
(2006) 04 MAD CK 0243

In the Madras High Court

Case No : W.P.No. 39841 of 2002 and W.P.M.P. No. 59271 of 2002

K. Nagammal

APPELLANT

Vs

Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 05-04-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 04 MAD CK 0243

Hon'ble Judges : K. Suguna, J

Bench : Single Bench

Advocate : V. Prakash, for the Appellant; V. Radhakrishnan, for the Respondent

Final Decision : Allowed

Judgement

K. Suguna, J.—This writ petition has been filed to issue a writ of mandamus directing the respondents to absorb the petitioner in the regular

service of the Ennore Thermal Power Station of the Tamil Nadu Electricity Board as done in the case of the other workers of the Ennore Thermal

Power Station Industrial Co-operative Society with effect from the date of their absorption.

2. According to the counsel for the petitioner, originally the petitioner's husband-Kuppamuthu was employed as a contract labour, in the Ennore

Thermal Power Station, under various contractors for number of years continuously. Since, the Tamil Nadu Electricity Board at its initiative formed

an Industrial Co-operative Societies, the petitioner's husband was also made as a member but the petitioner's husband died on 16.05.94. After

his death the petitioner was appointed on compassionate ground with effect from 1.01.99 in the said society.

3. Subsequently, the Tamil Nadu Electricity Board decided to absorb the entire

work force of the Industrial Co-operative Societies and to regularise them in the service of the Ennore Thermal Power Station. Accordingly, all the workers were absorbed in the regular service of the Ennore Thermal Power Station but the petitioner was not absorbed. On enquiry, the petitioner was informed that she has not completed 480 days of service as on 05.01.98 to be absorbed as a regular employee. Having made the representation, the petitioner filed the above writ petition.

4. According to the learned counsel for the petitioner, the claim of the petitioner was not considered, for absorption on regular basis, only on the ground that she has not completed 480 days of service as on 05.01.98. According to the learned counsel, the rejection of the petitioner's claim, for absorption and regularisation, on this ground is prima facie illegal and also totally erroneous.

5. According to the learned counsel, the petitioner was appointed on compassionate ground, that is to say in view of the number of years of service of the petitioner's husband in the said society, the petitioner was appointed in the year 1999. Further the learned counsel submits that though the petitioner has submitted an application seeking for an appointment on compassionate ground in the year 1994 she was given the appointment only with effect from 01.01.99. As such the delay in giving the appointment is only on the part of the said society, hence the petitioner's claim cannot be negatived for permanent absorption, on the ground she had not completed 480 days of service. If she was provided with appointment on compassionate ground immediately on her representation in 1994 certainly she would have completed 480 days as on 5.1.98. For the mistake committed by the Society, petitioner cannot be deprived of the benefit of permanent absorption.

6. On the other hand, the learned counsel appearing for the Electricity Board has contended that the system of engagement of contract labour in all the Thermal Power Station including Ennore Thermal Power Station was abolished as on 31.04.99 and the Electricity Board decided to make direct payment to the contract workmen till such time the required number of contract workmen are absorbed in service. Out of 1857 contract workmen of Ennore Thermal Power Station only 748 contract workmen who had put in 480 days in service in a period of 24 calendar months

were alone absorbed. As far as others are concerned they were discontinued. As far as the petitioner is concerned she has also not complied the condition i.e. to put 480 days of service as on 05.01.98. Further the learned counsel submitted that the claim of the petitioner alone has not been rejected but also the other workmen who have not completed 480 days of service as on 05.01.98 i.e. except the 748 workmen all the others were not regularised and absorbed. Besides the petitioner's appointment on the compassionate ground is not by Tamil Nadu Electricity Board but only by the said society. As such for the appointment made by the said society, the respondent cannot be forced to absorb the petitioner in the regular service. Hence, according to the learned counsel for the respondent, the claim of the petitioner has to be negatived.

7. I have considered the above submissions of the learned counsel. I am of the view that as far as the petitioner's claim is concerned, it has been negatived only on the ground that she had not completed 480 days of service as on 5.1.98. According to the petitioner, her husband had worked from the year 1986 in the said society. Subsequently on 16.5.94 due to cancer he died. Though the petitioner had submitted an application in the year 1994, she was given an appointment on compassionate ground, only in the year 1999. Consequent of the delay on the part of the said society, in giving an appointment to the petitioner on compassionate ground, for a period of 4 years alone the petitioner could not have completed the prescribed period of 480 days of service as on 5.1.98. That apart as far as the petitioner is concerned it is her case that it cannot be considered as it was considered in the case of other employees, since the petitioner began her service on compassionate ground, based on the death of her husband, in the year 1999. Her husband was in service of the said society from 1986 onwards. As such if the petitioner's husband was alive certainly he would have been absorbed on the regular basis. As far as the object of the compassionate ground appointment is to enable the family of the deceased who died while in service to survive. In fact the respondents have treated the unequals as equals in rejecting her claim. Besides, rejecting the petitioner's claim on the ground that she had not completed 480 days of service as on 5.1.98, is in my opinion, the object of the said scheme is defeated. That apart it is not even the case of the respondent that other employees who are seniors to the petitioner's husband

in service were also not absorbed. As such rejecting the petitioner's claim on the technical ground is illegal and it is unsustainable. As such, the writ petition is allowed. No costs. Consequently, the connected W.P.M.P. is closed.