

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Appeal No.1553 of 2019

M.Venkatesh

S/o.Late K.Mahalingam

... Appellant

vs

1.Government of Tamil Nadu,
represented by its
Principal Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai - 600009.

2.The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Genies Road,
Panagal Maligai,
Saidapet, Chennai - 15.

3.The District Forest Officer/
Forest Extension Officer,
Krishnagiri Forest Extension Division,
Krishnagiri,
Krishnagiri District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act against the order passed in W.P.No.26729 of 2018 dated 21.03.2019.

WP.No.26729 of 2018:

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents to appoint the petitioner as Forest Watcher or any other suitable post in the Forest Department of 3rd respondent division in order to protect his family livelihood forthwith.

For Appellant : Mr.M.R.Jothimanian

For Respondents : Mr.S.Prabhu

Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]

This matter is heard through Video Conference.

2. This appeal has been filed against the order of this Court dated 21.03.2019 passed in W.P.No.26729 of 2018, wherein the prayer of appellant herein to direct the respondents to appoint him as Forest Watcher or any other suitable post in the Forest Department of the third respondent division, in order to protect his family livelihood, was rejected.

3. The brief facts, which are necessary to decide this appeal, are as follows:

Appellant's father, namely, K.Mahalingam, was appointed as Plot Watcher on 01.04.1981 and was working in the Rasipuram Social Forestry Range of the third respondent Division and thereafter, he was re-appointed as Plot Watcher based on the order of second respondent dated 31.07.2007 and his name was also included in the State wide seniority list in Sl.No.1182. While so, all of a sudden, appellant's father died on 25.06.2009 due to sudden illness. Appellant's father worked in the Department more than 28 years. Subsequent to the death of appellant's father, first respondent issued G.O.Ms.No.95 dated 07.08.2009 regularizing the service of appellant's father based on the seniority as Plot Watcher in the regular post under the Tamil Nadu Forest Subordinate Service Rules. Appellant studied +2 standard and the same was registered in the employment exchange. Appellant's mother approached the respondents on 21.07.2010 seeking employment for the appellant under compassionate ground as Forest Watcher. But, the same was not considered. Hence, appellant submitted a representation dated 25.10.2010 seeking employment on compassionate ground. Since there was no response, appellant submitted another representation dated 05.06.2017. Till date, the representations were pending. Since no action was taken on the representations of appellant, he preferred W.P.No.26729 of 2018 seeking a direction to respondents to appoint him as Forest Watcher or any other suitable post in the Forest Department of the third respondent division, in order to protect his family livelihood. This Court, under order dated 21.03.2019, dismissed the Writ Petition on the reasoning that the appellant's father was not a regular employee and he was working as a daily rated employee. Challenging the said order, the present appeal has been filed.

4. Learned counsel for appellant submits that the appellant's father's name was included in the State Seniority List in Sl.No.1182 as per G.O.Ms.No.64, Environment and Forest (FR.II) Department dated 08.03.99 for regular appointment as

Forest Watcher. As per the said Government Order, persons, who have completed 10 years of service, are eligible for regularization. Appellant's father worked in the Department for more than 28 years without any benefit. Learned counsel further submits that G.O.Ms.No.95 dated 07.08.2009 has been issued by first respondent regularizing appellant's father's service based on the seniority as Plot Watcher in the regular post under the Tamil Nadu Forest Subordinate Service Rules. But, unfortunately, appellant's father died on 25.06.2009 and hence, he could not avail the benefit. Hence, appellant submitted representations to the respondents seeking employment on compassionate ground. However, the learned Single Judge, without considering these aspects, has dismissed the Writ Petition.

5. Countering the submissions made by learned counsel for appellant, learned Additional Government Pleader appearing for respondents submits that on the date of the death of appellant's father, his services were not regularized. Since appellant's father died on 25.06.2009 i.e. prior to issuance of G.O.Ms.No.95 dated 07.08.2009, the said Government Order has no effect in the case of appellant's father.

6. Heard learned counsel for appellant and learned Additional Government Pleader appearing for respondents. Perused the entire materials on record.

7. The issue, similar to the present one, has been decided by this Court in various cases and this Court has held that if an employee was qualified for regularization as on the date of his death, then the claim of his legal heirs cannot be rejected. In the present case also, the appellant's father was qualified for regularization as on the date of his death since he had worked for more than 28 years. Therefore, the claim of the appellant cannot be rejected.

Accordingly, the Writ Appeal is allowed. The order passed by this Court in W.P.No.26729 of 2018 dated 21.03.2019 is set aside. The respondents are directed to consider the representations of appellant positively and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Principal Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai - 600009.

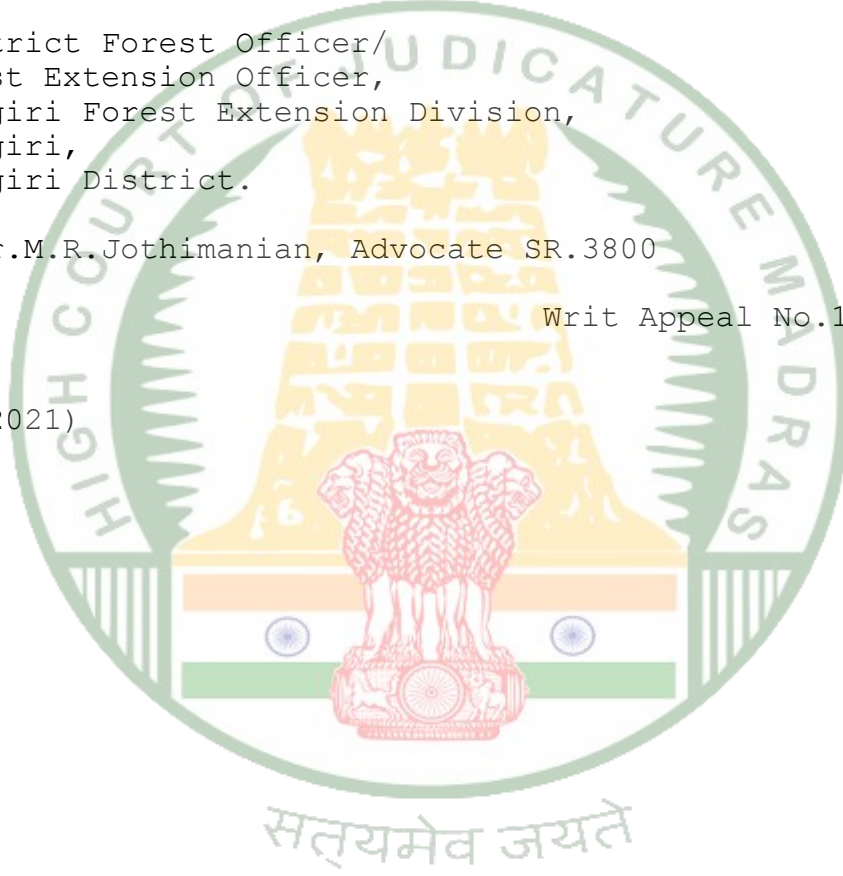
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3.The District Forest Officer/
Forest Extension Officer,
Krishnagiri Forest Extension Division,
Krishnagiri,
Krishnagiri District.

+1cc to Mr.M.R.Jothimanian, Advocate SR.3800

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