

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.8276 of 2014

P.Karthikeyan

.. Petitioner

vs.

1.The Secretary to Government,
Forest Department,
Fort St.George,
Chennai.

2.The District Collector,
Perambalur,
Perambalur District.

3.The District Forest Officer,
Perambalur,
Perambalur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in his proceedings bearing No.Moo.Mu.3127/12/pa dated 19.09.2013 and quash the same and direct the first respondent to give appointment on compassionate grounds.

For Petitioner : Mr.P.Arumuga Rajan

For Respondents : Mr.E.Manoharan,

Additional Government Pleader (Forest)

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the order of the third respondent in his proceedings bearing No.Moo.Mu.3127/12/pa dated 19.09.2013 and direct the first respondent to give appointment to the petitioner on compassionate grounds.

2. The petitioner's father namely Thiru.M.Palanisamy was initially appointed in the year 1983 as Gardener (Thottakavalar) in Village Social Forest within the Trichy Forest Division on

daily wage basis. The Government passed an order in G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009 wherein it was ordered to regularize those who were continuously working for 10 or more years as village social forest worker and Gardener and they shall be appointed as Gardener (Thottakavalar) in the Forest Department with a pay scale of 2500-5000 and their services to be regularized. The petitioner's father continuously worked on daily wages from the year 1983 and got appointed on Time Scale of Pay Gardener on 07.08.2009, but he died while in service on 11.02.2012, leaving behind the petitioner, his mother and brother as his legal heirs. After the demise of his father, the petitioner family was put to great financial hardship and therefore, the petitioner made a representation dated 17.08.2012 to the second respondent seeking appointment on compassionate grounds in the Forest Department. The third respondent, vide proceedings No.3127/12/pa dated 19.09.2013 has rejected the petitioner's claim for compassionate appointment, stating that the petitioner's father was holding only a temporary post at the end of his service. Challenging the same, the petitioner has come forward with this writ petition.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner by relying upon a judgment of the Division Bench of this Court dated 16.04.2012 made in W.A.No.524 of 2012 [The Principal Conservator of Forests, Forest Department, Chennai-15 v. G.Periasamy], would submit that in an identical situation, this Court has given direction to the respondents to give compassionate appointment to the petitioner therein holding that since the deceased employee in that case was working continuously without any break from 1982 to 2008 and therefore, by following the same, prays for similar relief.

4. Countering the same, Mr.E.Manoharan, learned Additional Government Pleader (Forest) has invited the attention of this Court to the counter affidavit filed by the third respondent wherein it has been stated that the petitioner's father was initially appointed as Social Forestry Worker purely on daily wages basis and as per G.O.No.95 (E&F) Department dated 07.08.2009, the petitioner's father was brought into Time Scale of Pay of Rs.2500-5000+500 with effect from 07.08.2009 and designated as Supernumerary Plot Watcher and the petitioner's father was not brought into permanent employment and no such provisions were made in that Government Order for appointing persons on compassionate grounds and therefore, prays for dismissal of this writ petition.

5. Keeping the submissions made on either side, I have gone through the entire materials available on record.

6. In view of the dictum laid down by the Division Bench of this Court in W.A.No.524 of 2012 dated 16.04.2012 [The Principal Conservator of Forests, Forest Department, Chennai-15 v. G.Periasamy], this Writ Petition is allowed and the impugned order of the third respondent in his proceedings bearing No.Moo.Mu.3127/12/pa dated 19.09.2013 is set aside and the respondents are directed to pass appropriate orders with regard to providing compassionate appointment to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Secretary to Government,
Forest Department,
Fort St.George,
Chennai.

2.The District Collector,
Perambalur,
Perambalur District.

3.The District Forest Officer,
Perambalur,
Perambalur District.

+1cc to Mr.P. Arumugarajan, Advocate, S.R.No.61268

+1cc to the Government Pleader, S.R.No.61555

GJII(CO)

md(22/11/2016)

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