

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.39707, 39927 of 2015 & 27119 of 2014

M.Ravikumar ..Petitioner in W.P.No.39707 of 2015
G.Mahendiran ..Petitioner in W.P.No.39927 of 2015
T.Sekar ..Petitioner in W.P.No.27119 of 2014

-Vs-

Government of Tamil Nadu
rep.by its Principal Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai 600 009.
..1st Respondent in all the Writ Petitions

The Principal Chief Conservator of Forests
Head of Forest Force, No.1, Genies Road,
Panagal Maligai, Saidapet, Chennai-15.
..2nd Respondent in all the Writ Petitions

The District Forest Officer,
Interfaced Forestry Division (IFF),
Krishnagiri, Krishnagiri District.
..3rd Respondent in W.P.No.39707 of 2015

The District Forest Officer,
Interfaced Forestry Division (IFF),
Dharmapuri, Dharmapuri District.
..3rd Respondent in W.P.No.39927 of 2015

The District Forest Officer,
Harur Forest Division,
Harur, Dharmapuri District.
..3rd Respondent in W.P.No.27119 of 2014

The District Forest Officer,
Salem Forest Division, Salem-7.
..4th Respondent in W.P.No.39927 of 2015

Petitions under Article 226 of the Constitution of India,
praying for the issue of a Writ of Mandamus, directing the
respondents to appoint the petitioners as Forest Watchers or in
any suitable posts in the Forest Department of third respondent
division/fourth respondent division under compassionate ground
in order to protect their families livelihood forthwith.

For Petitioners :: Mr.M.R.Jothimanian

For Respondents :: Mr.N.Inbanathan
Government Advocate (Forests)

ORDER

There are three writ petitions filed seeking a common prayer for issuance of a writ of mandamus, directing the respondents to appoint the petitioners as Forest Watchers in the forest department under compassionate ground in order to protect their families. Since a common prayer has been made in all the three writ petitions, the averments made by the petitioner in W.P.No.39707 of 2015 are alone referred to in this order for convenience.

2. Learned counsel for the petitioners submitted that Mr.M.Ravikumar, S/o late M.Muniraj has given a representation on 27.3.2015 seeking employment on compassionate ground, as his father M.Muniraj, who was appointed as Plot Watcher on 1.4.87 by the District Forest Officer, Krishnagiri, the third respondent herein, died on 8.11.2014 in a road accident while in service. It was also further claimed that when his father served in the respondent Forest Department for more than 27 years, his services were brought in the regular time scale of pay by creating a supernumerary post from 7.8.2009 by the proceedings issued by the third respondent dated 2.9.2009 based on the G.O.Ms.No.95, Environment and Forest Department dated 7.8.2009, as he was placed in Serial No.5037 in the State-wide seniority list. Therefore it is not open to the respondents to say that the petitioner is not entitled to get the benefit of compassionate appointment on the death of his father, as his father had served only as temporary worker on daily wage basis or in the supernumerary post. Adding further he submitted that in similar circumstances, when W.P.No.18269 of 2014 was filed by one Mr.M.Anandkumar seeking a mandamus to appoint him on compassionate ground as Forest Watcher or in any other suitable post in the Forest Department, this Court by order dated 23.9.2014, while considering a similar objection taken by the respondent Forest Department that any one appointed in the supernumerary post as Plot Watcher and on his subsequent demise cannot pave way for appointment on compassionate ground to the legal heir, repelling the said contention raised by the learned Government Advocate, came to the conclusion that the petitioner therein was entitled to be considered for compassionate appointment, since his father was appointed as Plot Watcher in the supernumerary post on temporary basis as per G.O.Ms.No.95, Environment and Forest Department dated 7.8.2009. That conclusion was reached on the basis of one another order passed by this Court in W.P.No.19615 of 2012 dated 5.12.2013 (K.Udayakumar v. The Principal Chief Conservator of Forests & another), following the earlier order passed in W.P.No.13613 of 2011 dated 30.9.2011. Therefore the learned counsel submitted

that when the objection raised by the Forest Department had already been answered and now the issue is no longer res integra, all the three writ petitions filed by the petitioners seeking compassionate appointment deserve to be allowed, as the fathers of the other two petitioners viz., Mr.G.Govindasamy and Mr.T.Therthan were also similarly placed in Serial Nos.1718 and 5316 in the State-wide seniority list and they also died on 17.5.2010 and 17.3.2010 respectively while in service.

