



W.A.No.1346 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 21.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

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and

CMP.No.13149 of 2023

1. Tamil Nadu Generation and Distribution Corporation Ltd.,
Represented by its Chairman,
144 Annasalai, Chennai – 02.
2. The Chief Engineer / Personnel
Tamil Nadu Generation and Distribution Corporation Ltd.,
144 Annasalai, Chennai – 02.
3. The Superintending Engineer,
Kundah Power Generation Circle / Kundah
Kundah Bridge Post,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Nilgiris District.

... Appellants

Vs.

B. Sundari
W/o. Kakkamalan,
No.9/158 E, K.S.P. Graden,



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Thimampalayam,
Karamadai (P.O) – 641 104.

... Respondent

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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No.39525 of 2015 dated 28.02.2023.

For Appellants : Mr. David Sundar Singh

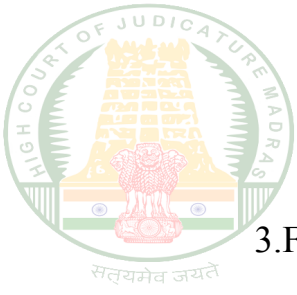
For Respondent : Mr.S.N.Ravichandran

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

Heard.

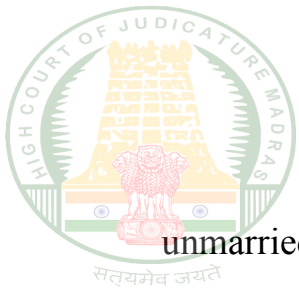
2.The facts of the case in brief are that Tmt. B. Sundari, the writ petitioner, is the widow of Late Kakkamalan, who served in the Tamil Nadu Electricity Board (TNEB), now restructured as Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO). Kakkamallan died in harness on 18.05.2008 while employed as a Foreman. He was survived by his wife, B. Sundari, and two sons—Vijay Anand, the elder, and K. Nandhakumar, the younger and one daughter – Sudha.



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3.Following his death, the petitioner sought and obtained compassionate appointment for her younger son, K. Nandhakumar. He was appointed as Helper (Trainee) on 04.04.2012 and was later made permanent with effect from 10.04.2013. However, on 22.08.2014, while on night duty, Nandhakumar fell unconscious due to brain fever and died, once again plunging the family into hardship. Her elder son Vijay Anand had married in 2010 and was living separately, with no contribution towards the maintenance or welfare of the petitioner.

4.In February 2015, Tmt. Sundari submitted a representation to the respondent authorities that she was now elderly and living with her widowed daughter and seeking compassionate appointment for her daughter Sudha. This representation was made prior to Sudha becoming a widow, as her husband passed away only on 20.11.2015 due to kidney failure. The said representation was forwarded by the second respondent to the third respondent, who, by order dated 21.07.2015, rejected the request. The rejection was based on (Per) B.P. (FB) No. 27 dated 18.08.2008, which provided that in cases where an unmarried employee dies in harness, compassionate appointment could be extended only to the

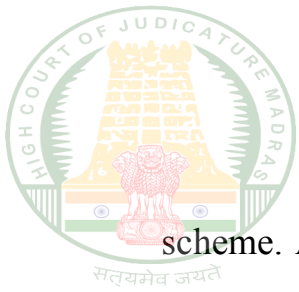


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unmarried brother or unmarried sister of the deceased, provided other eligibility conditions were fulfilled. Sudha, being a married woman at the time of the representation and at the time of rejection, clearly fell outside the scope of the defined category of “near relative.”

5.Challenging this rejection, Sundari filed W.P. No. 39525 of 2015. In the writ petition, she asserted that she was a senior citizen entirely dependent on her widowed daughter, who was living with her and supporting her. The learned single judge, taking into account the petitioner’s age, dependency, and the peculiar circumstances, held that the case deserved sympathetic consideration. Relying on the decision in **U.P. Power Corporation Ltd. v. Urmila Devi**, the judge concluded that a widowed daughter could fall within the ambit of “near relative” and directed the respondents to provide suitable employment to Sudha on compassionate grounds.

