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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.06.2019
CORAM:
THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.197 of 2016

S.Karthik

... Petitioner

Vs.

1.The Principal Chief Conservator of Forest,
Office at Panagal Maaligai,
Saidapet,
Chennai - 600 015.

2.The Forestry Extension Officer,
Forestry Extension Division,
Virudhunagar at Srivilliputhur,
Virudhunagar District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the second respondent, in his proceedings in Na.Ka.No.538/2015, dated 17.07.2015, quash the same and consequently, direct the respondents to appoint the petitioner either in the post of Forest Watcher or Forest Guard on compassionate ground, within a time to be specified by this Court.

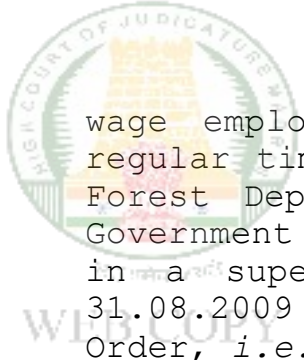
For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to quash the impugned order passed by the second respondent, vide his proceedings in Na.Ka.No.538/2015, dated 17.07.2015, and consequently, direct the respondents to appoint the petitioner either in the post of Forest Watcher or Forest Guard on compassionate ground, within a time to be specified by this Court.

2.The learned counsel appearing for the petitioner submitted that the petitioner's father was appointed as a Plot Watcher on 01.11.1981 in the Forest Department on daily wage basis and his name was included in Serial No.1557 in the State Wide Seniority list drawn by the Department. While his father was waiting for regularization of his service in the post of Forest Plot Watcher, the Government has taken a policy decision to bring all the daily



wage employees working in the Forest Department into a special regular time scale of pay and issued G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009. On the basis of the said Government Order, the service of his father came to be regularized in a supernumerary post i.e., Plot Watcher (Supernumerary) on 31.08.2009 with effect from the date of issuance of the Government Order, i.e., 07.08.2009.

3.The learned counsel appearing for the petitioner further submitted that the petitioner's father had put in 28 years of service on daily wage basis before his service was regularized in a supernumerary post. While he was working as Plot Watcher (Supernumerary), he died on 01.05.2014 leaving behind the petitioner's mother, two elder married sisters and the petitioner as his legal heirs. After the death of the petitioner's father, the petitioner submitted an application to the second respondent, seeking appointment on compassionate ground enclosing legal heirship certificate, no objection letter from his mother and sisters etc. While so, the second respondent, vide his proceedings in Na.Ka.No.538 of 2015, dated 17.07.2015, rejected the petitioner's application, seeking appointment on compassionate ground, by stating that the petitioner's father died while he was working as a daily-rated employee, against which, the present Writ Petition has been filed.

4.In support of his submissions, the learned counsel appearing for the petitioner has drawn the attention of this Court to the order passed by this Court, dated 30.09.2011, in W.P.No.13613 of 2011, wherein, this Court has considered the similar issue and allowed the Writ Petition and directed the respondents therein to pass appropriate orders in the light of the orders passed by this Court in **Tamil Nadu State Transport Corporation (Kumbakonam Division - I) Limited, formerly Cholan Roadways Corporation Ltd., Vs. Lalitha** reported in **2005 (2) CTC 246**, within 12 weeks from the date of receipt of a copy of that order. The said order was challenged before the First Bench of this Court and the First Bench of this Court, by judgment dated 16.04.2012, dismissed W.A.No.524 of 2012 and confirmed the order of the learned Single Judge, against which, S.L.P. [Special Leave to Appeal (Civil) 7619 of 2013] was filed before the Hon'ble Apex Court and the same was also dismissed on 12.04.2013. The learned counsel for the petitioner has also relied upon yet another order passed by this Court, dated 05.12.2013, in W.P.No.19615 of 2012, in which, this Court following the order dated 30.09.2011, in W.P.No.13613 of 2011, disposed of the said writ petition and therefore, the learned counsel prayed for allowing this Writ Petition.

5.The learned Additional Government Pleader appearing for the respondents submitted that it is the specific case of the respondents that the petitioner's father's service was not regularized and therefore, as per the Rules, the petitioner is not entitled for compassionate appointment. Further, the learned



Additional Government Pleader submitted that the Wild Life Warden, Srivilliputhur, has sent a proposal to the first respondent, dated 27.12.2018, recommending the petitioner for appointment on compassionate ground and the said proposal is pending before the first respondent.

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6.Considering the facts and circumstances of the case and the earlier orders passed by this Court, the impugned order of the second respondent dated 17.07.2015, is set aside and the Writ Petition is allowed. The first respondent is directed to pass orders in the said proposal in Na.Ka.No.2790/2017/g, dated 27.12.2018, on or before 30.08.2019, by taking note of the orders passed in the abovesaid Writ Petitions. No costs.

Sd/-

Assistant Registrar (AD-I)

/ True Copy /

Sub Assistant Registrar(CS-)

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To

1.The Principal Chief Conservator of Forest,
Office at Panagal Maaligai,
Saidapet,
Chennai - 600 015.

2.The Forestry Extension Officer,
Forestry Extension Division,
Virudhunagar at Srivilliputhur,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-71127[F] dated 25/06/2019)

+1 CC to M/s.V.PANNEER SELVAM,Advocate(SR-71041[F] dated 25/06/2019)

W.P. (MD) No.197 of 2016
24.06.2019

ES/08.07.2019/3P/5C