3. Heard the learned Government Advocate (Forests) for the respondents also.

4. This Court finds merit in the submissions made by the learned counsel for the petitioners. Accordingly, overruling the objection made by the learned Government Advocate for the respondents, following the order passed by this Court in W.P.No.18269 of 2014 dated 23.9.2014 (M.Anandkumar v. The Principal Secretary to Government, Environment and Forest Department and others), more particularly, in paragraphs 6 & 7, which read as follows,

"6. The only contention of the learned Government Advocate is that the petitioner's father was appointed as Plot Watcher only on the supernumerary post on temporary basis as per G.O.Ms.No.95, Environment and Forest (FR.II) Department dated 7.8.2009 and therefore, the petitioner herein is not entitled to be given appointment on compassionate ground.

7. The very same issue was considered by this Court in W.P.No.19615 of 2012 dated 5.12.2013 (K.Udayakumar v. The Principal Chief Conservator of Forests & another), following the order passed in W.P.No.13613 of 2011 dated 30.09.2011, that Writ Petition was allowed. In my opinion, the present case is also covered by the judgement rendered in W.P.No.19615 of 2012.'',

these three writ petitions are hereby allowed for two reasons. Firstly, late M.Muniraj, the father of Mr.M.Ravikumar, the petitioner in W.P.No.39707 of 2015, was appointed as Plot Watcher on 1.4.87 by the District Forest Officer, Interface Forestry Division, Krishnagiri, the third respondent herein. From the date of appointment till he unfortunately passed away on 8.11.2014 due to road accident, he was in service. In view of the sudden death of the petitioner's father, his family faced innumerable difficulties to eke out the livelihood. This apart, the petitioner, having studied 10th standard, also registered his name in the employment exchange. There are five persons in his family including the petitioner, namely, one brother, one

sister, mother and grandmother. Therefore, in view of the sudden death of his father, an application was made on 27.3.2015 to appoint the petitioner on compassionate ground. The said request has not been considered till date by the respondents on the ground that his father was working in the supernumerary post. Although the petitioner's father late M.Muniraj was working in the supernumerary post, it is a known fact that his services were brought in the regular time scale of pay from 7.8.2009 by the proceedings of the third respondent dated 2.9.2009. Therefore the respondents cannot say that the petitioner is not entitled to be considered for compassionate appointment. Secondly, this Court had already issued a similar direction to the very same respondent Forest Department and that was also implemented through a Government Order. Hence, the respondents are bound by the earlier order on this issue. Since the petitioners in the other two writ petitions, namely, Mr.G.Mahendiran, S/o G.Govindasamy and Mr.T.Sekar, S/o Therthan are also similarly placed, the respondents are directed to consider the applications of the petitioners for appointment on compassionate ground in the Forest Department and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. The writ petitions shall stand allowed. No costs.

ss

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The 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 Maligai, Saidapet, Chennai 600 015.
3. The District Forest Officer,
Interfaced Forestry Division (IFF),
Krishnagiri, Krishnagiri District.
4. The District Forest Officer,
Interfaced Forestry Division (IFF),
Dharmapuri, Dharmapuri District.
5. The District Forest Officer,
Harur Forest Division,
Harur, Dharmapuri District.

6. The District Forest Officer,
Salem Forest Division, Salem-7 .

+ 1 cc to The Special Govt.Pleader, (Forest) Sr 6449

+ 3 ccs to Mr.M.R.Jothimanian, Advocate Sr 6424 TO 6426

KR/15/4/16

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&
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