

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17019 of 2022
and WMP(MD)No.12382 of 2022

K.Dinakaran

... Petitioner

Vs

1. The Chief Engineer(Personnel),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
No.144, Anna Salai, Chennai-2.
2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Thanjai Electricity Distribution Circle, No.1,
Vallam Salai, Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, after calling for the records of the second respondent in Letter No. 3127/Ni.P.3/Ni.U2/Ko.Vaa. Ve./2022 dated 04.06.2022 and quash the same and consequently direct the first respondent to appoint the petitioner in any suitable post in the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) with the consequential benefits.

For Petitioner : Mr.T.Sundaravadanam

For Respondents : Ms.M.Parameswari
Standing Counsel

ORDER

The present writ petition has been filed seeking to quash the impugned order of the second respondent in Letter No. 3127/Ni.P. 3/Ni.U2/Ko.Vaa. Ve./2022, dated 04.06.2022 and consequently direct the first respondent to appoint the petitioner in any suitable post in the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) with the consequential benefits.

2.Heard, Mr.T.Sundaravadanam, learned counsel appearing for the petitioner and Ms.M.Parameswari, learned Standing Counsel appearing for the respondents. Perused the materials on record.

3.(i).The petitioner's father one Karunanithi was employed as Mazdoor in the respondent Corporation. While he was in service, on 04.05.2013, he passed away. He was survived by his wife, one daughter and

the petitioner. The petitioner has an educational qualification of ITI Electrician.

(ii).On 15.09.2015, the petitioner made an application seeking appointment on compassionate grounds before the respondents Corporation. However, on 02.11.2015, the second respondent rejected the request of the petitioner, on the ground that he did not complete 18 years of age. On the date of making application seeking appointment on compassionate grounds, the petitioner was 15 years, 3 months and 17 days old. Thereafter, after completion of 18 years, the petitioner made a fresh representation to the first respondent seeking appointment on compassionate grounds. On 04.05.2022, the first respondent had directed the second respondent to consider the petitioner's application, as per rules of the Corporation. However, on 04.06.2022, the impugned rejection order has been passed by the second respondent, for the reason that the application has been made by the petitioner is beyond the period of three years, from the date of death of the Government employee. Assailing the same, this writ petition came to be filed.

4.The learned counsel for the petitioner has relied upon similar cases of this Court in W.P(MD)No.11190 of 2020, dated 17.09.2020 and

W.P.No.7960 of 2019, dated 18.12.2020. In W.P(MD)No.11190 of 2020, dated 17.09.2020, the relevant portion is as follows:

“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."

26.Therefore, it was opined by the Full Bench that, the period of three years for moving application for compassionate appointment means that, if the dependent is only 15 years of age, he/she can apply immediately after attaining the age of majority. Here in the case in hand, at the time of death of his father, the petitioner was 15 years old

and therefore, within the three years period, he has made application that has been an admitted fact. However, the only objection raised by the respondent TANGEDCO is that, on the date of completion of exactly three years period from the date of death of father of the petitioner, the petitioner was short of 64 days in attaining the majority. These kind of marginal or very short period to attain the majority can very well be taken care of by the employer provided if the application is filed by the legal heir within the three years limitation and also at the time of death of the employee, the legal heir was 15 years of age. This has been exactly viewed by the Hon'ble Full Bench in the aforesaid paragraph....”

In W.P.No.7960 of 2019, dated 17.09.2020, the relevant portion is as follows:

“14. This Court finds that the above decision of this Court would squarely be applicable to the facts and circumstances of this as well. In fact, this Court finds that the learned Division Bench order relied on by the learned counsel reported in 2016 SCC Online Mad 2501 has held that it is possible that the candidates within the age group of 15 to 18 can apply for compassionate appointment. Therefore, this Court is of the considered view that the summary rejection of the petitioner's claim on the cited grounds, cannot be countenanced either in law or on facts.”

5.I am fully in consonance with the orders passed by this Court as discussed supra and in the light of the same, in this case also at the first instance, on 15.09.2015, ie., on the date of making application seeking appointment on compassionate grounds, the petitioner was aged about 15 years

only. However, the petitioner had again approached the respondents after attaining the age of years on 11.04.2022 and submitted an application seeking appointment on compassionate grounds. Hence, the impugned order rejecting the claim of the petitioner on the ground that the application has not been made within a period of three years, from the date of death of Government employee is not sustainable, in the light of the orders as discussed supra.

6.In view of the same, this Court hereby quash the impugned order passed by the second respondent in Letter No. 3127/Ni.P.3/Ni.U2/Ko.Vaa. Ve./2022 dated 04.06.2022, remit the matter back to the respondents and direct them to consider the representations of the petitioner, dated 15.09.2015 and 11.04.2022 and pass appropriate orders in line with the orders passed by this Court in W.P(MD)No.11190 of 2020, dated 17.09.2020 and W.P.No.7960 of 2019, dated 18.12.2020 and provide compassionate appointment to the petitioner, within a period of twelve (12) weeks, from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.09.2023

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

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L.VICTORIA GOWRI, J.

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ORDER IN
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