6.Aggrieved by this order, TANGEDCO filed a writ appeal. In the memorandum of grounds, the appellants argued that the learned single judge had erred in extending the definition of “near relative” beyond the scope of the



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scheme. According to them, the scheme allowed for compassionate appointment only to the *unmarried* brother or sister of an unmarried deceased employee and not to married or widowed siblings. They further contended that compassionate appointment was not a legal right but a concession extended strictly in terms of the prevailing scheme, and that sympathy alone could not override administrative or legal norms.

7.In support of their position, they cited decisions such as **MGB Gramin Bank v. Chakravarthi Singh and A. Umarani v. Registrar, Co-op Societies**, where the Supreme Court had reiterated that any deviation from the prescribed scheme would render the appointment illegal. The appellants also expressed concern that if such an interpretation were allowed, it would open the floodgates to similar claims by married or widowed siblings of deceased employees, thus diluting the integrity and enforceability of the scheme.

8.The learned counsel for the appellants submitted that the order of the learned Single Judge directing compassionate appointment to the petitioner's daughter is contrary to the express provisions of the applicable scheme laid down



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in (Per) B.P. (FB) No.27 dated 18.08.2008. He pointed out that the scheme restricts eligibility, in the case of an unmarried deceased employee, to only the unmarried brother or unmarried sister, and expressly excludes married siblings from the scope of “near relatives.” Since the daughter for whom appointment was sought was married at the time of application, and not within the eligible category, the rejection by the authority was in strict compliance with the scheme. He emphasized that compassionate appointment is not a matter of right but a concession that must be strictly governed by policy, and relied upon the judgment of the Hon’ble Supreme Court in **MGB Gramin Bank v. Chakravarthi Singh, (2014) 13 SCC 583**, to assert that appointments in breach of the scheme are impermissible. He cautioned that if such orders are allowed to stand, it would set a precedent enabling similarly ineligible individuals to claim appointment, undermining the integrity of the scheme.

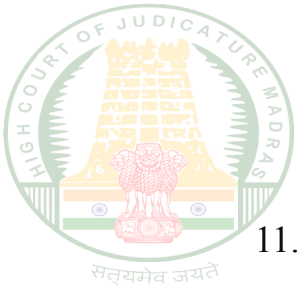
9.In response, the learned counsel for the respondent submitted that the rejection of the petitioner’s request was unduly rigid and failed to account for the humanitarian circumstances of the family. He contended that the daughter, Tmt. Sudha, though married at the time of application, became a widow soon thereafter



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and was the only member residing with and caring for the aged petitioner. Relying on decisions of the Supreme Court and this Court which recognized widowed daughters as part of the eligible family unit, he argued that eligibility must be viewed in the context of dependency and not limited to formal status. He further relied on the Board Proceedings dated 12.02.2025 issued by the Tamil Nadu Power Distribution Corporation Limited, which allows nomination of a brother or sister by the parents without distinguishing between married and unmarried status. He submitted that this later policy reflects a shift in interpretation and that such a progressive reading ought to guide the present case as well. On these grounds, he sought dismissal of the appeal and prayed for upholding the order of the learned Single Judge.

10. Thus, the writ appeal raised serious legal issues not only about who qualifies as a “near relative” under the compassionate appointment scheme, but also about the dangers of courts expanding eligibility based on compassionate grounds without corresponding legal status.



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11.However, the question before this Court is Whether the writ petitioner's daughter, who was married at the time of application and was neither a legal heir nor an unmarried sibling of the unmarried deceased employee, was eligible for compassionate appointment under the scheme in force at the relevant time [(Per) B.P. (FB) No. 27 dated 18.08.2008], and whether the subsequent Board Proceedings dated 12.02.2025 can be invoked retrospectively to support such a claim?

12.The law is well-settled that compassionate appointment is not a vested right, but a concession granted as part of a welfare measure. Its object is to provide immediate financial relief to the family of a government servant who dies in harness, to tide over the sudden hardship caused by the loss of the sole breadwinner.

