



**HIGH COURT OF ANDHRA PRADESH**  
WEDNESDAY ,THE TWENTY SEVENTH DAY OF JANUARY  
TWO THOUSAND AND TWENTY ONE

**PRESENT**

**THE HONOURABLE SRI JUSTICE BATTU DEVANAND**

**WRIT PETITION NO: 2368 OF 2016**

**Between:**

1. K.Michael Johnson S/o Late K.C.David Nelson Unemployee,  
H.No.39/347-2, Vivekanandanagar, Kadapa, YSR Kadapa District.

**...PETITIONER(S)**

**AND:**

1. The A.P.Southern Power Distribution Company Ltd., rep. by its Chairman  
& Managing Director, Thirupathi, Chittoor District.
2. The Superintendent Engineer Operation Circle, A.P. Southern Power  
Distribution Company Ltd Vidyuthbhavan, Kadapa, YSR Kadapa District.

**...RESPONDENTS**

**Counsel for the Petitioner(s): C RAGHU**

**Counsel for the Respondents: JAGARLAMUDIKOTESWARIDEVI(SC  
FORAPSPDCL)**

**The Court made the following: ORDER**



**THE HON'BLE SRI JUSTICE BATTU DEVANAND**

**WRIT PETITION No. 2368 of 2016**

**ORDER :**

This Writ Petition has been filed against the Memo No.SE/O/KDP/ADM/PO/CE/F36/D.No.3441/13 dated 20.11.2013 rejecting the request of the petitioner for compassionate appointment.

2) As per the averments made in the affidavit filed along with the writ petition, the brief facts of the case emerge as under:

(i) The father of the petitioner Sri K. David Nelson died in harness while working as Junior Lineman in A.P. Transco, Yerraguntla, Kadapa District on 05.10.2002. The mother of the petitioner late Smt. Deevanamma predeceased his father on 03.10.2001. At the time of the death of his father, the petitioner was aged 6 years and he became orphan due to death of his parents. Smt. K.C. Mary Grace Hellen, who is the aunt of the petitioner, was appointed as guardian vide orders, dated 08.01.2004 in G.O.P.No.360 of 2003 on the file of the I Additional District Judge, Kadapa. She made an application to the 2<sup>nd</sup> respondent on 05.03.2003 seeking appointment for the petitioner on compassionate grounds, as the petitioner was not eligible for employment at that time. After he attained the age of majority and passed Intermediate, she made another



representation on 14.11.2013 reminding the respondents to provide employment to the petitioner on compassionate grounds.

(ii) The 2<sup>nd</sup> respondent issued Memo. No.SE/O/KDP/ADM/PO/CE/F36/D.No.3441/13, dated 20.11.2013 rejecting the claim for compassionate appointment on the ground that a minor child of a deceased employee is allowed a maximum time of two years from the date of death of the deceased employee to become eligible for employment under compassionate ground as per Bd's Memo No.DP/DM II/G1/983/89, dated 21.02.1991. As per the procedure provided under B.P.Rt.No.36, dated 08.05.1996 of the A.P. State Electricity Board, the Member Secretary of the Board is competent to relax the age in respect of minor children and the 2<sup>nd</sup> respondent ought to have referred the case of the petitioner to the Member Secretary of the Board for consideration under the category of "hard and deserving cases". The case of the petitioner was rejected by the 2<sup>nd</sup> respondent without referring it to the 1<sup>st</sup> respondent, who is the successor to the then Andhra Pradesh State Electricity Board. Aggrieved by the same, the present writ petition is filed.

3) A counter affidavit has been filed by the respondents. In the counter affidavit it was admitted that the father of the petitioner was expired on 05.10.2002 while in service and by



the date of his death, he was survived with a son i.e., the petitioner herein, who was aged 6 years. But, the contention of the petitioner that his aunt made an application to the 2<sup>nd</sup> respondent for compassionate grounds on 05.03.2003 is denied by the respondents stating that she made a representation, dated 14.11.2013 only to the 2<sup>nd</sup> respondent requesting to provide employment to the petitioner.

It was averred in the counter affidavit that the case of the petitioner has been referred to the Corporate Office of APSPDCL vide Lr.No.661/2016, dated 09.03.2016 for examination. The Corporate Office, Tirupati after examination of the case has communicated vide Memo No.405/2016, dated 28.04.2016 holding that the reply issued by the 2<sup>nd</sup> respondent on 20.11.2013 holds good and as such, the management has exercised its powers vested as per B.P.Rt.No.36, dated 08.05.1996.

4) Heard Sri C. Raghu, learned counsel for the petitioner and Sri Y. Nagi Reddy, learned Standing Counsel appearing for the respondents and perused the material available on record.

