

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01-06-2016

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Writ Petition No. 17098 of 2016

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G. Muniraj

.. Petitioner

Versus

1. Government of Tamil Nadu
represented by its Principal Secretary to Government
Environment and Forest Department
Fort St. George
Chennai - 600 009
2. The Principal Chief Conservator of Forests
Head of Forest Force
No.1, Genies Road
Panagal Maaligai
Saidapet, Chennai - 600 015
3. The District Forest Officer
Integrated Forest Division (IFF)
Krishnagiri
Krishnagiri District

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus directing the respondents to appoint the petitioner as Forest Watcher or any other suitable post in the Forest Department of third respondent division under compassionate ground in order to protect his family livelihood forthwith.

For Petitioner	:	Mr. M.R. Jothimanian
For Respondents	:	Mr. N. Inbanathan Government Advocate

ORDER

The petitioner seeks for issuing a Writ of Mandamus directing the respondents to appoint him as Forest Watcher or any other suitable post in the Forest Department of third respondent division under compassionate grounds.

2. The petitioner's father G. Govindasamy was appointed as Plot Watcher on 01.11.1979 in the third respondent Forest Division on daily wage basis. As per the order passed by the Government in G.O. Ms. No.64, Environment and Forest Department dated 08.03.2009, a State wide seniority list was drawn in which the name of the petitioner's father was also included in Serial No. 649. Ultimately, after a period of 30 years, the service of the petitioner's father was regularised not in a regular cadre post of Forest Watcher but in a supernumerary post on 07.08.2009 as per G.O. Ms. No.95, Environment and Forest Department dated 07.08.2009. While working as Plot Watcher (Supernumerary), the petitioner's father died on 02.05.2014 leaving behind the petitioner's mother, petitioner and his four sisters. On the death of his father, the petitioner's mother has submitted an application dated 10.06.2014 seeking to appoint the petitioner in any suitable post in the Forest Department on compassionate grounds. As there was no response, the petitioner submitted a representation dated 15.03.2015. According to the petitioner, on receipt of the representation dated 15.03.2015, the third respondent orally informed him that the service of his father was not regularised and therefore, he is not entitled for any appointment on compassionate grounds.

3. The learned counsel for the petitioner would contend that the petitioner's father has rendered 35 years of service in the Forest Department. The service of the petitioner's father was also regularised in a non-cadre post of Plot Watcher (Supernumerary) for want of vacancy to accommodate him. In this context, the learned counsel for the petitioner relied on the order passed by this Court on 30.09.2011 in WP No. 13613 of 2011 (G. Periyasamy vs. The Principal Chief Conservator of Forest, Chennai) wherein it was held that when the employee had put in long number of years of service, such employee has to be construed as a regular employee and who has got the qualification of a regular employee. As against this order, W.A. No. 124 of 2012 was filed and it was dismissed by the Division Bench of this Court on 16.04.2012. A further appeal has been filed before the Honourable Supreme Court in Special Leave to Appeal (Civil) No. 7619 of 2013 and it was also dismissed on 12.04.2013. The learned counsel for the petitioner therefore submits that the respondents are not justified in orally informing the petitioner that the service of his father has not been regularised and therefore he is not entitled to the benefit of compassionate appointment. In any event, the petitioner has submitted a representation dated 15.03.2015 to the respondents and it is pending as on date. Therefore, the learned counsel for the petitioner prayed this Court to issue appropriate direction to the respondents to consider the representation dated 15.03.2015 of the petitioner and to pass orders thereon expeditiously.

4. On the above contention of the learned counsel for the petitioner, this Court heard the learned Government Advocate appearing for the respondents.

5. Having regard to the above submission of the counsel for the petitioner, without expressing any opinion on merits, this Court is inclined to issue a direction to the third respondent to consider the representation dated 15.03.2015 of the petitioner on merits and in accordance with law.

6. Accordingly, the third respondent is directed to consider the representation dated 15.03.2015 of the petitioner seeking appointment on compassionate grounds and pass orders thereof on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of with the above direction. No costs.

rsh

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1. Government of Tamil Nadu
represented by its Principal Secretary to Government
Environment and Forest Department
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2. The Principal Chief Conservator of Forests
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3. The District Forest Officer
Integrated Forest Division (IFF)
Krishnagiri
Krishnagiri District

+ 1 cc to the Special Govt. Pleader (Forest) SR 29057

+ 1 cc to M/s.M.R.Jothimanaian, Advocate SR 29364

ppa(co)
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