



W.P(MD)No.26061 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.26061 of 2023

and

W.M.P(MD)No.22411 of 2023

S.Karthick

... Petitioner

Vs.

**1.The Chief Engineer,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
No.114, Anna Salai,
Chennai-600 002.**

**2.The Superintending Engineer,
Dindigul Distribution Circle,
TANGEDCO, Meenakshinayakanpatti,
Dindigul 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 pertaining to the impugned order in Ka.No.008262/237/Ni.Pi.2/U. 1/Ko.Nee.Va/2021, dated 11.05.2021 on the file of the respondent no.2 and quash the same as illegal and consequently to direct the respondents to provide compassionate ground appointment to the petitioner within a time stipulated by this Court.



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For Petitioner : Mr.S.Louis

For Respondents : M/s.M.Parameshwari
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to call for the records pertaining to the impugned order in Ka.No.008262/237/Ni.Pi.2/U. 1/Ko.Nee.Va/2021, dated 11.05.2021 on the file of the respondent no.2 and quash the same as illegal and consequently to direct the respondents to provide compassionate ground appointment to the petitioner within a time stipulated by this Court.

2. The petitioner's father, namely Selvaraj was working as Masthur in TANGEDCO. While in service, he died on 18.06.2015. He was survived by his mother, one elder sister, two younger brothers and the petitioner. On 09.11.2016, the petitioner made an application seeking appointment on compassionate ground. However, the 2nd respondent passed a communication, dated 30.11.2016 rejecting the petitioner's request for compassionate appointment on the ground that the petitioner did not possess 8th standard qualification. Challenging the same, the petitioner filed a writ petition in



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W.P(MD)No.5999 of 2017 before this Court. This Court quashed the impugned order on 19.01.2021 and the operative portion of the same is extracted as follows:

*“6.....However, the very same issue came up for consideration before this Court in **W.P(MD) No.20137 of 2015** in the case of **Thirumaniraja Vs The Superintending Engineer, TANGEDCO**, wherein Paragraph No.6 reads as follows:-*

6.....

29. Further, as rightly contended by the learned counsel for the petitioner, the respondents granted exemption for educational qualification to some others, while granting compassionate appointment, by issuing the following proceedings. (i) (Per.) B.P.(F.B) No. 52(Administrative Branch) dated 01.11.2007 (ii) (Per) B.P. (F.B) No.1 (Administrative Branch) dated 22.02.2008 (iii) (Per.) B.P.(F.B) No.10(Administrative Branch) dated 17.04.2008.”

7.A perusal of the above decision, makes it clear that any minimum qualification for the posts like Watchman, Gardener, Sweeper and Sanitary Worker is not prescribed and that the petitioner can be accommodated in any one of the aforesaid posts. However, before considering the petitioner's request, the respondent are directed to consider whether the petitioner's family is in indigent circumstances or not.



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8. In view of the above, I am inclined to set aside the order passed by the second respondent in KA.No.21777/580/NI.PI.2/ Oo. 1/Ko.Va.Ve/2016, dated 30.11.2016 and remand the matter back to the authority concerned for fresh consideration and to pass orders within a period of twelve weeks from the date of receipt of a copy of this order.”

3. Accordingly, the said impugned order was quashed and the matter was remanded back to the authority for fresh consideration. However, the respondents passed another impugned order, dated 11.05.2021 rejecting the petitioner's application seeking appointment on compassionate ground. Challenging the same, this writ petition came to be filed.

4. The learned counsel appearing for the petitioner vehemently submitted that the respondents ought not to have rejected the petitioner's claim for appointment on compassionate ground. Because, earlier his application was rejected on the ground that he did not possess 8th standard qualification. However, in the meanwhile, the petitioner had passed 8th standard on 19.03.2019. Hence, the respondent authorities' attitude of rejecting the petitioner's application seeking appointment on compassionate ground for the same reason that the petitioner did not possess 8th standard qualification is *per se* illegal, despite a positive direction by this Court in W.P(MD)No.5999 of



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2017, dated 19.01.2021 to provide the petitioner with any of the post like Watchman, Gardener, Sweeper and Sanitary Worker for which minimum qualification is not prescribed. The respondent authorities ought not to have passed the impugned order for the reason that the petitioner did not possess 8th standard qualification on the date of application and pressed for allowing the writ petition.

5. The learned Standing Counsel has filed a counter affidavit and submitted that the respondent authorities cannot violate the board proceedings which has adopted G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020 and she also relied upon the judgment passed by the Hon'ble Division Bench of this Court in ***W.A(MD)No.533 of 2021 (The Superintending Engineer, Tamil Nadu Electricity Board, TANGEDCO & Another Vs. K.Periannan)***, dated 03.08.2022 where the Division Bench has categorically held that the appointment on compassionate ground has to be strictly followed in accordance with the relevant G.Os or the scheme that has been framed by the employer and any deviation is not permissible. In the present case, the petitioner has acquired 8th standard qualification after 3 years from the date of death of the employee and in view of the same, subsequent



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acquiring of 8th standard qualification cannot be taken into consideration and on that ground, the application is rightly rejected. Hence, she prayed for dismissal of the writ petition.

6. In the instant case, the petitioner has made an application seeking appointment on compassionate ground within 3 years from the date of death of the employee. However, the only consent for the department is that the petitioner did not possess the minimum educational qualification of 8th standard for the purpose of employing him on compassionate ground. The order rejecting his application for compassionate ground came to be passed at the first instance on 30.11.2016 and the same was challenged by the petitioner before this Court in W.P(MD)No.5999 of 2017, dated 19.01.2021, in which this Court was pleased to quash the rejection order, dated 30.11.2016. Thereafter, this Court passed a specific direction that the petitioner can be accommodated in any one of the post like Watchman, Gardener, Sweeper and Sanitary Worker, for which minimum education qualification would suffice. However, the only point which was insisted by this Court to the respondent is as to ascertain whether the petitioner's family is in indigent circumstances or not. However, without doing the said exercise, the respondent authorities have



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proceeded to reject the petitioner's application seeking appointment on compassionate ground for the same reason that the petitioner did not possess 8th standard qualification on the date of application and he had acquired only after 3 years from the date of death of the employee. Such an exercise amounts to contempt of the order passed by this Court in W.P(MD)No.5999 of 2017, dated 19.01.2021.

7. In view of the same, this Court hereby quash the impugned order, dated 11.05.2021 and direct the respondents to appoint the petitioner in a suitable post in terms of his educational qualification within a period of twelve (12) weeks from the date of receipt of copy of this order.

8. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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L.VICTORIA GOWRI, J.

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