5) The learned counsel for the petitioner submits that as per the procedure provided in B.P.Rt.No.36, dated 08.05.1996, the Member Secretary of the Board was delegated powers to give relaxation to some "hard cases" in the conditions relating to the



age for enter into Last Grade Service to consider the cases of the minor children of the deceased employees. As on the date of the death of the father of the petitioner, the petitioner was aged 6 years. The guardian of the petitioner made an application to the 2<sup>nd</sup> respondent requesting for compassionate appointment in favour of the petitioner on 05.03.2003 and again after attaining the age of majority by the petitioner, made another representation on 14.11.2013.

6) Learned counsel for the petitioner would submit that the 2<sup>nd</sup> respondent without rejecting the claim of the petitioner, it has to be referred to the 1<sup>st</sup> respondent as per the procedure provided under B.P.Rt.No.36, dated 08.05.1996 for relaxation of the age condition to consider the case of the petitioner positively. The learned counsel relied on a judgment of the High Court of Madras in **J. Jeba Mary Vs. The Chairman, Tamilnadu Electricity Board and batch**<sup>1</sup>.

7) Learned Standing Counsel for the respondents submits that the contention of the petitioner that his guardian made an application requesting for compassionate appointment in favour of the petitioner on 05.03.2003 is far from truth and she made an application only on 14.11.2013 to the 2<sup>nd</sup> respondent. He

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<sup>1</sup> Manu/TN/0674/2011



also submits that the contention of the petitioner that the procedure provided under B.P.Rt.No.36, dated 08.05.1996 was not followed to give relaxation of age in the case of the petitioner by referring the matter to the 1<sup>st</sup> respondent is not correct and the case of the petitioner has been referred to the Corporate Office of APSPDCL on 09.03.2016 and the Corporate Office after examination, confirmed the decision of the 2<sup>nd</sup> respondent as it holds good.

8) The learned Standing Counsel further submits that it is not possible to consider the case of the petitioner as the very object of the scheme will be defeated, if petitioner case is considered and it will give way for further legal complications in future and the elements of indigence and the need to provide immediate assistance for relief from financial deprivation is taken out from the scheme of compassionate appointments and it would turn out to be a reservation in favour of the dependents of an employee, who retired from service on the grounds of medical invalidation which would be directly in conflict with the ideal of equality guaranteed under Articles 14 and 16 of the Constitution of India on relying the decisions of the Hon'ble Apex Court in



**State Bank of India v. Raj Kumar<sup>2</sup> and Sanjay Kumar v. State of Bihar and others<sup>3</sup>.**

9) Finally, learned Standing Counsel submits that the petitioner does not meet or satisfy the basic object and purpose of appointment on compassionate grounds and sought dismissal of the writ petition.

10) Having heard the submissions of learned counsel and upon perusing the material available on record, this Court noticed that it is an admitted fact that the father of the petitioner died while working as Junior Lineman in the respondents' organization on 05.10.2002 and his wife predeceased him. As such, it is clear that at the tender age of 6 years, the petitioner lost his parents and he became an orphan. He survived with the merciful support of his aunt one Smt. K.C. Mary Grace Hellen, who was appointed as guardian by the 1<sup>st</sup> Additional District Judge, Kadapa.

11) As per the contention of the petitioner that the guardian/aunt of the petitioner made an application on 05.03.2003 to the 2<sup>nd</sup> respondent seeking appointment in favour of the petitioner on compassionate grounds and she made

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<sup>2</sup> (2010) 11 SCC 661

<sup>3</sup> 2000 Supp. (2) SCR 710



another representation on 14.11.2013 reminding the respondent authorities of the said claim immediately after the petitioner attained the age of majority. The respondents are disputing the fact that no application was submitted in favour of the petitioner by his guardian on 05.03.2003. But, as seen from Ex.P.3 at page No.11 of the material papers filed along with the present writ petition, a copy of the application submitted to the 2<sup>nd</sup> respondent, dated 05.03.2003 by the guardian of the petitioner was filed. In fact, on the said application the seal of the respondents office is affixed with date 09.03.2003. As such, it is clear that the guardian of the petitioner submitted an application dated 05.03.2003 seeking appointment in favour of the petitioner on compassionate grounds and the said application was received by the 2<sup>nd</sup> respondent office on 09.03.2003 and there is no any substance in the contention of the respondents that no application was submitted on 05.03.2003 by the guardian of the petitioner.

