



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2023

PRESENT



THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO. 626 OF 2023 (S-RES)

BETWEEN:

PALLAVI G.M.,

...APPELLANT

(BY SRI. M C BASAVARAJU.,ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
KARNATAKA POWER TRANSMISSION
COMPANY LIMITED (KPTCL)
CAUVERY BHAVAN, K.G. ROAD,
BANGALORE-560 009.
2. THE GENERAL MANAGER,
(ADMINISTRATION AND HUMAN RESOURCES)
BANGALORE ELECTRICITY
SUPPLY COMPANY (BESCOM)
CAUVERY BHAVAN, K.G. ROAD,
BANGALORE-560 009.
3. THE EXECUTIVE ENGINEER(E)
BANGALORE ELECTRICITY SUPPLY
COMPANY (BESCOM), TIPTUR
TUMKUR DISTRICT-576 201.

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by SHARADA
VANI
Location: HIGH
COURT OF
KARNATAKA





4. THE ASSISTANT EXECUTIVE ENGINEER(E)
BANGALORE ELECTRICITY SUPPLY
COMPLANY(BESCOM), TIPTUR,
TUMKUR DISTRICT-576 201.

...RESPONDENTS

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO i)SET ASIDE THE ORDER OF THE LEARNED SINGLE JUDGE PASSED IN WP NO.9845/2022 DATED 30/03/2023 OR AND ETC.,

THIS APPEAL COMING ON FOR PRELIMINARY HEARING THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

JUDGMENT

This intra-court appeal seeks to call in question the order dated 30.03.2023 whereby appellants' W.P.No.9845/2022 came to be dismissed and thereby, her request for appointment on compassionate ground on account of death of her brother in harness has been denied. Learned counsel for the appellant argues that the impugned order is liable to be set aside inasmuch as her client was dependent upon the deceased, as a member of his family and therefore, her candidature for appointment on compassionate ground ought to have been favoured.

2. After service of notice, the respondent-KPTCL & BESCOM have entered appearance through their Panel



Counsel. He opposes the petition making submission in justification of the impugned order and the reasons on which the same has been constructed. He contends that the compassionate appointment is an exception to the rule of equality in the matter of public employment. Therefore, the scheme providing for the same needs to be strictly construed. If so construed, the appellant who is admittedly a sister of the deceased employee is not entitled to any compassionate appointment. He also points out that the appellant has not placed on record any material to vouch her dependence on the deceased brother. So contending, he seeks dismissal of the Writ Appeal.

3. Having heard the learned counsel for the parties and having perusing the Appeal Papers, we are broadly in agreement with the submission made by the learned Sr. Panel Counsel appearing for the respondents. It has been a long settled position of law that only a member of the family of the deceased employee alone can stake his/her claim for appointment on compassionate grounds, that too



by producing material to vouch dependence on the employee who died in harness. Rule 2(1)(b) of Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 as amended on 31.5.2021 defines 'family' as under:

*"family" for the purpose of these rules,-
(i) in the case of the deceased male married Government Servant, his widow, son and daughter (unmarried/married/divorced/widowed) who were dependent upon him and were iving with him."*

A sister does not figure in the definition, is obvious. The appellant being a sister cannot be construed as a member of the family of the deceased. These Rules are adopted and followed by the respondent-KPTCL and the respondent-BESCOM who happen to be the Government Companies as defined u/s 617 of the erstwhile Companies Act, 1956 and section 2(45) of the Companies Act, 2013. Obviously, they answer the description of 'other authorities' employed in Article 12 of the Constitution of India that defines 'State' for the purpose of Part III, more particularly in the light of Apex Court decision in



R.D.SHETTY vs. INTERNATIONAL AIRPORT AUTHORITY OF INDIA, AIR 1979 SC 1628.

4. It hardly needs to be stated that the appointment on compassionate ground is an exception to the general rule of equality in public employment enacted in Articles 14 & 16 of the Constitution vide *THE STATE OF WEST BENGAL vs. DEBABRATA TIWARI AND OTHERS*, 2023 SCC OnLine SC 219 and therefore, the Rules providing for such appointment need to be construed strictly. Courts through the process of interpretation cannot expand the contours of a statutory definition. When the Rule Maker in so many words has specified the persons as being the members of family of an employee, we cannot add one to or delete one from the definition of family. An argument to the contrary if accepted, would amount to rewriting the Rule, and therefore, cannot be countenanced.

5. The above apart, absolutely no material is placed on record by the appellant to show that she was



dependent on the income of her brother at the time of his death in harness nor there is any material to assume that the family of the deceased is in financial distress as would justify the claim for appointment on compassionate ground.

6. The reasoning in the preceding paragraphs having animated the impugned order of the learned Single Judge, the same cannot be faltered on the grounds urged before this court.

In the above circumstances, the appeal being devoid of merits, is liable to be and accordingly, dismissed, costs having been made easy.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Bsv
List No.: 1 Sl No.: 16