



W.P.(MD).No.16009 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16009 of 2022

A.Vasanthkumar

... Petitioner

Vs.

1.The Executive Engineer,
Tamil Nadu Electricity Board,
Sivakasi Distribution Circle,
Virudhunagar.

2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Virudhunagar Distribution Circle,
Virudhunagar.

3.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-600 002.

... 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 impugned order dated 09.03.2022 in க.எண். 15198/832/நி.அ/நிமே/நிபி.2/உதவி.1/கோ.வா.வே/2022, Passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to appoint the petitioner in any suitable post on compassionate ground in the respondent corporation.



W.P.(MD).No.16009 of 2022

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For Petitioner : M/s.K.Muthumalai

For Respondents : No Appearance

ORDER

The present writ petition has been filed to call for the records relating to the impugned order dated 09.03.2022 in க.எண். 15198/832/நி.அ/நிமே/நிபி. 2/உதவி.1/கோ.வா.வே/2022, Passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to appoint the petitioner in any suitable post on compassionate ground in the respondent corporation.

2. The petitioner's father M.Aarumugam was working as Helper in the 1st respondent corporation and after serving for a period of 8 years, while in service, he had passed away on 08.02.2016. At the time of death of the petitioner's father, the petitioner was about 14 years 1 month and 20 days. The petitioner's date of birth is 19.12.2001. The petitioner made an application to the 2nd respondent on 02.02.2019 seeking compassionate appointment which is within a prescribed period of 3 years from the date of death of the petitioner's father. Since the same was not considered, the petitioner made another application on 20.11.2020 seeking compassionate appointment. However, that



W.P.(MD).No.16009 of 2022

is also of no avail. In the meanwhile, the 2nd respondent vide letter, dated 31.05.2021 directed the petitioner to appear before the 2nd respondent with relevant records along with the elder member of the family. The petitioner appeared before the 2nd respondent with necessary documents. Thereafter, vide another letter, dated 15.06.2021, the petitioner was directed to produce the consolidated mark sheet and provincial certificate which was also duly submitted by the petitioner. But to his shock, on 09.03.2022, the impugned order came to be passed by the 2nd respondent rejecting his claim for compassionate appointment on the basis of board proceedings no.11, dated 11.06.2020 that the petitioner did not submit an application seeking compassionate appointment within a period of 3 years from the date of death of the employee and that the petitioner has not attained the age of majority.

3. This Court in ***W.P(MD)No.11808 of 2020 (S.Subesh Vs. The Chairman and Managing Director & Others)*** has dealt with a similar case. The relevant portion of which is extracted as follows:

“23. Here in the case in hand, the application was filed within three years period, of course, strictly speaking, on the date of application, the petitioner was still short of 64 days to attain the majority. This kind of cases, in the considered



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opinion of this Court, can be fit under the category of application not made belatedly, but within the time, however, some nominal shortage of few days to attain the majority.

25. In this context, the relevant observation made by the Hon-ble Full Bench in the aforesaid decision can usefully be referred to hereunder:

“5. A person in penury or distress will not take long to survive the vagaries of penury for seeking information of such benefits. The argument that there are some exceptional cases where people hardly get information is a far-fetched argument raised to dilute a reasonable time that has been fixed under the rules and the scheme and, in our opinion, caters sufficiently to allow a dependent to stake his/her claim for compassionate appointment. If a dependent who sleeps over and does not make any effort by the reason of his own incapacity, which also includes the dependent-claimant not having attained the age of majority, such lapse of time on the part of the claimant will definitely lead to dilute the immediacy of the requirement. The time spent to attain majority cannot be a ground to establish the existence of indigence even after attaining the age of majority. This, in our opinion, has also been taken due care of by providing a period of three years for moving an application for compassionate appointment which means that if the dependent is only about 15 years of age, he/she can apply immediately after attaining the age of majority.”



W.P.(MD).No.16009 of 2022

WEB COPY

28. *In view of the aforesaid facts, I am of the view that, the facts of the present case may not fall under the category of cases dealt with and the reference answered by the Hon-ble Full Bench of this Court in Nandhini Dev-s case referred to above. Therefore, this Court is of the considered view that, the present writ petition, for the very facts, as narrated above, cannot fall under the category, where, application was made belatedly or application was made after the legal heir attained majority or the application was made belatedly after several years by the legal heir, after becoming major.*

29. *If the application of the petitioner does not fall under any of the aforesaid three categories, this Court is also of the considered view that, the principle laid down by the Full Bench of this Court referred to above, may not stand in the way of considering the case of the petitioner, as the petitioner admittedly made an application within three years period and he was short of only 64 days at the end of three years period from the date of death of his father.”*

4. In this case, the petitioner was minor at the time of death of his father. However, when he made an application seeking compassionate appointment on 02.02.2019, he was 17 years 1 month and 14 days. Such an application was made only to submit the same within a period of 3 years from the date of death of his father. Since by 08.02.2019, the limitation period of 3 years for



W.P.(MD).No.16009 of 2022

submitting an application for compassionate appointment would lapse. The petitioner left with no other option, submitted an application on 02.02.2019 when he was only 17 years 1 month and 14 days. Though the application was made within a period of 3 years, the respondent corporation has rejected the said application stating that the application is not made within a period of 3 years. The another reason for which the said rejection came to be passed is that the petitioner has not attained the age of majority. However, the petitioner was short of only 10 months for attaining the age of majority.

5. This Court is fully in agreement with the order passed by this Court in ***W.P(MD)No.11808 of 2020 (S.Subesh Vs. The Chairman and Managing Director & Others)*** which followed the Judgment by this Court in ***W.P(MD)No.7016 of 2011 (Nandhini Devi Vs. Secretary to Government & Another)***, dated 07.12.2020 and permitted the minor who was 15 years of age at the time of death of the employee to make an application for compassionate appointment immediately on attaining majority. In this case, though the petitioner did not complete the age of majority on the date of application, he was 15 years at the time of death of her father and he is just short of 10 months for attaining the age of majority. Hence, in view of the judgment of this Court, the respondents ought not to have rejected the application made by the



W.P.(MD).No.16009 of 2022

petitioner considering the shortage of 10 months. When a beneficial scheme has been formulated for giving compassionate appointment, a shortage of few months or few days should not be the basis for rejection of an application seeking compassionate appointment. Time and again this Court has held that the shortage of few days or few months should not be the basis for rejecting the application seeking compassionate appointment and adopting the same principle, this Court is inclined to quash the impugned order, dated 09.03.2022.. This Court further direct the respondents to appoint the petitioner in any suitable post on compassionate ground in the respondent corporation within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. With the above said observation, this Writ Petition stands allowed. No costs.

20.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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W.P.(MD).No.16009 of 2022

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W.P.(MD).No.16009 of 2022

L.VICTORIA GOWRI, J.

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W.P.(MD).No.16009 of 2022

20.07.2023