12) The erstwhile Andhra Pradesh State Electricity Board issued clarification vide B.P.Rt.No.36, dated 08.05.1996 by following the government instructions issued in Memo No.2047-Ser.A/83-1, GA (Ser.A) Dept., dated 10.10.1983 to delegate powers to Member Secretary of the APSEB for giving relaxation to some "hard cases" in the conditions relating to the age to enter into Last Grade Service or in the stipulated time limit of





two years for application in the case of minor dependents prescribed for the post in the Last Grade Service for which appointment of minor children of the deceased/retired on medical invalidation of employees.

13) It is clear from the averments made in the counter affidavit by the respondents that after filing of the present writ petition, in which specific ground was taken by the petitioner that the respondents failed to follow the procedure to refer the matter to the 1<sup>st</sup> respondent to relax conditions, only on 09.03.2016 the case of the petitioner has been referred to the 1<sup>st</sup> respondent for examination. In turn the Corporate Office vide Memo, dated 28.04.2016 issued reply holding that the reply of the 2<sup>nd</sup> respondent, dated 20.11.2013 is good. On perusal of these averments of the respondents in the counter, there is no other option left to this Court to come to a conclusion that the respondents failed to follow the procedure provided under B.P.Rt.No.36, dated 08.05.1996 to refer the matter to the 1<sup>st</sup> respondent treating it as a "hard case" for relaxation of age condition and in a mechanical way rejected the claim of the petitioner by the 2<sup>nd</sup> respondent on 28.11.2013 and only after filing of this writ petition to complete an empty formality, the case of the petitioner was referred to Corporate Office on 09.03.2016.



14) It is also not stated in the counter affidavit whether the Memo No.405/16, dated 28.04.2016 issued by the Corporate Office was communicated to the petitioner or not. In the opinion of this Court, all these steps were taken by the respondents to defeat the claim of the petitioner and to take stand before this Court that they have followed the procedure provided under B.P.Rt.No.36, dated 08.05.1996.

15) "Children are the most vulnerable dependents of any parent."

16) After having lost his parents at a very tender age of 6 years, the petitioner however happened to survive and complete his education up to intermediate, under the guardianship and merciful support of his aunt. Despite having his aunt's support, the petitioner is not relieved of his vulnerability as an orphan. The loss caused to the petitioner due to the death of his father, the sole breadwinner's death cannot be overlooked, even after all these years.

17) If the principle behind compassionate appointment is to provide a buffer, a cushion to the direct dependents of the deceased employee to cope with the loss, then, an unfledged child, who turned an orphan due to his father's death in harness, definitely deserves to be considered to such an



appointment on compassionate ground, as soon as he reaches the requisite age and eligibility. In the present case, the petitioner's aunt admittedly, made an application on 05.03.2003 and 14.11.2013 within the stipulated time as provided under Bd's Memo No.DP/DM II/G1/983/89, dated 21.02.1991.

18) If, in the opinion of the respondents, the present case is not a "HARD CASE", as per the opinion of this Court there will be no other case left for the respondents to consider as "hard case", basing on the facts and circumstances of the present case.

19) Thus, such cases in which unfledged children lose their parents in harness have to be considered as "hard cases" and should be dealt with a humane outlook and thoughtfulness.

20) The view of this Court had fortified from the decision of the Hon'ble Apex Court in **Balbir Kaur vs. Steel Authority of India Limited**<sup>4</sup>, in which their Lordships held as hereunder:

"In the case of appointment considering the social and economic justice as enshrined in the constitution, denials of deserving cases are liable to be set aside. Further, the purpose of providing compassionate ground to a son or daughter or a near relative of the deceased government servant is to render assistance to the family, which is found in indigenous circumstances. Hence, in considering the

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<sup>4</sup> (2000) 6 SCC 493=Manu/SC/0400/2000



case for compassionate appointment, the authorities are supposed to adopt a humane outlook.”

21) In this regard, it is worthwhile to refer the case in **the Superintending Engineer vs. V. Jaya**<sup>5</sup>, wherein their Lordships comprising a Division Bench of Madras High Court have held at para No.7 as extracted hereunder:

7. However, in a case of request for appointment on compassionate ground, however, the Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot ignore the very purpose of providing employment on compassionate ground to the dependant of an employee/government servant dying in harness in preference to anybody else as it is done so in order to mitigate the hardship to the family of the employee on account of his unexpected death while still in service. The concept of compassionate employment is intended to alleviate the distress of the family and it is for such purpose appointments are permissible and provided even in the rules and regulations and any rigid approach or too technical objections may defeat the very object of the scheme. It is for that purpose while considering the request for compassionate appointment, the authorities are expected to act as a Good Samaritan overlooking the cobwebs of technicalities.

