



W.P.No.34437 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 03.10.2024

ORDERS PRONOUNCED ON : 28.11.2024

CORAM

THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.34437 of 2018

M.Vasanth

... Petitioner

Vs.

- 1.The Chairman cum Managing Director,  
Tamilnadu Generation and Distribution Corporation Ltd.,  
No.144, Anna Salai,  
Chennai 600 002.
  2. The Chief Engineer, Personnel,  
Tamilnadu Generation and Distribution Corporation Ltd.,  
No.144, Anna Salai,  
Chennai 600 002.
  3. The Superintending Engineer,  
Salem Electricity Distribution Circle,  
Tamilnadu Generation and Distribution Corporation Ltd.,  
K.N.Colony, Salem -14.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records relating to the 3<sup>rd</sup> respondent's letter made in Letter No.511/NI Pi II/Vu2/Ko.Va.Vay/18 dated 16.05.2018 and quash the same as illegal and without jurisdiction and



consequently direct the respondents to appoint the petitioner on compassionate ground to any eligible post in the Tamil Nadu Generation and Distribution Corporation Ltd.

For Petitioner : Mr.G.Ananda Kumar  
for M/s.Thamizharasi Law Firm

For Respondents : Mr.K.Rajkumar, Standing Counsel

### **ORDER**

This petition has been filed seeking writ of certiorarified mandamus to quash the 3<sup>rd</sup> respondent's letter made in Letter No.511/NI Pi II/Vu2/Ko.Va.Vay/18 dated 16.05.2018 and consequently direct the respondents to appoint the petitioner on compassionate ground to any eligible post in the Tamil Nadu Generation and Distribution Corporation Ltd.

2. It is the case of the petitioner that his father Murugesan was employed as wireman in the office of the Assistant Engineer, Vazhapadi, South Section under the control of the third respondent. While he was in service, died on 05.06.2005, leaving behind his wife, daughter, 2 sons and mother as his legal heirs. The petitioner's father was the sole breadwinner of



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his family and due to his sudden death, a vacuum left in his family. The petitioner's mother immediately made a representation dated 20.01.2006 to the third respondent requesting to provide compassionate appointment to her. In reply, the third respondent vide letter dated 04.04.2006 directed the petitioner's mother to furnish the certificates such as death certificate, educational qualification, legal heirship certificate, indigent certificate, etc., and also directed to send the duly filled application form, which was attached along with that letter. Accordingly, the petitioner's mother sent the same to the third respondent.

3. Subsequently, the petitioner's mother also died on 06.06.2007. The petitioner though being an orphan had studied and obtained Diploma in Electrical Electronics Engineering. Thereafter, he made a representation on 18.04.2018 to the third respondent requesting him to provide compassionate appointment. The third respondent by letter dated 16.05.2018 rejected the claim of the petitioner on the ground that he had not applied within three years from the date of death of his father, which is a belated one. However, the third respondent failed to note that his mother applied for compassionate on 20.01.2006 i.e., within three years from the date of death of his father.



He applied for compassionate appointment as a renewal of his mother's application.

4. The Board issued a memo dated 14.06.1997, wherein it is stated that if the dependant of the deceased did not attain the age of 18 years within 3 years of death of the employee, then he can apply after completion of 18 years of age. The said memo was confirmed by a Division Bench of this court in W.ANo.3050 of 2003, dated 08.03.2006. The third respondent ignoring the said memo had rejected his claim. Hence, the present Writ Petition.

5. No counter has been filed on behalf of the respondents.

6. The learned counsel for the petitioner would submit that the father of the petitioner died on 05.06.2005 in harness. The petitioner's mother made a representation on 20.01.2006 to the third respondent requesting to provide compassionate appointment. The said representation was made within one year from the death of her husband. Unfortunately, the mother of the petitioner also died on 06.06.2007. Due to the demise of both the



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parents, the petitioner became orphan. After obtaining Diploma in Electrical Electronics Engineering, he made representation on 18.04.2018 to the third respondent requesting to provide compassionate appointment. The learned counsel contends that the said representation was rejected by the third respondent on 16.05.2018 on the ground that he did not made representation within 3 years from the date of death of his father.

