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W.A.No.2437 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.2437 of 2021

Karunampal

... Appellant

Vs.

1. The Chairman,
TANGEDCO,
No.144, Anna Salai, Chennai - 2.

2. The Superintending Engineer,
Permbalur Electricity Distribution Circle,
TANGEDCO, Permbalur.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 06.01.2020 passed in W.P.No.47 of 2021.

For Appellant : Mr.B.Manoharan

For R1 & R2 : Mr.K.Purushothaman
Standing Counsel for TANGEDCO



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J U D G M E N T

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(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The scheme of compassionate appointment is a concession and not an absolute right. Compassionate appointment is not a method of appointment recognized under the Constitutional scheme of appointments. The scheme is formulated to mitigate the circumstances arising on account of sudden death of Government employees. Therefore, the scheme cannot be implemented beyond its scope, purpose and objects sought to be achieved. Terms and conditions stipulated are to be scrupulously followed. Long delay in providing compassionate appointments itself is a ground to reject the same by drawing factual inference that the penurious circumstances arosed on account of sudden death of an employee become vanished. Thus, scheme is to be implemented pragmatically to ensure that genuine families in distress on account of sudden death of an employee is provided with an assistance of employment. It is not as if one appointment is to be provided to the family of the deceased Government employee. The object is not to provide one appointment to each family, but to provide appointment to a family in distress on account of death of an employee.



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2. The courts have consistently held that the scheme of compassionate appointment is violation of Article 14 and 16 of the Constitution of India. All appointments are to be made under the constitutional scheme. Equal opportunity in public employment is the constitutional mandate. Compassionate appointments are made without any merit assessment and the rules of reservations are not adopted. Mere death of an employee alone is the criteria to provide public employment. Lakh and lakh of meritorious candidates are longing to secure public employment through open competitive process. Therefore, enlarging the scope of compassionate appointment would result in infringement of basic right of those meritorious candidates aspiring to secure public employment. Thus, the scheme is to be implemented by making thorough assessment and the necessity to provide such appointment to the family of the deceased employee.

3. The Hon'ble Supreme Court of India made observations that the terminal and retirement benefits paid to legal heirs are to be taken into consideration, while assessing indigent circumstances of the Government employee. A thorough enquiry regarding the income of the family is to be made by the employer before considering the case for compassionate



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appointments.

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4. In the present case, the wife of the deceased employee filed writ appeal. It is the third round of litigation. Originally, W.P.No.5941 of 2016 was filed, which was dismissed. The writ appeal in W.A.No.573 of 2016 filed by the appellant ended with an order of direction to consider the case of the appellant, since there was no impediment to provide appointment to married daughters as on the date of application submitted by the appellant.

5. The appellant is seeking employment to her third daughter. All the daughters of the deceased employee got married and living with their respective husbands. Therefore, they could not able to establish penurious circumstances prevailing in the family of the deceased employee. The appellant is receiving family pension. In this context, the Division Bench directed the Authorities to consider the application, which was again considered by the respondents and rejected. Thus, the appellant filed another writ petition in W.P.No.22205 of 2019, to direct the respondents to provide job assistance on compassionate ground. The said writ petition was disposed of with a direction to consider the representation submitted by the appellant



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on 13.04.2018. The said representation was also rejected by the respondents in proceedings dated 17.06.2020. Thereafter, third writ petition was filed by the appellant in W.P.No.47 of 2021. The learned Single Judge disposed of the writ petition on 06.01.2021, on the ground that there was a delay on the part of the appellant in filing application. The learned Judge further observed that there should be finality in such litigations and declined to grant relief. Challenging the said writ order, the present appeal has been preferred.

6. Perusal of the fact *per se* would reveal that the family of the deceased employee cannot be construed in indigent circumstances. It is essential to establish the indigent circumstances for the purpose of securing compassionate appointment. All the three daughters got married long back. The long delay would also provide a ground to draw factual inference that the family may not be in penurious circumstances. Even if they continue to be in indigent circumstances, it is to be construed that such indigency is not on account of the death of the deceased employee and may be on some other reasons. All these factors are essential to be considered by the Authorities before provided public appointments. On account of large scale unemployment, the concessional/special schemes for providing public



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appointments without merit assessment is to be made carefully and strictly in accordance with the terms and conditions. Mere eligibility alone would be insufficient but the necessity to provide appointment with reference to the purpose and objects sought to be achieved under the scheme, to be taken into consideration by the Authorities.

7. In view of the fact that the appellant could not able to establish any acceptable ground for the purpose of interfering with the writ order, the order impugned dated 06.01.2021 in W.P.No.47 of 2021 stands confirmed and the Writ Appeal stands **dismissed**. No costs.

[S.M.S., J.] [C.K., J.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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