



W.A(MD)No.1195 of 2019

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Reserved on : 23.07.2024**

**Pronounced on : 18.12.2024**

**CORAM**

**JUSTICE N.SESHASAYEE  
AND  
JUSTICE P.VADAMALAI**

**W.A(MD)No.1195 of 2019**

M.Thangaraj

.... Appellant/Petitioner

**Vs.**

- 1.Tamilnadu State Ground and Surface Water Resources  
Information Centre,  
Represented by its Secretary,  
Chepauk, Chennai – 02.
- 2.The Chief Engineer (Personal),  
Tamilnadu Generation and Distribution Corporation,  
No.114, Anna Salai,  
Chennai – 02.
- 3.The Executive Engineer,  
Tamilnadu Generation and Distribution Corporation,  
Tirunelveli Region,  
Tirunelveli.
- 4.The Supervising Engineer,  
Tamilnadu Generation and Distribution Corporation,  
Tirunelveli Region,  
Tirunelveli.

... Respondents/Respondents



W.A(MD)No.1195 of 2019

WEB COPY

**Prayer:-** Writ Appeal is filed under Clause 15 of Letter Patent, to set aside the order passed in W.P(MD)No.10536 of 2014, dated 20.08.2019 on the file of this Court.

For Appellant : Mr.P.Vetrivel  
M/s.T.Lajapathi Roy and Associates

For R1 : Mr.A.Baskaran  
Additional Government Pleader

For R2 to R4 : Mr.S.Arivalagan

### **JUDGMENT**

**(Judgment of the Court was delivered by P.VADAMALAI, J.)**

This Writ Appeal is preferred by the petitioner in W.P.(MD)No.10536 of 2014 challenging the order, dated 20.08.2019 passed by the learned Single Judge of this Court dismissing the Writ Petition for seeking direction to the respondents for appointment on compassionate grounds on the death of his father, who was wireman in the respondent TNEB.



W.A(MD)No.1195 of 2019

WEB COPY

## **2. The facts in brief:**

(i) The appellant's father namely P.Muniasamy was working as a wireman in Tamil Nadu Electricity Board and he died on 23.04.2006, while he was in service. The wife of the said P.Muniasamy presented an application seeking appointment on compassionate grounds on 20.09.2007 and the same was returned on 26.09.2007. As the appellant was a minor at the time of his father's death, after attaining the age of majority, he submitted an application, dated 25.05.2013 before the 4<sup>th</sup> respondent, which was rejected on the ground that the appellant's sister sought appointment on the same compassionate grounds on death of the appellant's father and the same was rejected on 15.06.2012 and further, the appellant has submitted the application after seven years of death, which is not permissible in the rules of compassionate grounds appointment. Hence, the appellant has moved the Writ Petition in W.P(MD)No.10536 of 2014 before this Court under Article 226 of the Constitution of India, to quash the said rejection order of the 4<sup>th</sup> respondent as illegal and to direct the 1<sup>st</sup> respondent to appoint the appellant on compassionate grounds for any post for which he is eligible.



W.A(MD)No.1195 of 2019

(ii) The learned Single Judge took the view that the appellant submitted an application seeking appointment on compassionate grounds after lapse of 7 years from the date of the death of his father and also in view of the legal principles settled by the Hon'ble Supreme Court that the scheme of compassionate ground cannot be extended after lapse of many years and thereby dismissed the Writ Petition.

3. The order of the learned Single Judge is now under challenge, at the instance of the petitioner in the Writ Petition, as appellant herein.

4. The learned counsel for the appellant/petitioner submitted that the appellant's father died on 23.04.2006 and since the appellant was a minor then, his mother, namely the wife of the deceased, applied for appointment on compassionate grounds on 20.09.2007, but the application was not considered though her mother completed 8<sup>th</sup> std. Then the mother of the appellant made a representation to the respondents to appoint the appellant on compassionate grounds. The appellant was 12 years at the time of death and hence, after attaining a majority the appellant sought for appointment on



W.A(MD)No.1195 of 2019

WEB COPY

compassionate grounds. In such kind of cases, this High Court and the Hon'ble Supreme Court have ordered for appointment on compassionate grounds those who filed applications on attaining majority. He relied on the decision reported in **2014 SCC Online Mad 857** in the case of **S.Nagarajan vs. Superintending Engineer, (2007) 6 MLJ 1011** in the case of **Superintending Engineer, Madurai /v/ V.Jaya** and judgment, dated 11.03.2011 passed in the case of **V.K.Ramesh /vs/ The Superintending Engineer**.

5. The learned Additional Government Pleader appearing for the respondents contended that firstly the wife of the deceased applied for appointment, which was returned for certain defects regarding age and qualification, but the same was not represented. Secondly, the daughter of the deceased presented an application and it was rejected as it was filed beyond three years. Thirdly, now the appellant submitted an application seeking an appointment on compassionate grounds third time, beyond three years. It is a settled proposition of law that the appellant cannot claim as a right of appointment on compassionate grounds bypassing the rules. The



W.A(MD)No.1195 of 2019

appellant's mother has not made any representation to the respondents to appoint the appellant on compassionate grounds as alleged by him. Hence the impugned rejection of the 2<sup>nd</sup> respondent is correct and the order of the learned Single Judge need not be set aside.