22) In identical matters, the Hon'ble High Court of Madras following the decisions of the Hon'ble Apex Court in (1) **T. Meer**

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<sup>5</sup> (2007) 6 MLJ 1011



**Ismail Ali Vs. The Tamil Nadu Electricity Board and others<sup>6</sup>, (2) Selvi R. Anbarasi Vs. The Chief Engineer (Personnel), Tamil Nadu Electricity Board and others<sup>7</sup> (3) The Superintending Engineer vs. V. Jaya<sup>8</sup> and (4) M. Uma Vs. The Chief Engineer (Personnel), Tamil Nadu Electricity Board and others<sup>9</sup> and (5) J. Jeba Mary's case** (1 supra) wherein directed the respondent authority therein i.e., Tamil Nadu Electricity Board to issue an order of appointment on compassionate grounds to the petitioners therein as per their qualifications.

23) In the present case, this Court already noted that the guardian of the petitioner made an application, dated 05.06.2003 within the stipulated period in favour of the petitioner, being a minor at that time and after attaining the age of 18 years she made another application on 14.11.2013 seeking appointment on compassionate grounds to the petitioner. Though this Court is having conscious of the directions of the Hon'ble Supreme Court on which the respondents relied in their counter, in view of the provision provided in the Board proceedings delegating the powers to relax the conditions to the Member Secretary of the APSEB and

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<sup>6</sup> 2004 (3) CTC 120

<sup>7</sup> (2006) 2 MLJ 200

<sup>8</sup> (2007) 6 MLJ 1011

<sup>9</sup> (2010) 7 MLJ 644



of the fact that the guardian of the petitioner has made an application within the stipulated time and also made subsequent application after attaining the age of majority by the petitioner and also taking note of the fact that the petitioner, who turned an orphan due to his father's death in harness, the claim of the petitioner has to be considered.

24) In view of the above mentioned reasons, the Memo No.SE/O/KDP/ADM/PO/CE/F36/D.No.3441/13 dated 20.11.2013 and the memo issued by the 1<sup>st</sup> respondent Corporate Office vide Lr.No.661/2016, dated 09.03.2016 are liable to be set aside, as the respondents did not consider the claim of the petitioner for appointment on compassionate grounds by following the procedure provided under B.P.Rt.No.36, dated 08.06.1996.

25) In the light of the settled proposition of law stated supra and for the above mentioned reasons, the present writ petition is allowed and the Memo No.SE/O/KDP/ADM/ PO/CE/F36/ D.No.3441/13, dated 20.11.2013 and the memo issued by the 1<sup>st</sup> respondent Corporate Office vide Lr.No.661/2016, dated 09.03.2016 are hereby set aside with a consequential direction to the respondents to consider the claim of the petitioner to appoint him in any suitable post in the respondents



organization, within a period of six (06) weeks from the date of receipt of copy of this order.

23) There is no order as to costs.

Consequently, miscellaneous applications pending, if any, shall stand closed.

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**BATTU DEVANAND,J**

Dt.27-01-2021

Note: LR copy be marked.

Issue C.C. in two days.

B/o  
PGR



**\*HON'BLE SRI JUSTICE BATTU DEVANAND**

**+ W.P.No.2368 of 2016**

% 27.01.2021

# K. Michael Johnson S/o Late K.C. David Nelson,  
Aged 19 years, Unemployee, H.No.39/347-2,  
Vivekanandanagar, Kadapa, YSR Kadapa District.

... Petitioner.

Vs.

\$ The A.P. Southern Power Distribution Company  
Ltd., rep. by its Chairman & Managing Director,  
Tirupati, Chittoor District and another.

... Respondents.

! Counsel for the petitioner: Sri C. Raghu.

! Counsel for the Respondents: Sri Y. Nagi Reddy.

< Gist:

> Head Note:

? Cases referred:

<sup>1</sup> Manu/TN/0674/2011

<sup>2</sup> (2010) 11 SCC 661

<sup>3</sup> 2000 Supp. (2) SCR 710

<sup>4</sup> (2000) 6 SCC 493=Manu/SC/0400/2000

<sup>5</sup> (2007) 6 MLJ 1011

<sup>6</sup> 2004 (3) CTC 120

<sup>7</sup> (2006) 2 MLJ 200

<sup>8</sup> (2007) 6 MLJ 1011

<sup>9</sup> (2010) 7 MLJ 644





**DATE OF ORDER PRONOUNCED: 27.01.2021**

**THE HON'BLE SRI JUSTICE BATTU DEVANAND**

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be Marked to Law Reporters/Journals.    | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

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**JUSTICE BATTU DEVANAND**



**THE HON'BLE SRI JUSTICE BATTU DEVANAND**

**WRIT PETITION No.2368 of 2016**

Dt. 27-01-2021

Note: LR copy be marked.

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