



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.17462 of 2014

and

WMP (MD) No.16128 of 2017

K.Kalaivani

... Petitioner

Vs.

1. Government of Tamil Nadu,
Rep.by Principal Secretary to Government,
Environment and Forest Department,
Chennai-9.
2. The Principal Chief Conservator of Forests,
Chennai-51.
3. The District Forest Officer,
Tiruchirappalli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No. Na2/54377/2011 dated 23.09.2014 and to quash the said order and issue consequential directions to the respondents to give appointment to the petitioner on compassionate grounds, consequent to the death of her father on 28.10.1996, while serving as Forest Guard.

For Petitioner	: Mr.M.Ravi
For Respondents	: Mr.J.Gunaseelan Muthaiah Addl. Government Pleader

O R D E R

The writ petitioner's father was working as a Forest Guard. He died on 28.10.1996 in an accident while discharging his duty. The writ petitioner's mother submitted an application on 24.10.1997 seeking appointment on compassionate grounds. Subsequently, owing to ban of recruitment, the matter was not processed. The writ petitioner's mother submitted a fresh representation in January 2007. The same came to be rejected by order dated 04.02.2011. That was questioned by the writ petitioner in WP(MD)No.12918 of 2011. This Court by order dated 05.06.2014 quashed the said order of rejection and directed the respondents to consider the claim of the writ petitioner. The said order was not appealed against.



2. Therefore, it is needless to say that the ground on which the writ petitioner's case came to be rejected on the earlier occasion cannot be relied upon once again by the respondents for declining the request of the writ petitioner. However, the second respondent by the impugned order dated 23.09.2014 proceeded to reject the writ petitioner's request on the ground that on the date of demise of the writ petitioner's father she was not possessing the minimum educational qualification. The same is put to challenge in the present round of litigation.

3. Heard the learned counsel on either side.

4. The learned counsel appearing for the writ petitioner submitted that though she got married during the pendency of these proceedings, she got entitled to maintain the writ petition. Her husband is working as a Mason/Coolie only. Her mother is with her. The indigent condition of the family has not improved notwithstanding the lapse of years.

5. The learned counsel appearing for the writ petitioner drew the attention of this Court to the earlier order passed by this Court on 05.06.2014. This Court had specifically noted that the applications seeking appointment on compassionate grounds was filed within three years. While allowing the writ petition on the earlier occasion, this Court had followed a catena of decisions. What was directed to be done by the respondents was only to consider the indigent circumstances of the applicant. But, the impugned order proceeds on some other footing. It refers to the non possession of the minimum educational qualification on the date of death of the writ petitioner's father. This issue had already been dealt with by this Court in the decision reported in **(2011) 2 MLJ 47 (Mohanambal Vs. Director, Land and Survey Department, Kancheepuram District and others)**. The factual matrix that obtained in the said case and the issue on hand are similar. In the present case also the writ petitioner's mother had applied for compassionate appointment within one year and she was not given appointment due to want of minimum educational qualification of 8th standard. In the said reported decision also the writ petitioner was the legal heir and she was pursuing the matter and agitating her right throughout. Considering the financial position of the petitioner, this Court had allowed the writ petition.

6. I am of the view that the said decision applies on all fours to the present case also. In view of the same, the impugned order is set aside and the matter is remitted back to the file of the second respondent to consider the claim of the writ petitioner in the light of the income certificate produced from the jurisdictional Tahsildar. If the writ petitioner possesses the requisite educational qualifications, the second respondent shall



expeditiously consider issuance of order for appointing the writ petitioner on compassionate grounds in any suitable post.

7. This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. Principal Secretary to Government,
Government of Tamil Nadu,
Environment and Forest Department,
Chennai-9.
2. The Principal Chief Conservator of Forests,
Chennai-51.
3. The District Forest Officer,
Tiruchirappalli.

+1cc to Mr.M.Ravi, Advocate Sr.No.40849

+1cc to The Spl.Government Pleader sr.No.41454

SKM

VB/SV/MMS/SAR2/31.01.2018/3P/6C

**W.P (MD) No.17462 of 2014
and
WMP (MD) No.16128 of 2017
08.01.2018**