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**(2013) 06 MAD CK 0240**  
**In the Madras High Court**  
**Case No : Writ Petition No. 11753 of 2012**

A. Sasi

APPELLANT

Vs

Chairman, Tamilnadu Electricity Board and Others

RESPONDENT

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**Date of Decision :** 06-06-2013

**Acts Referred:**

**Citation :** (2013) 3 LLJ 309

**Hon'ble Judges :** D. Hariparanthaman, J

**Bench :** Single Bench

**Advocate :** A.R. Suresh, for the Appellant; R. Varalakshmi, for the Respondent

**Final Decision :** Allowed

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## Judgement

D. Hariparanthaman, J.—The petitioner husband was employed as a contract labourer in Tamilnadu Electricity Board from 31.10.1991. The Executive Engineer, Achrapakkam, issued the proceedings in Memo No. 36 EE/O & M/ACK/Ads/A1/F. TCL/D/08 dated 01.02.2008, based on the proceedings of the Chief Executive Engineer dated 28.01.2008 absorbing the services of 56 contract labourers in the service of the Tamilnadu Electricity Board. The name of the petitioner stands at Sl. No. 25. Before he got actual benefit, unfortunately, he died on 03.02.2008. Thereafter, the petitioner made representations claiming compassionate appointment. Since there was no response, the petitioner has filed this writ petition seeking for a direction to provide her compassionate appointment. The respondents filed a counter affidavit refuting the allegations. It is stated that the husband of the petitioner worked only as a Contract labourer and he was not absorbed as regular staff and hence the petitioner is not entitled to seek for compassionate appointment.

2. Heard both sides.

3. The learned counsel for the petitioner has submitted that in similar circumstances this Court has passed an order dated 23.05.2010 in W.P. (MD) Nos. 11161 and 11162 of 2009, directing to provide compassionate appointment

to the widow/petitioner therein. According to the learned counsel for the petitioner, the judgment squarely covers this case.

4. On the other hand, the learned counsel for the respondents, has submitted that the husband of the petitioner did not join Electricity Board as regular worker, pursuant to the order dated 01.02.2008, issued by the Executive Engineer, Achrapakkam and his ultimate joining would depend upon the verification of the certificates, which were submitted by the husband of the petitioner. Hence, the writ petition is liable to be dismissed.

5. I have considered the submissions made by either sides.

6. The proceedings dated 01.02.2008 issued by the Executive Engineer, Achrapakkam, relating to absorption of the husband of the petitioner is enclosed in the typed set of papers. The said proceedings refers to BP (FB) No. 44 (Adm.Br) dated 06.09.2007 and also the proceedings of the Chief Executive Engineer dated 28.01.2008. Referring to those proceedings, the Executive Engineer, Achrapakkam has stated in the order dated 01.02.2008 that during 2007, contract labourers were selected for appointment in the services of the Electricity Board and they were allotted to the Division. Based on such exercise, the order dated 01.02.2008 was issued by the Executive Engineer, Achrapakkam. The first paragraph of the order dated 01.02.2008 is extracted hereunder, in this regard.

The Identified Contract Labourers during 2007 is selected, appointment as Temporary Casual Labourers and re-allotted to this division vide reference above are reposted as per the Annexure -- I and the Names & Section mentioned noted against each on daily wages of Rs. 70/- (Rupees Seventy Only) for a period of one year and they shall be engaged for minimum 20 days in a month.

7. Therefore, long back the petitioner was selected for absorption in the services of the Electricity Board i.e., even during 2007, selection seems to have taken place. Thereafter, he was allotted to the Division. However, the learned counsel for the respondents has relied on the following passage in support of her submissions.

The section officers are informed that the Certificate submitted by the contract labourers shall be verified with originals and if there is any discrepancy the matter shall be informed to this office and they should not be allowed to Join.

According to her, the ultimate joining in service would depend upon the verification of certificates, that were submitted by the husband of the petitioner.

8. I am not impressed with the submission made by the learned counsel for the respondents, since, it was not her case that the certificates produced by the husband of the petitioner were defective or there were discrepancies. Therefore, the learned counsel for the respondents could not rely on the aforesaid passage in support of her submission.

9. Further, the proceedings dated 01.02.2008 also makes it clear that the husband of the petitioner was working as a contract labourer from 31.10.1991. He was identified as contract labourer during 2007 for selection and absorption in the services of the Tamilnadu Electricity Board. In the said circumstances, the respondents cannot take such a technical ground to deprive the compassionate appointment to the petitioner, when she lost her husband, who served in the Electricity Board from 1991 onwards.

10. In the case relied on by the learned counsel for the petitioner, the person was employed as NMR in Public Works Department, Vennar Basin Sub Division, Mannarkudi from 01.11.1987. He died on 06.01.2001. Later the Government issued G.O.Ms. No. 334, Public Works (C2) Department, dated 19.10.2007, regularising the services of the husband of the petitioner from 01.01.1998, on completion of 10 years of service. In the said circumstances, this Court directed to give compassionate appointment to the widow therein. In my view this case is a better one and paragraph Nos. 3 and 4 of the judgment are extracted hereunder.

3. On the factual situation as narrated above, even though it is true that the Government, considering all Nominal Muster Roll employees in the Public Works Department, has passed orders on 19.10.2007 regularising their services, as it is seen in the Government Order and the Annexure contained therein, especially relating to the petitioner's husband, the regularisation has been given effect to from 01.01.1998, the date when the petitioner's husband was very much alive and, therefore, the stand taken by the respondents that at the time of passing of the Government Order, the petitioner's husband has already passed away six year ago and, therefore, the petitioner's claim for compassionate appointment cannot be taken into consideration is not tenable. It is not the case of the respondents that the petitioner has not made application for compassionate appointment within the time stipulated. It is also relevant to take note at this point that between 2011 and 2006, there has been ban on recruitment and in fact, the Government itself, considering the said facts only, has passed orders of regularisation after the ban was lifted in the year 2007.

4. As far as the pensionary benefits are concerned, as correctly, pointed out by the learned counsel for the petitioner that in respect of the same Public Works Department, this Court has considered few cases including the one in W.P. No. 8649 of 2008, wherein, by an order dated 22.10.2008, under similar circumstances, a direction was issued that in respect of a person, who has completed ten years of service and died in harness, is entitled for the family pension to be given to the legal heirs by relying upon the judgment in S. Vijayalakshmi v. Tamilnadu Water Supply and Drainage Board reported in 2006 W.L.R. 91. In the said judgment, the Principal Bench of this Court has held that when once the deceased employee acquires permanent status, the consequential benefits due to the family members cannot be denied. This Court has also made a reference to Rule 49(2-A) of the Tamilnadu Pension Rules, to enable the family

members to have the family pension, apart from death-cum-Retirement Gratuity as contemplated under Rule 45(b). The Principal Bench of this Court, in *S. Vijayalakshmi v. Tamilnadu Water Supply and Drainage Board* (supra), has held as follows:

Once it is held that the deceased employee was in law entitled to the benefit of acquisition of permanent status, any consequential benefits cannot be denied to the widow on death of such person or merely because during the life time of the employee on such permanency had been actually conferred.

In view of my aforesaid conclusion, the writ petition is allowed and a direction is issued to the respondents to provide compassionate appointment to the petitioner, within a period of six weeks, if there is no other impediment. No costs. Consequently, the connected Miscellaneous Petition is closed.