

(2004) 04 MAD CK 0088

In the Madras High Court

Case No : Writ Petition No. 1584 of 2001

T. Meer Ismail Ali

APPELLANT

Vs

The Tamil Nadu Electricity Board and The Superintending
Engineer, Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 CTC 120 : (2004) 4 MLJ 238

Hon'ble Judges : F.M. Ibrahim Kalifulla, J

Bench : Single Bench

Advocate : P. Peppin Fernando, for the Appellant; G. Anandakumar, for V.
Radhakrishnan, for the Respondent

Final Decision : Allowed

Judgement

F.M. Ibrahim Kalifulla, J.—The petitioner seeks to quash the proceedings of the respondent Board dated 18.07.2000 and 14.12.2000, in and by which the respondent rejected the petitioner's application for compassionate appointment on the footing that his application was belated in point of time and in the light of Permanent B.P.Ms. (FB) No.46, Full Board dated 13.10.1995, the application should have been filed within three years from the date of the death of the father.

2. The petitioner's father was employed in the Electricity Board as Accounting Supervisor in the Aruppukkottai Revenue Unit of Kamarajar Electricity Distribution Circle, now known as Virudhunagar Distribution Circle. He met with a sudden death on 13.04.1993 due to cardiac arrest while in service, leaving behind his wife, three daughters and the petitioner. When the petitioner made an application earlier for compassionate appointment on 05.08.1997, the same was rejected by the respondent-Board stating that he had not completed 18 years of age and therefore his application cannot be considered. Subsequently, the petitioner is said to have acquired a Diploma in Electrical and Electronic Engineering and after completing 18 years of age in 2000, he made an

application for compassionate appointment on 04.07.2000. The said application was also rejected by the respondent Board stating that the application was not made within three years from the date when B.P.No.46 dated 13.10.1995 came to be issued.

3. It is not in dispute that the petitioner completed 18 years of age only in the year 2000. When the petitioner's earlier application was rejected on the ground that he did not complete 18 years of age, it cannot be held that the petitioner was not diligent in seeking for compassionate appointment at the earliest point of time. In fact, immediately after attaining 18 years of age and also after qualifying himself, when the petitioner came forward with the present application on 04.07.2000, in all fairness, the respondent should have considered the petitioner's claim on merits. In fact in the application, the petitioner would claim that one of his sisters is mentally retarded and therefore, he is the only breadwinner of the family.

4. In such circumstances, it was a deserving case where the respondent should have shown some compassion while considering the petitioner's application for compassionate appointment. Unfortunately, the respondent did not seem to have shown any compassion at all and mercilessly rejected the petitioner's application on a hyper technical ground.

5. Learned counsel for the respondent relied upon the judgment dated 10.10.2002 passed in W.P.No.35155 of 2002 holding that the very purport of providing compassionate appointment was to provide employment assistance to the dependents of the deceased employee who died in harness and thereby provide immediate relief to the family from undergoing any financial sufferings. It was held therein that when the application was made after 31 years after the death of the father, there was no scope to consider the application for compassionate appointment, as the same would not serve the purpose for which it was intended. In fact, the judgments of the Supreme Court as well as this Court referred to in the said judgment were also in respect of cases where applications for compassionate appointments appear to have been made after 17 years and 31 years respectively, after the death of the employees concerned. Therefore, what is stated in those cases can have no application to the facts in this case.

6. I am, therefore, of the view that the petitioner's case deserves consideration inasmuch as he had diligently made a claim once in the year 1997 and thereafter, immediately after attaining the age of 18, in the year 2000 and in such circumstances, rejection of his application on the ground that it was not made within three years was not justified.

7. The orders impugned are, therefore, set aside and the respondent is directed to consider the petitioner's application on merits and provide necessary relief to the petitioner in accordance with the rules relating to compassionate appointment. The writ petition is allowed. No costs.