



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2019

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CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD).No.7344 of 2015
and
MP(MD).Nos.1 and 2 of 2015

1.N.Prince Jegan
2.N.Amudha

... Petitioners

[2nd petitioner is impleaded vide order
dated 04.03.2016 in W.M.P.(MD)No.554 of 2016]

-Vs-

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department (Forest-I),
Secretariat Building,
Fort St. George,
Chennai-600 009.

2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Maaligai,
No.1, Jennings Road,
Saidapet, Chennai-600 015.

3.The Chief Conservator of Forests (Research),
State Forest Research Institute Campus,
Kolappakkam, Chennai 600 127.

4.The District Forest Officer,
Thiruvannamalai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceeding in Na.Ka.Pa/3172/2013 passed by the 3rd respondent dated 28.10.2014 as well as the impugned proceeding in Na. Ka.No.Na2/5090/14 passed by the 2nd respondent dated 19.11.2014 and quash the same and further



consequently directing the respondents to appoint the petitioner as Junior Assistant in Compassionate appointment as per the proceeding of the 2nd respondent dated 07.11.2013 in Na.Ka. No. Na2/20132/2009.

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For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The order, dated 28.10.2014 and 19.11.2014, are sought to be quashed in the present writ petition.

2.The father of the writ petitioner was employed in the District Forest Officer and died on 22.10.2001, while he was in service. The petitioner states that on account of the sudden demise of his father, the family was in penurious circumstances. The mother of the writ petitioner submitted an application on 16.05.2003 for appointment on compassionate grounds.

3.The learned Additional Government Pleader appearing on behalf of the respondents states that the application of the mother of the writ petitioner was initially processed and the mother was not interested in pursuing the opportunity of appointment and thereafter, the writ petitioner filed an application seeking appointment on 14.03.2007. The application submitted by the writ petitioner was also processed and allotment order has been passed by the Principal Chief Conservator of Forests, in proceeding, dated 17.09.2013. However, the case of the writ petitioner was kept pending and thereafter, in the year 2014, an order of allotment issued in favour of the writ petitioner was cancelled by the Principal Chief Conservator of Forests in proceeding, dated 19.11.2014, which is now under challenge in the present writ petition.

4.In this regard, the impugned order, dated 28.10.2014 also states that the Principal Chief Conservator of Forests has issued an allotment order for appointment in the Junior Assistant category for the writ petitioner. However, the Government cancelled the allotment order made by the Principal Chief Conservator of Forests in Letter No.14783/Forest 9/2014-2, dated 22.09.2014. Accordingly, the proposals sent to the Thiruvannamalai South District Forest Office was returned to the writ petitioner. In other words, the Principal Chief Conservator of Forests granted allotment to the post of Junior Assistant in



favour of the writ petitioner and the Government in letter, dated 22.09.2014, had cancelled the allotment made by the Principal Chief Conservator of Forests and accordingly, the proposal was returned back and the originals were returned to the writ petitioner.

5.The learned counsel appearing on behalf of the writ petitioner states that in view of the fact that the allotment was made in favour of the writ petitioner he must be accommodated in the post of Junior Assistant on compassionate grounds.

6.Per contra, the learned Additional Government Pleader appearing on behalf of the respondents states that Sri.Amudha, the mother of the writ petitioner is the only legal heir of the deceased Government servant and she has submitted her application before the competent authorities for herself immediately after the death of the Government servant. She was informed of the Government of cancelling the allotment issued to the writ petitioner with the instructions to meet both the respondents to sent necessary proposal her appointment on compassionate grounds, based on the initial application, dated 01.04.2002. Tmt.Amutha was informed to produce the required documents and certificates in order to consider the proposals for compassionate appointment vide District Forest Officer, Ref.No.6118/2014/g1, dated 21.01.2015, which was accepted by the writ petitioner on 02.02.2015. In view of the fact that the mother of the writ petitioner of the District Forest Officer interfered action was taken on the application.

7.As per the terms and conditions of the scheme of compassionate appointment, once the wife of the deceased employee submitted an application seeking appointment and that was processed by the competent authorities as necessary particulars were called for from the applicant, then, the second application submitted by the son or the daughter of the deceased employee cannot be entrusted, after a lapse of many years. In the present case, the deceased employee died on 22.10.2001 and the wife of the deceased employee submitted application on 16.05.2003 and when an offer was made for sending proposals the wife of the deceased employee, she had not responded to the offer and thereafter on 14.03.2007, the son of the deceased employee submitted an application seeking appointment on compassionate grounds. Thus, the application submitted by the writ petitioner on 14.03.2007, after a lapse of six years from the date of death of the deceased employee and further there is no provision to entertain the second application submitted by the another legal heir in the scheme of compassionate appointment. This apart, already 18 years have lapsed from the date of death of the deceased employee and therefore now after a lapse of 18 years seeking the scheme cannot



be extended in favour of the writ petitioner.

8. In this regard, it is relevant to state the judgment of the Hon'ble Supreme Court of India, in the case of **State of Himachal Pradesh and another vs. Shashi Kumar** reported in (2019) 3 SCC 653, which reads as follows:-

"18. While considering the rival submissions, it is necessary to bear in mind that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. Dependants of a deceased employee of the State are made eligible by virtue of the policy on compassionate appointment. The basis of the policy is that it recognises that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service. It is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. Where the authority finds that the financial and other circumstances of the family are such that in the absence of immediate assistance, it would be reduced to being indigent, an application from a dependent member of the family could be considered. The terms on which such applications would be considered are subject to the policy which is framed by the State and must fulfil the terms of the policy. In that sense, it is a well-settled principle of law that there is no right to compassionate appointment. But, where there is a policy, a dependent member of the family of a deceased employee is entitled to apply for compassionate appointment and to seek consideration of the application in accordance with the terms and conditions which are prescribed by the State."

9. In the case of the **Government of India Vs. P. Venkatesh (Civil Appeal No. 2425 of 2019)**, the Hon'ble Supreme Court of India has held as follows:-

"The primary difficulty in accepting the line of submissions, which weighed with the High Court, and were reiterated on behalf of the respondent in these proceedings, is simply this: Compassionate appointment, it is well-settled, is intended to enable the family of a deceased employee to tide over the crisis which is



caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. If the facts of the present case are seen, it is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly eleven years after the death of the employee. In the meantime, the first set of representations had been rejected on 3 January 1997. The Tribunal, unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Union Ministry of Information and Broadcasting rejected the representation on 13 November 2007, it was only in 2010 that the Tribunal was moved again, with the same result. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee."

10. In view of the above legal principles already settled by the Hon'ble Supreme Court of India, the writ petitioner is not entitled for appointment on compassionate grounds, after lapse of so many years. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Secretary to Government,
Environment and Forest Department (Forest-I),
Secretariat Building,
Fort St. George,
Chennai-600 009.

2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Maaligai,
No.1, Jennings Road,
Saidapet, Chennai-600 015.

3.The Chief Conservator of Forests (Research),
State Forest Research Institute Campus,
Kolappakkam, Chennai 600 127.

4.The District Forest Officer,
Thiruvannamalai District.

+1 CC to M/s.SPL GP (SR-83340[F] dated 26/08/2019)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-83375[F] dated
26/08/2019)

SJI

W.P. (MD) .No.7344 of 2015
22.08.2019

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