7. The learned counsel further contends that while rejecting the claim of the petitioner for compassionate appointment, the third respondent failed to consider the aim and object of the compassionate appointment scheme and it was rejected on technicalities without considering the actual sufferings of the petitioner after the death of both the parents.

8. On the other hand, the learned Standing Counsel appearing for the respondents would submit that the application claiming compassionate appointment has to be submitted within 3 years from the date of death of the deceased board employee. In the present case, the application was submitted by the petitioner belatedly and as such, the claim is rejected as per the procedure.



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9. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents and carefully perused the materials available on record.

10. It is an admitted fact that the father of the petitioner died on 05.06.2005 in harness. The mother of the petitioner made a representation for compassionate appointment on 20.01.2006, but unfortunately she also died on 06.06.2007. After attaining majority, the petitioner made a representation dated 18.04.2018 for compassionate appointment. The third respondent rejected the same vide letter dated 16.05.2018 on the ground that he had not made his application within 3 years from the death of his father.

11. The issue involved in the present writ petition was already dealt by this Court and the Court of Andhra Pradesh and Apex Court in the following judgments:

i) A Division Bench of Madurai Bench of Madras High Court while dealing with a case in similar circumstances in ***P.Kasthuri vs. The Chief Engineer (Personnel) and another*** in W.A.(MD).No.792 of 2011 vide its judgment dated 03.12.2015 directed the respondents therein to make



compassionate appointment to the appellant therein considering the application submitted within the stipulated time by the mother of the appellant. The relevant paragraphs of the said judgment are extracted hereunder:

*“7. One more aspect which has to be considered de hors of the Rules is the pathetic condition of the appellant and other children of late Palanivel. After the death of the said Palanivel in 1994, his wife also passed away on 04.08.1996 after applying for compassionate appointment. In fact, the appellant and others have become orphans and they are looked after by their maternal uncle. When such is the pitiable condition, the respondents should have considered the appellant's application for compassionate appointment with compassion.*

*8. The learned Single Judge should also have taken into consideration the said aspect. The learned Single Judge, in fact, did not take into consideration the application made by the appellant's mother on 11.01.1996 for compassionate appointment which was in time. Therefore, the impugned order passed by the second respondent as well as the order of the learned Single Judge are set aside. The respondents are directed to make the compassionate appointment of the appellant on or before 01.04.2016, failing which the*



*respondents shall appear before this Court on 02.04.2016.”*

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ii) In ***S.Velraj vs. The Superintendent Engineer and another*** in W.A.(MD).No.1400 of 2011, a Division Bench of this Court vide its judgment dated 16.12.2015 held that three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. The relevant paragraph is extracted hereunder:

*“3. It is admitted fact that the employee died on 19.03.1992, leaving behind four children and at that time, the appellant is the eldest son, aged about 12 years. If he applied for appointment on compassionate ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on attaining majority, the appellant rightly applied for appointment on compassionate ground. However, taking into consideration the plight of the family and also the young age of the mother and other children, it is a case where appointment on compassionate ground has to be given. Three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. Since the eldest son of the family has rightly applied for*



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*appointment on compassionate ground, on attaining majority, the respondents have to consider the appellant's application for appointment on compassionate ground. ”*

iii) In ***Priyadharshini vs. The Registrar General, High Court, Madras*** in WP.No.28945 of 2019, a Division Bench of this Court vide its judgment dated 25.11.2019 held that the respondents therein failed to consider the indigent circumstances of the petitioner therein and held that 3 years limitation period cannot be cited as a straight-jacket formula for rejecting the claim of the petitioner. The relevant paragraphs of the said order are extracted hereunder:

*“8. We find from a perusal of the impugned order that the respondent has failed to consider the indigent circumstances of the petitioner. The application of the petitioner seeking appointment on compassionate grounds, was rejected mainly on the ground that she was minor and the application was not submitted within three years from the date of the death of her father. We find that she has submitted the application six months prior to her attaining majority. Therefore, within a reasonable time, she has submitted the application and after attaining majority, she has also made a representation, dated 06.03.2019.*

