

(2001) 03 MAD CK 0099

In the Madras High Court

Case No : Writ Petition No. 13802 of 2000

D. Ramadoss

APPELLANT

Vs

The Chief Engineer (Personnel), Tamilnadu' Electricity Board
and The Superintending Engineer, Tamilnadu Electricity Board
CEDC/West33/II

RESPONDENT

Date of Decision : 09-03-2001

Acts Referred:

Citation : (2001) 03 MAD CK 0099

Hon'ble Judges : D. Murugesan, J

Bench : Single Bench

Advocate : S.N. Ravichandran, for the Appellant; V. Radhakrishnan, for E.B., for the Respondent

Final Decision : Allowed

Judgement

D. Murugesan, J.—The Petitioner has challenged the letter of the second Respondent made in letter No. 013244/943/ADS Adm.3/Al/W.P. No. 20111 of 1999 dated 29.7.2000 rejecting the request of the Petitioner for appointment on compassionate ground, on the ground that the Petitioner has made such request after 19 years. The grievance of the Petitioner is that after the demise of the Petitioner's father by name P. Doss who was the erstwhile employee of the Respondent Board died on 8.1.78, the Petitioner applied for appointment on compassionate ground to the Respondent on 18.6.97. The said request was rejected by the Respondent by order dated 22.6.99 without giving any reason. The Petitioner was therefore compelled to approach this Court in W.P. No. 20111/1999 and this Court by order dated 17.5.2000 while setting aside the said order on the ground that the same was non-speaking and as such it is arbitrary, and liable to be quashed, directed the Respondent to consider the request of the Petitioner once again with reference to the circulars issued by the Board governing the compassionate appointment. Pursuant to the said direction of this Court, the present impugned order dated 29.7.2000 is passed once again

rejecting the request of the Petitioner on the ground of 19 years delay. Aggrieved by the above order, the present writ petition is filed.

2. The Learned Counsel appearing on behalf of the Petitioner would contend that the prior to the circular of the Respondent made in B.P. Ms. (PB) No. 46 (Adm. Branch) dated 13.10.95, there was no minimum period prescribed for appointment on compassionate ground. The father of the Petitioner died during 1978 and therefore there is no limitation prescribed for the Petitioner to apply for appointment on compassionate ground. Even otherwise, as per paragraph 3 (c) of the Board's proceedings, "In the case of already expired staff while in service of dependant should apply for employment assistant within three years from the date of issue of this order". Therefore, the Learned Counsel submitted that as per the above circular, the application made by the Petitioner on 18.6.97 is well within three years as per their circular and therefore the reason adduced by the Respondent viz there is delay of 19 years is not sustainable. Therefore, the Learned Counsel submitted that the impugned order is liable to be set aside.

3. On the other hand, the Learned Counsel appearing for the Respondent would contend that even if there is no minimum period prescribed for making an application for compassionate appointment as has been held by the Apex Court in Sanjay Kumar v. The State of Bihar and Ors. 2000 (6) Sup 43 the application of the Petitioner after the lapse of 19 years cannot be considered. Therefore, the Learned Counsel for the Respondent submitted that the writ petition is liable to be rejected.

4. I have considered the rival submissions of the respective counsel. It is not in dispute that the appointment on compassionate ground is governed by the guidelines prescribed by the Board, by way of Board's proceedings. Before the Board's proceedings made in B.P. Ms. (PB) No. 46 (Adm. Branch) dated 13.10.1995, there was no minimum period prescribed within which the application for compassionate appointment has to be made. However, only under the above said circular, the minimum period of three years was prescribed and that too in case of already expired staff, the dependant can apply within three years from the date of issue of the order. In this case, the Petitioner has applied for compassionate appointment on 18.6.1997 well within the period of three years. In the judgment of the Apex Court relied upon by the Learned Counsel for the Respondent, there is no minimum period prescribed for appointment on compassionate ground and the Supreme Court while considering the application has held that there cannot be a request for compassionate appointment after a lapse of ten years. However, in this case, by vistas of Board's proceedings dated 13.10.95, the Respondent has prescribed the minimum period of three years for the dependants to apply for employment assistance of the staff already expired, from the date of issue of the said order. When the applicants like the Petitioner have been given the period of three years to make such a request, the Petitioner's request which was made on 18.6.97 is well within the period of three years as per the above circular and therefore the same cannot be rejected on the

ground of delay of 19 years. In that the view of the matter, I do not find any justification in rejecting the request of the Petitioner only on the sole ground of delay of 19 years. Accordingly, the impugned order of the Respondent is set aside. However, the Respondent is directed to consider the request of the Petitioner for appointment on compassionate ground on merits with reference to the circular which are in force for appointment on compassionate ground including the Board's proceedings No. 46 (Adm. Branch) dated 13.10.1995 within a period of two months from the date of receipt of the copy of this order. This writ petition is allowed. No costs.