petitioner's father served as an Assistant in the Tamil Nadu Electricity Board, Murugappanpatti, Duraiyur Taluk Electricity Distribution Office as a permanent employee. While in service, he passed away on 10.10.2018 and he was survived by the petitioner, his sister, brother and his mother. On 13.08.2019, the petitioner made a detailed representation to the respondents seeking compassionate appointment for him. Since the same was not considered, the

2/10



W.P.(MD).No.15068 of 2022

petitioner filed a writ petition in W.P(MD)No.1338 of 2020 before this Court and the same was allowed directing the respondents to consider the petitioner's representation, dated 13.08.2019. Pursuant to the same, the third respondent considering the petitioner's representation passed the impugned order, dated 29.01.2021, rejecting the petitioner's claim for compassionate appointment on the ground that the petitioner's father was only a temporary casual labour. Challenging the same, this Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner vehemently contended that the application seeking appointment on compassionate grounds has been made well within three years from the date of death of his father ie., from 10.10.2018. He further submitted that the contention of the third respondent is that the petitioner's father was a temporary casual labour is untenable. He further insisted that paragraph No.2 of the impugned order itself though mentioning the petitioner's father as a temporary casual labour, in which it is mentioned therein that he was conferred with permanent status and was posted to T.Murugappanpatti office, however, he did not join therein. He further submitted that the Inspector of Labour, Perambalur in C.P.No.933 of 1999, dated

3/10



W.P.(MD).No.15068 of 2022

19.07.1999, had passed an order of conferring permanent status to the petitioner's father under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981 and hence, the third respondent cannot dispute that the petitioner's father had been a permanent employee of the Tamil Nadu Electricity Board and hence, the impugned order is liable to be quashed and this Writ Petition has to be allowed.

4.Per contra, the learned Standing Counsel appearing for the respondents vehemently submitted that though the permanent status has been conferred on the petitioner's father by the proceedings of the Inspector of Labour, Perambalur, the records of the third respondent office would make it clear that the petitioner's father had never joined and served there at T.Murugappanpatti office at any point of time and on that basis, the petitioner's request seeking compassionate appointment cannot be considered and the order passed by the third respondent need not be interfered with.

5.Heard Mr.S.Sarvagan Prabhu, learned counsel appearing for the petitioner and Ms.M.Parameswari, learned Standing Counsel for the respondents and perused the materials available on record.



W.P.(MD).No.15068 of 2022

WEB COPY

6. On perusing the impugned order, this Court is of the considered view that the respondents though contended that the petitioner's father had been working as temporary casual labour, admitted that he was conferred with permanent status under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981 and was directed to join duty at T.Murugappanpatti office. Though they submitted that he had never joined in the said office, the respondents did not produce any documents to prove the same. However, the petitioner has duly produced the order passed by the Inspector of Labour, Perambalur in C.P.No.933 of 1999, dated 19.07.1999 wherein the petitioner's father has been conferred with permanent status of a worker of the respondent office. This Court in ***S.Gandhimathi Vs. The Deputy Registrar of Co-operative Society (Milk) and others*** reported in ***(2003) 3 LLN 743 (Mad.)*** has dealt with a similar case acknowledging the permanent status of a worker, who was regularized on completion of 480 days within a period of 24 calendar months in an industrial establishment and the relevant portion of which is extracted as follows:-



WEB COPY



W.P.(MD).No.15068 of 2022

9. The effect of which would be the deceased Subramaniam is deemed to have been reregularised and became a permanent employee. The State Government also by G.O.(Per)NO.148, Animal Husbandry & Fisheries (2) Dept., dated 18.9.2000 issued directions regularisation of all the 54 employees excepting one Gopal. In terms of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to workman) Act, 1981, there is no dispute that the 4th respondent is an employee and it is an industrial establishment as defined in the Act and that the deceased Subramaniam was a workman as defined in [Section 2](#) of the Factories Act. [Section 3](#) of the Act provides that every workman who is in continuous service for a period of 480 days within a period of 24 calendar months in an industrial establishment shall be made permanent.

10. Therefore, it follows that on the deceased Subramaniam completing 480 days within a period of 24 calendar months, which factum is not in dispute, his service shall be deemed to have been regularised on his completing 480 days within a period of 24 calendar months the deceased Subramaniam has become an employee of the establishment and he ceased to be a casual. Thus becoming an employee of the establishment does not depend upon any further order or proceedings of



WEB COPY



W.P.(MD).No.15068 of 2022

regularisation. It is a statutory benefit conferred on the deceased and a direction in terms of [Section 3\(1\)](#) which operates on the workman concerned completing 480 days and it does not call for or depend upon any subsequent order of regularisation.

11. Even if no order of regularisation is passed, he is deemed to have been regularised as per the statutory direction. In terms of the said provision, the competent authority namely Deputy Chief Inspector of Factories has issued a direction which would mean that on the deceased Subramaniam completing 480 days he has become an employee who is regularised and there cannot be any quarrel, nor there is any requirement for the respondent to pass any order in this respect. Hence, it follows that the service of the deceased Subramaniam during his life time itself has been regularised and no formal orders are required by any of the respondents. It is not as if the formal orders are required for conferment of permanent status”

In the aforesaid case, this Court was pleased to consider that the deceased employee was deemed to have been regularized and become a permanent employee.



W.P.(MD).No.15068 of 2022

7.However, in this case, the petitioner's father has been conferred with permanent status by the order of the competent authority. Hence, the decision of the third respondent to reject the petitioner's application seeking compassionate appointment on the ground that his father was not a regular employee, but a temporary casual labour cannot be sustained.

8.Taking into consideration that the petitioner's father had been conferred with permanent status, the petitioner is entitled for compassionate appointment on the ground that his father was a permanent employee of the Tamil Nadu Electricity Board. Hence, this Court is inclined to quash the impugned order passed by the third respondent.

9.Accordingly, the impugned order passed by the third respondent, dated 29.01.2021, is quashed and consequently, this Court directs the respondents to issue an appointment order in favour of the petitioner to a suitable post within a period of eight weeks from the date of receipt of a copy of this order.



W.P.(MD).No.15068 of 2022

WEB COPY

10. With the abovesaid observation, this Writ Petition stands allowed. There shall be no order as to costs.

27.07.2023

NCC : Yes
Index : Yes
Internet : Yes
ps

To

1. The Chairman,
Tamil Nadu Electricity Board,
800 Annasalai,
Chennai – 600 002.
2. The Chief Engineer (Personnel),
TANGEDCO,
8th Floor, Eastern Wing,
NPKRR Maaligai,
144, Annasalai,
Chennai – 2.
3. The Superintending Engineer,
Trichy Tamil Nadu Electricity Board,
Distribution Division,
Trichy Corporation,
Trichy - 20.



WEB COPY



W.P.(MD).No.15068 of 2022

L.VICTORIA GOWRI, J.

ps

Pre-Delivery Order made in
W.P.(MD)No.15068 of 2022

27.07.2023