

(2002) 10 MAD CK 0054

In the Madras High Court

Case No : Writ Petition No. 35464 of 2002 and W.P.M.P. No. 52914 of 2002

P. Krishnamurthy

APPELLANT

Vs

The Chairman, Tamil Nadu Electricity Board, The Chief Engineer/Personnel, Tamil Nadu Electricity Board and The Superintending Engineer, Thiruvannamalai Electricity Distribution Circle

RESPONDENT

Date of Decision : 10-10-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 10 MAD CK 0054

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : S. Doraisamy, for the Appellant; V. Radhakrishnan, for TNEB, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—Admittedly, the petitioner was aged about twelve and half years when his father, who was working as Lineman in the

third respondent-Electricity Board, died on 02.01.1993. On behalf of the petitioner, his mother sent a representation on 1.9.1997 and the same

was rejected on the ground that her son has not attained majority. The petitioner again sent a representation on 28.12.1998 and the third

respondent by the impugned proceedings dated 1.8.2000 rejected the same on the ground that the petitioner has not applied within three years

from the date of death of his father. Aggrieved against the said order, the petitioner seeks a writ of Certiorarified Mandamus to call for the records

relating to the proceedings of the third respondent in letter No.Me.Po./Ni.Pi.3/Vu.3/ Ko.Va.Ve./62/ 2000-11 dated 1.8.2000 on the file of the

third respondent and quash the same and direct the respondents to appoint the petitioner in a suitable post on compassionate grounds in

respondents Board, placing reliance on the proceedings of the respondents Board in B.P.Ms.(FB)No.46 (Admn, Br.)dated 13.10.1995.

2. In this regard, I am obliged to refer the decision dated 25.1.1999 made in W.P.No.14134 of 1991, wherein P. Sathasivam, J, following the

decision of the Apex Court in Union of India (UOI) and Others Vs. Bhagwan Singh, and State of U.P. and Others Vs. Paras Nath, , rejected the

request for appointment on compassionate ground on the ground that the appointment on compassionate ground is intended only to provide

immediate financial assistance to the family of the deceased employee and to help the family in distress.

3. In Union of India (UOI) and Others Vs. Bhagwan Singh, , the Apex Court has held as under.

The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a

government servant who dies in harness, when there is no other earning member in the family.

7. No such consideration would normally operate seventeen years after the death of the government servant. The High Court was, therefore, not

right in granting any relief to the respondents.

4. In State of U.P. and Others Vs. Paras Nath, , the Apex Court has held as under.

5. The purpose of providing employment to a dependant of a government servant dying in harness in preference to anybody else, is to mitigate

the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family,

such appointments are permissible on compassionate grounds provided there are Rules providing for such appointment. The purpose is to provide

immediate financial assistance to the family of a deceased government servant. None of these considerations can operate when the application is

made after a long period of time such as seventeen years in the present case.

5. Similar writ petition, viz. W.P.No.11922 of 2000 was dismissed by this Court by order dated 18.7.2000 which reads as under.

Admittedly, the petitioner's father died in an alleged fatal accident on 17.11.1969, almost 31 years back. However, the petitioner who is now

aged about 41 years seeks an employment on compassionate ground. It appears that the petitioner has made an application on 16.7.1982, but the same was rejected by the respondent Board on the ground that his brother is already employed in Integral Coach Factory. Thereafter, the petitioner again applied on 3.11.1993, to which the respondent Board by proceedings dated 26.7.1999 replied to the petitioner that the case of the petitioner was once rejected and therefore the same cannot be re-opened. Hence the petitioner seeks for the issue of a writ of Mandamus directing the respondents to issue an appointment order to the petitioner under compassionate ground based on his application dated 16.7.1982 and enquiry dated 20.12.1997.

2. Employment assistance to the dependant of a deceased employee who dies while in service as well as to the dependant of an invalidated employee on medical ground, in my considered opinion, is intended only to protect and safeguard the interest of the dependants of the deceased employee immediately after his death by providing employment to one of the dependants in the family of the deceased employee or the invalidated employee on medical ground. Such a concession cannot be claimed as a matter of right by the petitioner after a period of 31 years of the death of his father, in spite of the rejection of his request by the respondent Board as early as 1982. If the petitioner is aggrieved by the said refusal of the respondent Board, to consider his case, he should have moved the Court immediately after the rejection of his request by the respondent Board, for appropriate relief.

3. As no good and sufficient reasons are placed by the petitioner before this Court explaining the laches on his part in seeking the relief as prayed for, the writ petition is dismissed. No costs.

6. Again, the Apex Court in *SANJAY KUMAR v. THE STATE OF BIHAR & ORS.* reported in 2000 (6) ST 43, held that there cannot be any reservation of vacancy till such time the claimant becomes major after number of years. Unless there is some specific provisions in the service regulations.

7. Even though the learned counsel for the petitioner places reliance on the proceedings of the respondents' Board in B.P.Ms.(FB)No.46 (Admn. Br.) dated 13.10.1995 and seeks appointment on compassionate ground in

pursuance of the application of the petitioner dated 28.12.1998, while his father admittedly died on 02.01.1993, I do not think that the petitioner is entitled to the relief as prayed for, as the proceedings of the Board itself is contrary to the law laid down by the Apex Court in State of U.P. and Others Vs. Paras Nath, , and SANJAY KUMAR v. THE STATE OF BIHAR & ORS. reported in 2000 (6) ST 43.

8. In view of the decisions referred to above, I do not find any merit in granting the relief, viz. writ of certiorarified Mandamus as prayed for.

Hence, the writ petition is dismissed. Consequently, the connected W.P.M.P. is also dismissed. No costs.