

(2000) 07 KAR CK 0023
In the Karnataka High Court
Case No : Writ Petition No. 11309 of 2000

Mahadevi

APPELLANT

Vs

Karnataka Power Transmission Corporation Limited and
Another

RESPONDENT

Date of Decision : 07-07-2000

Acts Referred:

Electricity (Supply) Act, 1948 — Section 79

Citation : (2000) ILR (Kar) 3446 : (2000) 6 KarLJ 370 : (2000) 3 KCCR 1965

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : Sri Umesh R. Malimath, for the Appellant; Sri B.S. Patil, for the Respondent

Judgement

R. Gururajan, J.—A widow of the deceased employee of KEB is before this Court seeking for a compassionate employment on the facts of this case. Petitioner was married to one Rudrappa Basappa Teggi. He was working in the Corporation as a godown watchman. He died while in service on 10-12-1995. He left behind the present petitioner, the widow. She filed an application seeking for compassionate employment with the Board. The Board by endorsement dated 11-12-1997 rejected her application. Later again he moved one more representation. She again made a representation which came to be rejected by Annexure-C, dated 6-4-1999 reiterating their earlier stand in the matter. The reason for rejection of the petitioner's case is that the petitioner's husband was considered on compassionate ground for employment on the death of his father who was working in KEB and hence the Board cannot consider the request of the petitioner on compassionate ground for the second time. According to the Board the appointment could be considered only once in a family. Petitioner in these circumstances challenges the endorsement issued to her rejecting her request in terms of Regulation 4(6) and also seek for a direction to consider her case.

2. Notice was ordered and the respondents have entered appearance.

3. I have heard the learned Counsel for the petitioner. His essential contention is that contrary to the regulations which provide for compassionate employment on the death of the employee of KEB, of present endorsement is issued. The respondent's Counsel Mr. B.S. Patil, relies on the regulation to contend that the petitioner's husband was provided compassionate employment on the death of his father and that being the case on facts there is no second consideration in the same family under Regulation 4(6) of the Regulations.

4. After hearing the learned Counsel on either side I proceed to pass the following order:

Admittedly the petitioner is a widow of the deceased employee Sri Rudrappa Basappa Teggi who had obtained employment on the death of his father who was working with the Board, on compassionate grounds. Board has rejected the case of the petitioner relying on Regulation 4(6) of the Regulations. To consider the correctness of the endorsement in terms of Regulation 4(6) I have to notice other provisions in the regulation.

5. Board in exercise of the powers u/s 79 has framed statutory regulation known as Karnataka Electricity Board Employees Recruitment (Appointment on Compassionate Grounds) Regulations, 1997. Preamble to the regulations provide for an appointment of the dependent of a deceased Board employee on compassionate grounds. The definition in Regulation 2(a) reads as under:

"(a) "Dependent of a deceased Board's employee" means his widow, son and unmarried daughter who were wholly dependent upon him and were living jointly with him".

Similarly the word "family" is defined under this regulation which reads as under:

"(b) "Family" in relation to a deceased Board employee shall mean only his or her legally wedded spouse, and their sons whether married or unmarried and unmarried daughters who were jointly living with him".

Appointment under these regulations is restricted in respect of the following in order of preference, they are:

(a) Son;

(b) Unmarried daughter;

(c) Widow, if there are no son/s and unmarried daughter/s, or for any valid reason they are not willing to accept the appointment.

6. Regulation 4 provide for conditions of appointment and Regulation 4(6) provide for consideration of the appointment only once for a family. In the case on hand the petitioner contends that the petitioner being a dependent in terms of Regulation 2(a), is entitled for consideration on account of the death of her husband.

7. Per contra the Board contends that in view of providing an appointment to the

petitioner's husband on compassionate grounds on account of his father's death, no second consideration is permissible as mentioned earlier.

8. Petitioner is a dependent, being widow of the deceased husband-employee. She falls under the definition of "family" being deceased's legally wedded spouse. The Regulation 3(2)(c) provides for compassionate employment in respect of a widow. The crucial clause provides for consideration only once for a family. These regulations are essentially framed with a view to wipe out the tears rolling from the eyes of a dependent on account of an employee dying while in service, It is with this laudable object the Board has framed regulations providing for appointment in the order of preference. The "family" mentioned in Regulation 4(6) has to be understood in the context of Regulations 2 and 3 of the Regulations.

9. Admittedly in the case on hand the petitioner's case falls within the meaning of "family" being the widow of deceased employee of the Board. The object of consideration only once is to restrict the compassionate employment by the Board. In the case on hand admittedly she could not have got employment on account of the death of her father-in-law since she is not a dependent in terms of the Regulation 3(2) of the Regulations. Her request is in the light of her husband's death. This is a subsequent development. Therefore the rejection in terms of Regulation 4(6) in my opinion is unsustainable in law. The Board has not considered any appointment in the family of the deceased Rudrappa Basappa Teggi. Family of his father does not include the daughter-in-law in terms of the regulation. Therefore a reasonable reading of the definition along with Regulations 3 and 4 would show that what is prohibited is a consideration of employment for only one in a family of the deceased. Since the petitioner does not form part of the family of her father-in-law in terms of the definition the rejection by the Board on the ground of her husband getting employment on compassionate ground on the death of his father is unsustainable. On the other hand her claim is based on her independent right as a dependent in the family of her husband. Any other interpretation would ruin the very object of the Act.

10. Under these circumstances I am clear in my mind that the rejection of providing an employment on the fact of this case is unsustainable. Petitioner being a widow is eligible for the employment in terms of Regulation 3(2)(c) of the Regulations.

11. In these circumstances I set aside the endorsement and direct the Board to provide an employment in the light of her application in terms of the regulation as applicable to this case and pass appropriate order within 3 months from the date of precept of copy of this order.

12. Ordered accordingly. No costs.