



W.P.(MD).No.16134 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.16134 of 2023

D.Mathavan

...Petitioner

Vs

1.The Chairman cum Managing Director,
Tamil Nadu Electricity Board,
800, Annasalai,
Chennai – 600 002.

2.The Chief Engineer (personal),
Tamil Nadu Electricity Board,
800, Annasalai,
Chennai – 600 002.

3.The Superintending Engineer,
Trichy Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Trichy – 624 020.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in Letter No.319 /நி.நி I/உ4 /கோ.வா.வே/2023 dated 02.05.2023 and quash the same and consequently direct the respondents to give compassionate appointment



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in the Tamil Nadu Electricity Board to D.Mathavan S/o.A.Duraisamy,
according to his Educational Qualification.

For Petitioner : Ms.G.Vidhya Maheswaran

For Respondents : Mr.B.Ramanathan
Standing Counsel

ORDER

Heard Ms.G.Vidhya Maheswaran, learned counsel for the petitioner and Mr.B.Ramanathan, learned Standing Counsel for the respondents.

2. This Writ Petition has been filed for issuance of Writ of Mandamus, seeking direction against the third respondent dated 02.05.2023 and consequently direct the respondents to give compassionate appointment in the Tamil Nadu Electricity Board to the petitioner, according to his educational qualification.

3. Mr.G.Vidhyamaheswaran, learned counsel for the petitioner submitted that the petitioner's father namely, A.Duraisamy, who was as Mazdoor in Tamil Nadu Electricity Board died in harness on 16.03.2008.



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At the time of death of the father, the petitioner was 7 years old and his sister was 9 years old. The petitioner's mother submitted applications on 08.02.2011, 08.03.2011, 28.09.2017 and 20.09.2022 seeking for compassionate appointment. Thereafter, the petitioner has also submitted the application to the respondents on 15.09.2022.

4. However, the impugned order dated 02.05.2023 has been passed by the third respondent, rejecting the application seeking appointment under compassionate scheme by stating that the application has not been filed within three years from the date of death of the deceased employee and at the time when the application was filed, the petitioner has not attained the age of 18 years.

5. The petitioner's father died on 16.03.2008 and the petitioner's mother had given the first application on 08.02.2011 within three years for seeking compassionate appointment for her son, the petitioner herein, who was a minor at that point of time. Obviously, the petitioner being a minor could not have given an application on his own and his mother as a guardian, had given the application on his behalf. Until the petitioner



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attained majority, no order has been passed on the application filed by the mother.

6. It might be possible that after attaining majority, the petitioner himself has give a representation to consider the earlier application. However, the respondents cannot consider that as the first application in order to count the period of limitation of three years. But, the date of application submitted by the petitioner's mother is well within the period of three years from the date of death of his father.

7. In the recent Government Order issued in G.O.(Ms).No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023, it is stated that there shall be no minimum age limit for the applicant on the date of application for appointment. However, no appointment shall not be provided unless the applicant completes 18 years age. For the purpose of clarity, the above Rule is extracted as under:

“6. Age limit-(1) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, on the date of application for appointment.



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(a) the spouse of the deceased or medically invalidated Government Servant or the parent of the deceased Government servant, must not have completed fifty years of age; and

(b) the son, daughter, brother or sister of the deceased or medically invalidated Government servant must not have completed forty years of age.

2) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, there shall be no minimum age limit for the applicant on the date of application for appointment.

Provided that appointment shall not be provided unless the applicant completes eighteen years of age.”

8. Mr.B.Ramanatha, learned Standing Counsel, for the respondents, considered that the scheme for giving compassionate appointment by the respondents would be governed under the TANGEDCO proceedings in (Per) FB TANGEDCO Pro No.11 dated 11.06.2020. However even that proceedings does not have any clarification as to the minimum age limit for submitting the application and hence the general rule in this regard can be taken as a guiding light.

9. Since the application has been rejected simply for the reason that the application has not been submitted within the three years from



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the date of the death of the deceased and that the petitioner was a minor at the time when the application was submitted, the impugned order is liable to be set aside.

10. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned order dated 02.05.2023 is set aside. The respondents are directed to reconsider the petitioner's claim with regard to appointment under compassionate scheme in the respondent Department and pass orders on merits, within a period of four weeks from the date of receipt of a copy of this order. No costs.

21.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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R.N.MANJULA, J.

Nsr

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