



WEB COPY



W.P(MD).No.15807 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.15807 of 2022

and

W.M.P(MD).No.11394 of 2022

A.Muthunijanthan

....Petitioner

Vs

1.The Chairman Cum Managing Director
TANGEDCO
6th Floor, TANTRANSCO Building
144, Anna Salai
Chennai 600 002

2.The Superintending Engineer
Thoothukudi Electricity Distribution Circle
Thoothukudi

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in Letter No. 026001/263/Ni.A/Ni.Pi.2/E.Ni.U/Ko.CompassionateAppointment/2020 dated 18.12.2020 on the file of the second respondent herein, quash the same and consequently direct the respondents to grant compassionate appointment to the petitioner within the time that may be fixed by this Court.



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For Petitioner : Ms.M.Nandhini Priyadharshini
For M/s.D.Geetha

For Respondents : Mr.S.Arivalagan
Standing Counsel

ORDER

The present writ petition has been filed challenging the order passed by the second respondent herein wherein the request of the writ petitioner for his appointment in the place of his father who was medically invalidated was rejected.

2.The petitioner's father namely P.Alagesan was employed as Wireman under the second respondent on 02.02.2017. While he was attending to a power outage complaint, he fell down from the electricity pole and he sustained serious injuries in his hip, chest and spinal cord.

3.The petitioner's father was given advanced treatment in a private hospital at Coimbatore and he remained paraplegic from his hip downwards and he was certified as 100% of incapable of any work by Doctors of the said hospital. After being discharged from the hospital, the petitioner's father gave a representation to the second respondent herein on 07.06.2018 requesting the authorities to grant retirement to him on medical invalidation and provide compassionate appointment to the writ petitioner. Along with the said



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application, the writ petitioner's father has enclosed the medical certificate issued by the private hospital and the certificates issued by the police authorities with regard to the nature of the incident and the injuries sustained by him.

4.The respondents vide their communication dated 26.03.2019 had addressed a letter to the Dean of Tuticorin Medical Hospital seeking a report with regard to the percentage of disability sustained by the petitioner's father. The medical board after reviewing the health of the writ petitioner's father had issued a certificate on 14.05.2019 to the effect that the petitioner's father is suffering from post traumatic thoracic spine fracture with total paraplegia and he has got 100% disability and therefore, he cannot perform his duty. Based upon the said report of the medical board, the respondent herein had passed an order on 24.02.2020 permitting the petitioner's father to retire on medical invalidation with effect from 14.05.2019. On 18.12.2020, the respondents have rejected the request of the writ petitioner's father for providing compassionate appointment to the writ petitioner on the ground when the petitioner's father was permitted to retire on medical invalidation, he had already completed 53 years of age. This order is under challenge in the present writ petition.

5.According to the learned counsel for the writ petitioner, the writ petitioner's father had submitted an application on 07.06.2018 itself seeking



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retirement on medical invalidation. In the said letter, he had requested for grant of compassionate appointment to the writ petitioner. Along with the said application, medical records were also enclosed. However, for reasons best known, the respondents have not referred the writ petitioner's father to the Medical Board till 26.03.2019. The report of the Medical Board was forwarded on 14.05.2019 and based upon the said date, the respondent authorities have rejected the request of the compassionate appointment on the ground that on 14.05.2019, the petitioner's father has crossed the age of 53.

6.The learned counsel for the petitioner had further contended that when the petitioner's father had submitted his application on 07.06.2018, the respondent authorities have taken their own time in referring the petitioner's father to the medical board. Therefore, the delay on the part of the respondent authorities cannot be attributed to the writ petitioner or his father. On the date when the application was made for medical invalidation, the petitioner's father has not completed 53 years. Hence, he prayed for allowing the writ petition.

7.Per contra, the learned counsel appearing for the respondents had relied upon the Board Proceedings in Per.B.P(F.B).No.25, Administrative Brach, dated 09.10.2001 to the effect that any request to provide employment opportunity to the dependents of the employees who retire on medical invalidation should reach the authorities before the employee had



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completed the age of 53 years. In the present case, the report from the Medical Board was received only on 14.05.2019, based on which the petitioner's father was permitted to retire on medical invalidation. Therefore, on the date when the report of the medical board was received, the petitioner's father has already crossed 53 years and therefore, the petitioner is not entitled to seek dependent employment on the ground of medical invalidation. Hence, he prayed for sustaining the order impugned in the writ petition.

8.I have considered the submissions made on either side and perused the material records.

9.As per Board Proceedings No.25, Administrative Branch dated 09.10.2001, the concession for providing employment opportunities to the dependents of the employees who have left the service on medical ground before attaining the age of 53 years alone would be considered. If the employee had crossed 53 years, the request of the dependents cannot be considered. In the present case, the request for retirement on medical invalidation was presented by the petitioner's father on 07.06.2018 itself and he had completed 53 years only on 14.04.2019.

10.The respondent authorities have kept the application for retirement on medical invalidation pending for more than 9 months and referred the writ petitioner's father to the Medical Board only on 26.03.2019. The Medical board had submitted its report on 14.05.2019, based on which, the petitioner's



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father has been relieved from duty. Therefore, it is clear that the respondent authorities have taken their own time in referring the writ petitioner's father to the Medical Board to assess his disability. Neither the petitioner's father nor the petitioner could be found fault with for the time taken by the authorities to refer the petitioner's father to the Medical Board.

11.Considering the fact that the request for medical invalidation had been presented ten months prior to the attainment of 53 years, this Court is of the considered opinion that the delay on the part of the respondent cannot in any way prejudice the writ petitioner in getting an employment, especially when the petitioner's father had sustained serious injuries while on duty.

12.In view of the above said facts, the order impugned in the writ petition is set aside and this writ petition is allowed. The respondents are directed to grant compassionate appointment to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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