*9. In similar circumstances, this Court (Madurai Bench)*



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*in W.A.(MD).No.1400 of 2011 (S.Velraj Vs. The Superintendent Engineer, Tamil Nadu Electricity Board, Tirunelveli Electricity Distribution Circle, Tirunelveli), by order dated 16.12.2015 and in another judgment of this Court (Madurai Bench) reported in 2016 (5) CTC 125 (The Inspector General of Prisons Vs. P.Marimuthu), observed that the appointment on compassionate grounds had to be given considering the facts and circumstances of each case and therefore, the three-year limitation period cannot be applied as a straight-jacket formula and each and every case has to be approached differently based on the facts.*

*10. In the instant case, the factual aspects of the matter show that the petitioner has become orphan and her grandfather, under whom she is in the custody, is an age-old person and that the petitioner has also produced necessary documents to show that she has no sufficient funds to sustain herself.*

*11. Considering all the above aspects, we are of the opinion that this is a fit case to quash the impugned order. Accordingly, the impugned order is quashed. The Writ Petition is allowed as prayed for. The respondent is directed to give suitable employment to the petitioner commensurate with her educational qualification on compassionate grounds. No costs."*



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iv) In ***The District Collector and 2 others vs. S.Santhi*** in W.A.No.2640 of 2018, a Division Bench of this Court vide its judgment dated 30.01.2023 held as follows:

*“5. We are alive to the fact that application for compassionate appointment should be made within a reasonable time, in the case on hand the application was made within a year, but due to certain circumstances the nominee was changed. Therefore, the petitioner cannot be blamed for the delay. In similar circumstances, where the elder son of the Government servant died and an application was made after six years nominating the younger son, a Division Bench of this Court in M.Namadeva v. The Director or School Education, made in WA No.4062 of 2019 dated 26.11.2019, had held that in such cases delay cannot be a ground to refuse compassionate appointment.”*

v) In ***A.Chindamani vs. The General Manager and another*** in W.P.No.31311 of 2017, a learned Single Judge of this Court vide order dated 25.08.2021 held as follows:

*“8. This is a case where the petitioner herself appears to be an uneducated and a semi-literate person. It is not expected for an uneducated homemaker to be aware of the Government*



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*orders, which are released from time to time, by the Government. Considering the fact that the petitioner's son was a minor at the time of the death of his father and also the fact that there was no other guideline which was uniformly being applied at the time of the death of the petitioner's husband, this Court is inclined to direct the respondent/Board to consider the petitioner's application for appointment on compassionate ground of her son, favourably by overlooking the three year limitation prescribed in G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995. The respondent/Board may also consider the fact that several other persons who had applied after the petitioner's application were appointed after the limitation period of three years prescribed in G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995 had expired and by relaxing the same by applying G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 which is currently prevailing for employment on compassionate grounds. The respondent/Board shall dispose of the application of the petitioner favourably, within a period of six weeks from the date of receipt of a copy of this order provided the petitioner satisfies the other criteria for appointment on compassionate ground."*



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vi) While considering the identical facts in a case in ***K.Michael Johnson vs. A.P.Southern Power Distribution Company Limited*** reported in (2021) 2 ALD 43, the High Court of Andhra Pradesh directed the respondents therein to consider the claim of the petitioner to appoint him in a suitable post within a period of six months. The relevant paragraphs of the said order is extracted hereunder:

*“20. Thus, such cases in which unfledged children lose their parents in harness have to be considered as “hard cases” and should be dealt with a humane outlook and thoughtfulness .*

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*23. In identical matters, the Hon’ble High Court of Madras following the decisions of the Hon’ble Apex Court in (1) T. Meer 5 (2007) 6 MLJ 1011 2021:APHC:1202 12 Ismail Ali Vs. The Tamil Nadu Electricity Board and others, (2) Selvi R. Anbarasi Vs. The Chief Engineer (Personnel), Tamil Nadu Electricity Board and others (3) The Superintending Engineer vs. V. Jaya and (4) M. Uma Vs. The Chief Engineer (Personnel), Tamil Nadu Electricity Board and others and (5) J. Jeba Mary’s case wherein directed the respondent authority therein i.e., Tamil Nadu Electricity Board to issue an order of appointment on compassionate grounds to the*



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*petitioners therein as per their qualifications.*

