



W.P.(MD)No.15174 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.15174 of 2022

and

W.M.P(MD)No.10869 of 2022

M.Marimuthu

... Petitioner

vs.

1.The Superintendent Engineer,
Tamil Nadu Electricity Board,
Virudhunagar District,
Virudhunagar.

2.The Junior Engineer,
Tamil Nadu Electricity Board Distribution Office,
Koomapatti,
Watrap Taluk,
Virudhunagar District.

... 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 of the first respondent pertaining to the impugned order in க.எண்.03027/319/நி.அ/நி/.பி.2/உதவி.1/கோ.வாரிசு வேலை/2022 நாள் 05.04.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to appoint the petitioner as Conservancy Worker on



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compassionate ground in the second respondent office in accordance with law and within the time limit that may be stipulated by this Hon'ble Court.

For Petitioner :Mr.A.D.Ganeshmoorthi

For R-1 & R-2 :Mr.S.Arivalagan

ORDER

The petitioner has filed this writ petition challenging the order passed by the first respondent, 05.04.2022, rejecting the claim of the petitioner for compassionate appointment and to direct the respondents to appoint the petitioner as 'Conservancy Worker' on compassionate ground in the second respondent office.

2. The petitioner's mother who was working as a Part Time Sweeper in the second respondent office from the year 2003, died on 17.10.2019, while she was in service. Thereafter, the petitioner made an application on 21.03.2022 seeking compassionate appointment. However, the said application was rejected stating that the petitioner's mother was working as a Part Time Sweeper and therefore, the



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petitioner's claim for compassionate appointment will not come under the Compassionate Appointment Scheme.

3. However, the learned counsel for the petitioner submitted that the service of the petitioner's mother had been regularized and she was given with regular time scale of pay with effect from 04.04.2003.

4. However, the learned Standing Counsel appearing for the respondents would submit that the petitioner's mother is excluded from the Compassionate Appointment Scheme in view of the following Clause in the order issued in (per.) BP.Ms.(FB) No.11, (Adm.Br), Dated, 11.06.2020:

***02.PERSON WHOSE LEGAL HEIRS ARE
NOT ELIGIBLE FOR CONSIDERATION UNDER
COMPASSIONATE GROUND APPOINTMENT:***

*i.Person who are retained in service under fundamental
Rule 56(1)(c) after the date of superannuation.*



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ii. Person who are under Temporary appointment, consolidated pay, daily wages, contract appointment and whose services are not regularized including part time conservancy workers.

iii. Person who do not come under regular time scale of pay.

5. Attention of this Court was drawn to the proceedings of the first respondent, dated 01.12.2011, wherein the petitioner's mother is also shown as a person who is eligible to get regular time scale of pay in pursuant to the orders of the Hon'ble Supreme Court in Civil Appeal No.9438 of 2010, dated 26.10.2010.

6. In view of the same, it is seen seen that pursuant to the order of the first respondent, dated 01.12.2011, the petitioner's mother was brought under the regular time scale of pay. Hence, the petitioner's application ought not to have been rejected by stating that the petitioner's claim is not covered under the Scheme. In view of the above stated reasons, I feel that the impugned order is liable to be set aside.



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7. In the result, the order passed by the first respondent, dated 05.04.2022, is set aside and the matter is remitted back to the first respondent to reconsider the petitioner's application, dated 21.03.2022 and pass orders afresh, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

06.06.2024

NCC: Yes/No
Index : Yes/No

PM

To

1.The Superintendent Engineer,
Tamil Nadu Electricity Board,
Virudhunagar District, Virudhunagar.

2.The Junior Engineer,
Tamil Nadu Electricity Board Distribution Office,
Koomapatti, Watrap Taluk,
Virudhunagar District.



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R.N.MANJULA, J.

PM

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