

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26790 of 2017

R.Tamilselvan

.. Petitioner

-vs-

1. The Principal Chief Conservator of Forest
Office at Panagal Maligai
Saidapet
Chennai 600 015

2. The District Forest Officer
Sirumalai Interface Division
No.5/84, Malligai Street
Dindigul-5

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to consider his compassionate appointment as any suitable post i.e., O.A. (or) Waterman (or) Forest Watcher (or) Forest Guard by considering his representation dated 26.04.2017 in light of the order passed by this Hon'ble Court in W.P.No.13613 of 2011 dated 30.09.2011, which was upheld by the Hon'ble Division Bench of this Hon'ble Court in W.A.No.524 of 2012 dated 16.04.2012 and order passed by the Supreme Court dated 12.04.2013 in SLP (Civil) No.7619 of 2013 by dismissing the appeal filed by the respondents.

For Petitioner :: Mr.S.Mani

For Respondents :: Mr.E.Manoharan

Additional Government Pleader (F)

ORDER

The petitioner, being the son of the deceased employee late Raju, who served as a Plot Watcher and died on 14.9.2014 leaving behind the petitioner's mother, his two sisters and his younger brother as the legal heirs to succeed to his estate, has come to this Court seeking a writ of mandamus, directing the first respondent to consider his request for compassionate appointment either as Office Assistant or Waterman or Forest Watcher or Forest Guard on the basis of his representation dated 26.4.2017,

in the light of the order passed by this Court in W.P.No.13613 of 2011 dated 30.09.2011, which was upheld by the Hon'ble Division Bench of this Hon'ble Court in W.A.No.524 of 2012 dated 16.04.2012 and order passed by the Supreme Court dated 12.04.2013 in SLP (Civil) No.7619 of 2013.

2. Since the petitioner's father late Raju died on 14.9.2014 while serving as Plot Watcher leaving behind the petitioner and others as the legal heirs, the petitioner has submitted an application on 27.10.2014 to the second respondent seeking appointment on compassionate grounds, as the petitioner's father died leaving behind the petitioner's family in lurch, enclosing the copies of the death certificate, legal heirship certificate, no objection certificate from his mother and sisters along with other documents as required for consideration by the first respondent. Whereas the District Forest Officer, Sirumalai Interface Division has wrongly rejected his request by order dated 20.2.2017, wrongly referring to G.O.(Ms.)No.11, Environment and Forests (FR-2) Department dated 29.1.2015 as though the said Government Order dealt with the cases of compassionate appointment. Referring to G.O.(Ms.) No.11 dated 29.1.2015, the learned counsel for the petitioner submitted that the said Government Order deals only with the sanction of festival advance to the supernumerary Plot Watchers from 2014-15 onwards and it does not relate to compassionate appointments. Therefore, the learned counsel for the petitioner submitted that there is no need to challenge the said order. Secondly, it is submitted that the second respondent is also not the competent authority and he has to simply forward the application along with the requisite documents submitted by the petitioner to the first respondent, namely, the Principal Chief Conservator of Forests, Chennai, who is the competent authority to consider and pass orders either accepting or rejecting the case of the petitioner. Therefore, the second respondent, without even meeting any of the reasons mentioned in the application dated 27.10.2014 made by the petitioner seeking compassionate appointment, without application of mind, has wrongly rejected the request, that too based on an irrelevant G.O.(Ms.)No.11 dated 29.1.2015. Hence, a direction may be issued to consider the case of the petitioner by the first respondent, he pleaded.

3. Since the learned Additional Government Pleader for the respondents also submitted that the second respondent has rejected the case of the petitioner on the basis of G.O.(Ms.) No.11 dated 29.1.2015, I do not find that the rejection order passed by the second respondent on the basis of an irrelevant G.O.(Ms.) No.11 dated 29.1.2015 can be pressed into service. First of all, the first respondent is the competent authority. Therefore, the first respondent is hereby directed to consider the case of the petitioner on the basis of his representation on merits and pass appropriate orders in accordance with law,

within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

/TRUE COPY/

Sub Assistant Registrar

ss

To

1. The Principal Chief Conservator of Forest
Office at Panagal Maligai
Saidapet
Chennai 600 015

2. The District Forest Officer
Sirumalai Interface Division
No.5/84, Malligai Street
Dindigul-5

+1 C.C. to M/S. Advocate SR.No. 73624/17

+1 C.C. to M/S. Government Pleader(FOREST) SR.No. 73568/17

W.P.No.26790 of 2017

KGK(CO)
T.R (15/11/2017)

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