*24. In the present case, this Court already noted that the guardian of the petitioner made an application, dated 05.06.2003 within the stipulated period in favour of the petitioner, being a minor at that time and after attaining the age of 18 years she made another application on 14.11.2013 seeking appointment on compassionate grounds to the petitioner. Though this Court is having conscious of the directions of the Hon'ble Supreme Court on which the respondents relied in their counter, in view of the provision provided in the Board proceedings delegating the powers to relax the conditions to the Member Secretary of the APSEB and 6 2004 (3) CTC 120 7 (2006) 2 MLJ 200 8 (2007) 6 MLJ 1011 9 (2010) 7 MLJ 644 2021:APHC:1202 13 of the fact that the guardian of the petitioner has made an application within the stipulated time and also made subsequent application after attaining the age of majority by the petitioner and also taking note of the fact that the petitioner, who turned an orphan due to his father's death in harness, the claim of the petitioner has to be considered."*

vii) In similar circumstances, a Division Bench of this Court in

***The State of Tamil Nadu, Rep. by its Secretary vs. C.Arnold,*** in



WA(MD).No.479 of 2024, dated 01.04.2024, directed the appellants therein to provide compassionate appointment to the respondent therein within a period of 2 months. The relevant paragraphs are extracted hereunder:

*“13. Therefore, it is not mandatory that at the time of making the application seeking compassionate appointment, the applicant or for whom such an application has been made seeking compassionate appointment to have a minimum years of age, that means on behalf of a minor also the application can be made, however, such application even if it is considered, the appointment can be given to the dependant or legal heir only after he or she attains majority.*

*14. Therefore, the intention of the Rule making authority is clear, unambiguous and explicit to state that under no circumstances compassionate appointment should be denied to a family which is in penurious circumstances where for want of attaining the majority of the legal heir or dependant of the deceased employees family, if compassionate appointment could not be given immediately, the employer can consider such application and grant the same or extend the benefit of compassionate appointment to such a dependant or legal heir of the deceased employee of the family on his attaining the majority.*



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*15. When this intention of the Government has been made very clear under the Rule and the Rule has also been given to force with effect from 08.03.2023, thereafter, if the consideration is made in May 2023, in the case in hand, the Rule should have been applied and had it been applied, the application filed on behalf of the respondent/writ petitioner ought not to have been rejected by the employer. Therefore, the learned Judge since has interfered with the said order and given direction in the order impugned to consider the application for extending the benefit of compassionate appointment to the respondent/writ petitioner, in our considered view it is flawless and hence, the same is to be sustained. Accordingly, the impugned order is sustained. Hence, the Writ Appeal fails.”*

viii) While dealing with a writ petition in WP.No.30954 of 2018 (***M.Swetha vs. The District Collector and 3 others***), filed in similar circumstances, this Court by its order dated 06.11.2024 observed as hereunder:

*“7. The aim and object of providing compassionate appointment is to give immediate support to the family who*



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*lost their breadwinner who died over the sudden crises. For effective implementation of the compassionate appointment scheme, the State Government issued several instructions and order time to time. In several cases, it came to the notice of the Court that the respondents are maintaining the seniority list, district wise to provide compassionate appointment to the eligible legal heirs of the deceased employees who died in harness. In most of the cases, the State Government is taking more than 10 to 15 years to provide compassionate appointment by following the seniority list maintained by them.*

*8. Under these factual position, the ground raised by the respondents in the impugned order that the petitioner submitted her application for compassionate appointment after three years of the death of the petitioner's father is, untenable and unsustainable. As and when the State Government is not in a position to provide compassionate appointment immediately after demise of the breadwinner of the family or at a reasonable time, they are not suppose to contend that the petition submitted after three years by the petitioner and as such, she is not entitled for consideration. ”*

12. The learned Government Advocate for the respondents in support



of his contention has placed a reliance on the order dated 12.06.2024 in WP.No.23314 of 2023 of a learned Single Judge of this Court. On going through the said order, this Court is of the opinion that the said order is not applicable to the facts of the present case.

13. The principle behind the compassionate appointment is to provide a buffer, a cushion to the direct dependants of the deceased employee to cope with the loss. The purpose of providing compassionate appointment to the members of the deceased government servant is to render assistance to the family, which is found in indigent circumstances. The respondents are not supposed to defeat the claim of the dependants of the deceased family on technicalities or on the ground that the application was made beyond the stipulated time of 3 years. The respondents ought to have adopt a humane touch while considering the claim of the dependants of the deceased family for compassionate appointment.

