

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.716 of 2018

M.Mutharasan,
S/o.R.Muthuselvan,
No.42, L.I.G. Colony, V.O.C. Nagar,
Tondiarpet,
Chennai 600 081 ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Environment and Forest Department,
Fort St. George, Chennai 600 009.
2.The Chief Conservator of Forests,
No.1, Jeenis Road, Panagal Building,
Saidapet, Chennai 600 015. Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to consider the application of the petitioner's mother in W.P.No.17418/2010 order dated 08.09.2011 and keep the petitioner's name in the Seniority list based on the representation of the petitioner dated 23.06.2017.

For Petitioner :Ms.L.Jagasundari Balamurugan

For Respondents :Mr.Thanga Vadhana Bala Krishnan
Additional Govt. Pleader (Forest)

O R D E R

The claim set out in the Writ Petition is undoubtedly hypothetical in nature. The petitioner claims that if at all he had appointed during the year 2010 on compassionate grounds, he would have been promoted to the higher post by this time, setting out the facts on the basis that he would have been appointed on compassionate grounds long back. The petitioner states that his representation is to be considered for the purpose of granting further promotion.

2.The Writ Petitioner was appointed on compassionate grounds as Forest Watcher on 24.10.2013 and thereafter, promoted as Forest Guard on 14.06.2017. The Petitioner states that he filed a Writ Petition in W.P.No.17418 of 2010 and this Court passed an order on 08.09.2011, directing the 1st respondent to consider the application of the Writ Petitioner for the purpose of providing compassionate appointment. Pursuant to the orders of this Court, the Writ Petitioner was appointed to the post of Forest Watcher on 24.10.2013. The Writ Petitioner is now serving as Forest Guard for the past about 5 ½ years and now filed the present Writ Petition for the relief to direct the respondents to consider the representation filed by the mother of the Writ Petitioner and to keep the petitioner's name in the seniority list based on the representation of the Writ Petitioner dated 23.06.2017.

3.Seniority of an employee must be considered based on the date of appointment/date of regularisation. Seniority is to be fixed strictly in accordance with rules and regulations. The date of the application given by the Writ Petitioner for compassionate ground appointment cannot be the point for seniority. Such a clam is not only strange but hypothetical. On the date of the filing of Writ Petition in W.P.No.17418 of 2010, the Writ Petitioner was not at all in service and he was appointed on compassionate ground, subsequently on 24.10.2013 and therefore, the fixation of seniority is to be done only with reference to date of appointment and not with reference to the application submitted by the mother of the Writ Petitioner, seeking appointment on compassionate ground. This being the principles to be followed, the Writ Petitioner has not established even a semblance of legal right, so as to consider the relief as sought for in the preset Writ Petition.

Accordingly, the present Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
State of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai 600 009.

2.The Chief Conservator of Forests,
No.1, Jeenís Road, Panagal Building,
Saidapet, Chennai 600 015.

+1 cc to the Special Government Pleader(forest), S.R.No.9436.

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SSM(21/02/2019)



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