6. We have heard the learned counsel appearing for the respective parties.

7. On hearing both and particularly on hearing the learned counsel for the appellant it is to be considered whether the appellant, who was minor at the time of death of his father/government employee, can seek an appointment after attaining his majority beyond the prescribed period stipulated under the scheme of the government.

8. Considering various views of the different High Courts and Supreme Court, the issue upon such application seeking compassionate appointment by minors on attaining their majority was referred to the Full Bench of this Court by the learned Single Judge in W.P.(MD)No.7016 of



W.A(MD)No.1195 of 2019

WEB COPY

2011 and the Full Bench of this Court has discussed the issue and made order on 11.03.2020. The Full Bench of this Court referred the matter by framing the following question for reference.

*"Whether the view taken in A.Kamatchi's case holding that an application for compassionate appointment made even beyond three years of the death of the deceased needs consideration, is the correct law or the judgment of the Division Bench in N.Renugadevi's case, where a contradictory view has been taken, is the correct law?"*

9. The Hon'ble Full Bench of this Court, after discussing the various Government Orders and also the laws propounded on the subject by the High Court as well as by the Hon'ble Apex Court, answered the reference in the following terms:-

*"a) Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the scheme that has been framed by the employer. Any deviation from the scheme is not permissible.*



WEB COPY



W.A(MD)No.1195 of 2019

*b) In view of the above, the judgment of the Division Bench in E.Ramasamy Vs. Tamil Nadu Electricity Board and the Secretary to Government Vs. Renugadevi, lays down the correct law and the judgment of the Division Bench dated 06.08.2013 in A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board, which is contrary to the scheme framed by the Tamil Nadu Electricity Board does not lay down the correct proposition. Reference is answered accordingly."*

10. From the above answer of the Full Bench of this Court the factors that are to be borne in mind, while considering a case of compassionate appointment, the Full Bench carved the factors that need to be taken into consideration while looking at a case relating to grant of compassionate appointment and for better understanding the same is extracted hereunder:-

*"(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no*



WEB COPY



W.A(MD)No.1195 of 2019

*discretion as such is left with any authority to make compassionate appointment dehors the scheme.*

*(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.*

*(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.*

*(iv) Compassionate employment is permissible only to one of the dependents of the deceased/incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts.*



W.A(MD)No.1195 of 2019

*(Refer Umesh Kumar Nagpal Vs. State of Haryana (1994) 4 SCC 138)."*

11. From the conceptual proposition of law laid down by the Full Bench, it is very clear that the appointment on a compassionate basis should be strictly in accordance with the Government Orders/the Scheme framed for the said purpose by the employer. It is also well settled proposition of law that there is no right to compassionate appointment and where there is a scheme for appointment on a compassionate basis for the dependant of a person who has died in harness, then the family of the deceased employee is entitled to apply for compassionate appointment and consideration of the application in accordance with the terms and conditions which are prescribed in the scheme.

12. The Hon'ble Supreme Court in **Sanjay Kumar Vs. State of Bihar & Ors.** reported in **(2000) 7 SCC 192**, observed as under:-

*"16. It is, thus, clear that the courts cannot direct appointments on compassionate grounds de hors the provisions of the Scheme in*



WEB COPY



W.A(MD)No.1195 of 2019

*force governed by rules/regulations/instructions. If in a given case, the department of the Government concerned declines, as a matter of policy, not to deviate from the mandate of the provisions underlying the Scheme and refuses to relax the stipulation in respect of ceiling fixed therein, the courts cannot compel the authorities to exercise its jurisdiction in a particular way and that too by relaxing the essential conditions, when no grievance of violation of substantial rights of parties could be held to have been provided, otherwise. The purpose of providing employment to a dependant of a government servant dying in harness in preference to anybody else is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are Rules providing for such appointment. None of these considerations can operate when the application is made after the death of the employee. The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a government servant*



WEB COPY



W.A(MD)No.1195 of 2019

*who dies in harness, when there is no other  
earning member in the family."*

13. In the above settled propositions, the argument of learned counsel for the appellant attacking the 3 years limitation within which the application has to be made for appointment on a compassionate basis cannot be entertained in the absence of any challenge raised to the relevant scheme or G.O.'s. If the scheme does not permit entertaining an application by a dependant after attaining a majority, then such an application cannot be considered. Appointment on a compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the scheme that has been framed by the employer. Any deviation from the scheme is not permissible. The main issue that has been canvassed before us is about the caption of three years imposed under the rules as a limit from the date of death of the employee for the dependent to move an application for compassionate appointment. The period of three years, in our opinion, is a reasonable period within which even a person of ordinary prudence, particularly one who is in dire need of employment, will come to know about the possibilities of any such employment.



