

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.21344 of 2014
and
MP No.1 of 2014

D.Manikandan (died)

M.Mariammal

... Petitioner

(Petitioner substituted in the place of the original
Petitioner vide order dated 18.11.2020 in
W.M.P.No.20959/2016 in W.P.No.21344/2014)

vs.

1. The District Forest Officer,
(Cuddalore Division),
District Forest Office,
No.21, Deepan Nagar,
Chemmandalam,
Cuddalore - 607 001.

2. The Principal,
Chief Conservator of Forests,
Panagal Buildings,
Chennai 600 015.

3. D.Sandhosam

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus to direct the 1st and 2nd Respondents to appoint the Petitioner in the post of Office Assistant in Forest Department on compassionate ground available to him.

For Petitioner :Ms.Helina Prathiba

For Respondents 1 & 2 :Mr.S.Prabhu,
Addl. Government Pleader

For 3rd Respondent :No appearance

ORDER

(This case has been heard through video conferencing)

This Writ Petition has been filed seeking a direction to the 1st and 2nd Respondents to appoint the Petitioner viz. B.Manikandan in the post of Office Assistant in the Forest Department, on compassionate ground.

2. When the matter was taken up for hearing, learned counsel for the Petitioner submitted that, the original Petitioner viz. B.Manikandan died during the pendency of this Writ Petition and that, his wife, viz. M.Mariamammal filed a Miscellaneous Petition in W.M.P.No.20959 of 2016 to substitute herself in the place of the original Petitioner.

3. According to the original Petitioner, i.e. B.Manikandan, his father Late C.Dakshinamoorthy, died in harness on 19.05.2013, while he was working as a Forester in Cuddalore Forest Division, leaving behind him, the Petitioner and his another son, viz. Sathish Gandhi, as his legal heirs. He has further stated that, his mother is the first wife of his father and she died in the year 1980. After the demise of his mother, his father married one Sandhosam, the 3rd Respondent herein and through her, his father begot a son viz. Sathish Gandhi.

4. After the demise of his father on 19.05.2013, the original Petitioner submitted an Application on 29.11.2013 to the 2nd Respondent to appoint him as Office Assistant in the Forest Department on compassionate ground in the place of the father, who died in harness. In that regard, he also made a representation dated 03.12.2013 to the 1st and 2nd Respondents. However, there was no reply from the official Respondents with regard to the Petitioner's representation. Hence, having no other alternative, the original Petitioner has come up with the present Writ Petition.

5. As the original Petitioner viz. B.Manikandan died during the pendency of this Writ Petition, his wife viz. M.Mariamammal is brought on record in his place. Hence, the learned counsel for the Petitioner submitted that, the Respondents may be directed to grant appointment on compassionate ground to the wife of the original Petitioner who is substituted in his place.

6. On the other hand, learned Additional Government Pleader appearing for Respondents 1 and 2 submitted that, only a Class I heir of the deceased employee is entitled to appointment on compassionate ground and in the case on hand, as the deceased employee had another son through his second wife, the original

Petitioner ought to have obtained No Objection Certificate from him before making an Application on compassionate ground. Furthermore, the substituted Petitioner is a Class II heir of the deceased employee and hence, she is not entitled to claim employment on compassionate ground.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. Compassionate Appointment Scheme is a non-statutory scheme and it is in the form of a concession and it cannot be claimed as a matter of right. Mere death of a Government employee in his harness does not entitle the family to claim compassionate appointment.

9. In the case on hand, the deceased employee had another son through his second wife, after the death of his first wife. As per the Compassionate Appointment Scheme, when a legal heir of the deceased employee, say, his son or daughter seeks employment on compassionate ground, he or she should produce No Objection Certificate from his or her siblings. While so, the original Petitioner herein had not produced the No Objection Certificate from his half-brother, viz. Sathish Gandhi. Moreover, as per the Compassionate Appointment Scheme, only Class I heirs of the deceased employee are entitled to claim appointment on that ground. Here, in this case, the substituted Petitioner viz. M.Mariammal is only a Class II heir of the deceased employee and hence, she is not entitled to the relief sought in this Writ Petition.

Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

(vsi2/aeb)

To:

1. The District Forest Officer,
(Cuddalore Division),
District Forest Office,
No.21, Deepan Nagar,
Chemmandalam,
Cuddalore - 607 001.

2. The Principal,
Chief Conservator of Forests,
Panagal Buildings,
Chennai 600 015.

+1 cc to the Special Government Pleader, vide SR No.37073

W.P.No.21344 of 2014

KJ(CO)
NS(29/12/2020)



WEB COPY