14. It is appropriate to extract the observation of the High Court of *Andhra Pradesh in K.Udaykiran vs. State of Andhra Pradesh* reported in 2021 SCC OnLine AP 2009 at Paragraph Nos.15 and 20 as hereunder:



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*“15. The respondents have to understand the very purpose of providing compassionate appointment, which is meant for providing employment assistance to the dependants of the deceased employee, who died in harness and thereby to provide some relief to the family from undergoing financial sufferings. When the family of the deceased employee consisting of illiterate wife and minor child, since, they have no other source of livelihood after the untimely death of the bread winner of the family, the respondents should have been much more sympathetic and practical in considering the claim of the dependants of the deceased employee for compassionate appointment.*

*20. This Court expects from the respondents also such type of liberal approach in considering the claims of the dependants of the deceased employees for compassionate appointments. This court holds that the respondents shall consider the cases of the dependants of the employees died in harness with human touch without considering only technicalities.”*

15. In this regard, it is worthwhile to refer the case in **Balbir Kaur v. Steel Authority of India Limited** reported in (2000) 6 SCC 493 wherein their Lordships (U.C. Benarjee, J speaking for the Bench) of the Hon'ble



Supreme Court have held as under:

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*“In the case of appointment considering the social and economic justice as enshrined in the constitution, denials of deserving cases are liable to be set aside. Further, the purpose of providing compassionate ground to a son or daughter or a near relative of the deceased government servant is to render assistance to the family, which is found in indigenous circumstances. Hence, in considering the case for compassionate appointment, the authorities are supposed to adopt a human outlook.”*

16. The Hon-ble Apex Court further held at Para No. 19 as extracted hereunder:

*“The concept of social justice is the yardstick to the justice administration system or the legal justice and as Respondent pointed out that the greatest virtue of law is in its adaptability and flexibility and thus it would be otherwise an obligation for the law courts also to apply the law depending upon the situation since the law is made for the society and whichever is beneficial for the society, the endeavour of the law court would be to administer justice having due regard in that direction.”*



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17. In this regard, it is worthwhile to refer the case in ***Superintending Engineer v. V. Jaya*** reported in (2007) 6 Mad LJ 1011, wherein their Lordships comprising a Division Bench of this Court have held at Para No. 7 as extracted hereunder:

*“7. However, in a case of request for appointment on compassionate ground, however, the Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot ignore the very purpose of providing employment on compassionate ground to the dependant of an employee/government servant dying in harness in preference to anybody else as it is done so in order to mitigate the hardship to the family of the employee on account of his unexpected death while still in service. The concept of compassionate employment is intended to alleviate the distress of the family and it is for such purpose appointments are permissible and provided even in the rules and regulations and any rigid approach or too technical objections may defeat the very object of the scheme. It is for that purpose while considering the request for compassionate appointment; the authorities are expected to act as a Good Samaritan overlooking the cobwebs of technicalities.”*



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18. In the present case, admittedly, the mother of the petitioner made a representation seeking for compassionate appointment on 20<sup>th</sup> January 2006 and unfortunately she also died on 06.06.2007. After attaining majority, the petitioner made a representation dated 18.04.2018 for compassionate appointment. These facts are squarely covered in the order of the Division Bench of Madras High Court in ***P.Kasthuri vs. The Chief Engineer (Personnel) and another*** (stated supra). As such, the representation submitted by the mother of the petitioner is within the time and the representation submitted by the petitioner is a consequential one and therefore, there is no substance in the contention of the respondents for rejecting the claim of the petitioner on the ground of delay.

19. For the aforesaid reasons and in the light of the settled position of law stated supra, the present Writ Petition is allowed and the Letter No.511/NI Pi II/Vu2/Ko.Va.Vay/18, dated 16.05.2018 issued by the third respondent is hereby set aside with a consequential direction to the respondents to appoint the petitioner in any suitable post within a period of six weeks from the date of receipt of a copy of this order.

No costs.



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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs



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To

1. The Chairman cum Managing Director,  
Tamilnadu Generation and Distribution Corporation Ltd.,  
No.144, Anna Salai,  
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**BATTU DEVANAND.J.,**  
pvs

Pre-delivery order in

W.P.No.34437 of 2018

28.11.2024