W.A(MD)No.1195 of 2019

WEB COPY

14. In this case on hand, the appellant's mother applied at first seeking an appointment on compassionate grounds on 26.09.2007. On perusal of records filed in this appeal, it is clear that the appellant's mother mentioned that her husband's (father of appellant herein) date of birth is 01.07.1964 and the date of superannuation is 30.06.2022 and also the reason for death is stated as 'health illness'. Moreover, her application was returned raising queries that her age differs from the enclosed certificates and also the school certificate would not reflect on which class she completed. The returned application was not resubmitted by her. Thereafter, the appellant's sister submitted an application on 11.06.2012, which was also rejected on 15.06.2012 as it was filed beyond the stipulated period. Further, the appellant's sister mentioned the date of birth of the government employee as 01.07.1959 and the date of superannuation as 30.06.2017 and that the reason for death is stated as 'road accidental death'. Now, the appellant filed an application seeking compassionate appointment on 25.05.2013, wherein the date of birth is mentioned as 01.07.1959 and the reason for death is mentioned as 'accidental death'. That application was also rejected on the ground that the application was not submitted within



W.A(MD)No.1195 of 2019

three years and also the appellant has not completed 18 years and has not possessed sufficient qualifications and the application was submitted after the lapse of 7 years from the date of death of his father. Hence, the family members of the deceased government employee have not furnished correct particulars of the deceased employee and also the appellant has not stated about his sister's application in the Writ Petition.

15. Further, it is also presumed that the appellant, his mother and sister have managed to run their family for 7 years without any financial crisis. The claim of compassionate appointment is not a heritable right and being an exception to the ordinary rule of law and jurisprudence of public employment, it has otherwise also to stand the test of scrutiny of the fundamental rights guaranteed in the Constitution for the reason that there are millions who are standing in the queue for public employment to reach their family for the first time even when there is no deceased employee in their family. Such broader aspects need not be overlooked in the name of mere sympathy or compassion. The request for appointment on compassionate grounds should be proximate to the death of the employee



W.A(MD)No.1195 of 2019

and, therefore, the period of three years is a reasonable period as contained in the scheme of the Government Order.

16. It is for this reason that the Hon'ble Supreme Court has in a catena of decisions time and again laid stress that compassionate appointment should be made only in accordance with the rules or the scheme applicable and not beyond the same as travelling beyond the limits of the rules and scheme would negate the rights of those who are otherwise eligible for a public appointment which would have been available to them but for the claim of compassionate appointment. The consistent view that has been taken by the Hon'ble Supreme Court is that compassionate employment cannot be claimed as a matter of right, as it is not a vested right.

17. In the above settled legal proposition of law, the Division Bench of this Court in W.A(MD)No.1435 of 2023 by its order, dated 05.09.2023 has declined to entertain the application for compassionate appointment submitted by the minor of the deceased government employee



W.A(MD)No.1195 of 2019

WEB COPY

on his attaining majority. This Court has no reason to take a different view. Apart from the fact that the appellant cannot seek appointment on compassionate grounds after the lapse of several years stating that the appellant was a minor when his father died in the year 2006. In the rulings relied on by the appellant, wherein those cases application seeking compassionate appointment filed by the minors therein within three years from the date of death of government employee. Whereas in the case on hand, there is no such application has been submitted by the appellant or on his behalf by his mother or sister within three years from the date of death of appellant's father. Hence, the citations relied on by the appellant are not applicable to the facts of this case. Therefore, the order of the learned Single Judge need not be interfered and it is sustainable in law. Therefore, this Court is not inclined to accept the submissions as canvassed by the learned counsel for the appellant.

18. In conclusion, this Court agrees with the line of reasoning of the learned Single Judge and confirms his order.



W.A(MD)No.1195 of 2019

19. Accordingly, this Writ Appeal fails and the same stands dismissed.

The order of the learned Single Judge, dated 20.08.2019 in W.P.(MD)No. 10536 of 2014 is confirmed. No costs.

(N.S.S.,J.)

(P.V.M.,J.)

18.12.2024

Index : Yes/No

Internet : Yes/No

VSD

To

1. Tamilnadu State Ground and Surface Water Resources  
Information Centre,  
Represented by its Secretary,  
Chepauk, Chennai – 02.
2. The Chief Engineer (Personal),  
Tamilnadu Generation and Distribution Corporation,  
No.114, Anna Salai, Chennai – 02.
3. The Executive Engineer,  
Tamilnadu Generation and Distribution Corporation,  
Tirunelveli Region, Tirunelveli.
4. The Supervising Engineer,  
Tamilnadu Generation and Distribution Corporation,  
Tirunelveli Region, Tirunelveli.



WEB COPY



W.A(MD)No.1195 of 2019

**N.SESHASAYEE, J.**  
**AND**  
**P.VADAMALAI. J.**

**Pre-delivery Judgment made in**  
**W.A(MD)No.1195 of 2019**

**18.12.2024**