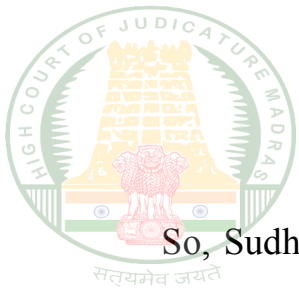
13.The scheme governing compassionate appointments at the relevant time was contained in Board Proceedings (Per) B.P. (FB) No. 27 dated 18.08.2008. This scheme specifically applied to cases where the deceased employee was unmarried. It provided that, in such circumstances, only the unmarried brother or unmarried



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sister of the deceased could be considered as a “near relative” eligible for appointment on compassionate grounds. The scope of the scheme was thus narrowly defined, excluding married siblings from eligibility, regardless of their subsequent marital status or financial condition. Further, any such appointment was to be granted strictly subject to proof of indigence and satisfaction of other eligibility conditions stipulated under the scheme. The policy was clear and categorical in excluding married sisters from consideration, regardless of their later change in marital status.

14. In the present case, the claim for compassionate appointment in favour of Tmt. Sudha, the daughter of the writ petitioner, is untenable both factually and legally. The appointment originally granted on compassionate grounds was in favour of Nandhakumar, the unmarried son of the petitioner and the deceased employee Kakkamallan. Upon his subsequent demise, the petitioner sought to invoke the same benefit in favour of her daughter Sudha. However, Sudha was not the unmarried sister of the deceased employee Nandhakumar. Most crucially, she was married at the time the application was made in February 2015, and became a widow only in November 2015, after the application was rejected on 21.07.2015.



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So, Sudha was not eligible for compassionate appointment either by relationship by timing—since at the time of application and rejection she was not a widow and therefore could not claim any exception under the policy, even under a liberal interpretation.

15. The learned counsel for the respondent placed reliance on the subsequent Board Proceedings dated 12.02.2025 (FB 2025), issued by the Tamil Nadu Power Distribution Corporation Limited, to contend that the revised scheme no longer draws a distinction between married and unmarried siblings and permits nomination of a brother or sister by the parents of a deceased employee. However, this argument is legally unsustainable. The said proceedings were issued nearly two years after the disposal of the writ petition on 28.02.2023, and ten years after the rejection order dated 21.07.2015. It is a settled principle of service jurisprudence that eligibility for compassionate appointment must be assessed with reference to the scheme in force at the time of application or consideration, and not on the basis of subsequent amendments, unless such amendments are expressly made retrospective. The legal position in this regard is well established in a long line of decisions, including **General Manager, State Bank of India v. Anju Jain**,



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wherein it has been held that the policy applicable at the relevant time governs the

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16.A plain reading of FB 2025 reveals no indication that the revised scheme was intended to operate retrospectively so as to govern applications or rejections made under the earlier 2008 scheme. On the contrary, Clause 18 of the said proceedings, titled “Saving,” makes it explicitly clear that “nothing contained in these Regulations shall adversely affect any person who has made an application or has been appointed on compassionate grounds on the date of coming into force of these Regulations.” This clause protects the validity of appointments already made or applications pending at the time the new regulations came into force, but does not reopen or revive applications that had already been rejected under the earlier 2008 scheme. Permitting a party to rely on a subsequent policy change introduced after the adjudication of the dispute would amount to circumventing settled law by retrospectively altering eligibility norms—an exercise that lies beyond the jurisdiction of the court. In this context, applying FB 2025 to revive or validate a claim already rejected under the 2008 scheme would not only conflict with the terms of the original policy but would also undermine the finality of



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administrative decisions taken in accordance with law. Hence, the reliance placed on the 2025 Board Proceedings is misplaced and cannot alter the legal correctness of the rejection made under the 2008 scheme.

17. In view of the foregoing discussion, it is evident that the petitioner's daughter, being married at the time of application and not falling within the category of "unmarried sister" as prescribed under the governing scheme [(Per) B.P. (FB) No. 27 dated 18.08.2008], was not eligible for appointment on compassionate grounds. The subsequent policy introduced through Board Proceedings dated 12.02.2025, which liberalises the definition of eligible family members, cannot be applied retrospectively to sustain a claim that was already rejected in accordance with the scheme then in force. The learned Single Judge, in extending the benefit of compassionate appointment beyond the scope of the applicable policy, has committed an error warranting interference by this Court.

18. Accordingly, the writ appeal stands allowed, and the order passed in W.P. No. 39525 of 2015 dated 28.02.2023 is set aside. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.



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(R.S.K., J) (A.D.M.C., J)

21.04.2025

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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Represented by its Chairman,
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2. The Chief Engineer / Personnel
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R.SURESH KUMAR, J
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