

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 24.06.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.22858 of 2015**

G.Vasantha,

... Petitioner

Vs.

The District Forest Officer,
Madurai Division,
Madurai.

... Respondent

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the respondent in Na.Ka.No. 1385/2015 B2 dated 14.05.2015 and quash the same and consequently direct the respondent to pay Family Pension to the petitioner.

For Petitioner : Mr.C.Vakeeswaran

For Respondent : Mr.M.Jeyakumar

Additional Government Pleader

ORDER

The order of rejection, dated 14.05.2015 rejecting the claim of the writ petitioner for grant of family pension, is under challenge in the present writ petition.

2. The impugned order states that the writ petitioner's claim for compassionate appointment as well as for grant of family pension cannot be considered. As far as the compassionate appointment is concerned, the application itself was submitted after a lapse of 11 years and therefore, the terms and conditions of the scheme of compassionate appointment would not permit the authorities to provide such an appointment. With reference to family pension, it is stated in the impugned order that the husband of the writ petitioner had not completed 10 years of qualifying service for the purpose of grant of pension, invalid pension or other benefits.

3. The learned counsel appearing on behalf of the writ petitioner states that the husband of the writ petitioner was employed as Forest Guard on 22.10.1979 and on account of eye-sight problem he was sent for medical examination and thereafter, compulsory retirement from service on 22.09.1987. The husband of the writ petitioner filed W.C.No.67 of 1991 before the Deputy Commissioner of Labour, which was decreed in favour of the husband of the writ petitioner, directing the respondent to pay Rs.95,789/- to the husband of the writ petitioner. The respondent preferred an appeal before the Tamil Nadu State Administrative Tribunal in O.A.No.4689 of 1994. In the meantime, the husband of



the writ petitioner died on 03.02.1999. The learned counsel for the petitioner states that the family is in need of family pension as they are in indigent circumstances.

4. In respect of grant of pension or family pension the authorities competent are bound to follow the Rules for the purpose of grant of pension as well as the family pension. Such pensionary benefits as well as the family pension cannot be granted in violation of the Rules in force. It is further admitted that pursuant to the orders passed by the Deputy Commissioner of Labour, the matter went up to the Division Bench of this Court and the Appeal filed by the Department was dismissed on 20.07.2007 in W.A(MD).No.241 of 2007. Accordingly, the respondent had settled the award amount with interest of Rs.2,20,000/- to the writ petitioner. Now, the writ petitioner is seeking family pension as per the Pension Rules.

5. This Court is of the considered opinion that the husband of the writ petitioner was declared medically invalidated and accordingly, he was compulsorily retired from service as per the Rule 36 of Tamil Nadu Pension Rules, 1978 in proceedings, dated 19.09.1987. The husband of the writ petitioner had not completed minimum qualifying service of 10 years, thus, the husband of the writ petitioner himself was not eligible for pension under the Tamil Nadu Pension Rules. The service Gratuity, DCRG amount and the compensation awarded under the Workmen Compensation Act were settled in favour of the writ petitioner by the respondent.

6. This being the factum, this Court is of the considered opinion that the reasons stated in the impugned order is in consonance with the Tamil Nadu Pension Rules, 1978 and there is no infirmity. In the event of not completing minimum qualifying service of 10 years, pension and family pension cannot be granted, so also the scheme of compassionate appointment cannot be granted after a lapse of many years. In the present case, the writ petitioner herself approached after a lapse of 11 years. This being the factum, the order impugned is in accordance with law and there is no infirmity as such.

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (ADI)

// True Copy //



To

The District Forest Officer,
Madurai Division,
Madurai.

+1 CC to M/s.SPL GP (SR-71107[F] dated 25/06/2019)

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-70884[F] dated
24/06/2019)

LS

W.P. (MD) No. 22858 of 2015
24.06.2019

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