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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

C O R A M

The Hon'ble Mr. Justice C.SARAVANAN

Writ Petition No.14106 of 2020
and
WMP Nos.17513 and 17520 of 2020

(Through Video Conferencing)

S.Tamil Selvi

... Petitioner

Vs.

1. Government of Tamil Nadu
Rep. by its Secretary,
Environment and Forest Department,
Fort St. George,
Chennai - 600 009.
2. The Principal Chief Conservator of Forest,
Having office at Panagal Maligai,
Saidapet, Chennai - 600 015.
3. The District Collector,
Vellore District.
4. The District Forest Officer,
Vellore, Vellore District.
5. The Assistant Director of Land Survey,
Vellore District, Vellore -9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the entire records which culminated in passing the impugned order bearing reference No.Na.Ka.A5/3851/2019 dated 29.07.2020 on the file of the 5th Respondent, and to quash the same and consequently direct the respondents to appoint the petitioner in the cadre of Record Clerk on compassionate grounds within a period that may specified by this Court.



For Petitioner : Mr.S.Mani
For Respondents : Mr.V.P.R.Elamparithi
Government Advocate

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O R D E R

The petitioner has challenged the impugned communication deferring the decision to appoint the petitioner on compassionate ground on the ground that the petitioner's husband employed in the Forest Department as a Forest Watcher itself was questionable inasmuch as the appointment was made by the District Forest Officer and not by the Government. The impugned communication further states that the disciplinary proceedings initiated against the District Forest Officer was pending.

2. Appearing on behalf of the petitioner, the learned counsel for the petitioner submits that the petitioner's husband was himself appointed on compassionate ground as the Forest Guard on 01.05.1997 after her father in law died. After the petitioner's husband died on 06.11.2012, the petitioner made application on 26.09.2013. After keeping the application pending since 2013, the respondents have now informed the petitioner that the appointment of the petitioner's husband itself was questionable and that the person who appointed the petitioner's husband was subjected to Disciplinary Proceedings under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

3. The learned counsel for the petitioner further submits that the issue is now covered by a decision of this Court in W.P.No.13613 of 2011 by an order dated 30.09.2011 wherein, the case of Plot Watcher is not a sanctioned post, the Court had directed the Respondents to appoint the deceased employee's son on compassionate ground considering the fact that the petitioner's father therein had served more than 25 years. In this case, it is submitted that the petitioner's husband had served about 15 years. It is therefore submitted that the petitioner is entitled to be appointed on compassionate ground. The learned counsel for the petitioner further submits that the decision of this Court in W.P.No.13613 of 2011 dated 30.09.2011 was also affirmed by the Division Bench of this Court by order dated 16.04.2013 in W.A.No.524 of 2012 and the Department proceed before the Hon'ble Supreme Court was also dismissed on 12.04.2013 and therefore, he prays for allowing this writ petition.

4. Defending the impugned order and the decision of this Court, the learned counsel for the respondents submits that



since the appointment of the Petitioner's husband itself was irregular inasmuch as he was neither qualified nor within the age limit and the appointment was by the District Forest Officer. The appointment of the petitioner was not by the appointing authority and therefore the request of the petitioner on compassionate ground cannot be entertained and therefore he prays for dismissal of this writ petition notwithstanding the fact that the orders were passed by this Court in W.P.No.13613 of 2011 and W.A.No.524 of 2012 as well as the Hon'ble Supreme Court.

5. By way of rejoinder, the learned counsel for the petitioner submits that the petitioner was drawing family pension and therefor the status of the petitioner's husband as an employee of the Forest Department cannot be questioned. The learned counsel for the petitioner further submits that the intra disciplinary proceedings that is said to be pending against the District Forest Officer is of no relevance for considering the case of the petitioner to be appointed on compassionate ground.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

7. On inquiry, the learned Government Advocate submits that G.O.Ms.No.18 dated 23.01.2020 has been issued. He submits that the said G.O. specifies the condition for appointing a person on compassionate ground. Considering the fact that the petitioner is receiving a family pension after the death of her husband late K.Sampath who was serving as a Forest Guard from 1997. the fact that the petitioner's husband was an employee of the Forest Department stands concluded. If the petitioner is otherwise qualified on the date of application on 26.09.2013, the petitioner deserves to be appointed on compassionate ground as per the relevant G.O. Prevailing.

8. In these circumstances, this writ petition is disposed by directing the respondents to apply the relevant G.O. for appointment of a person on a compassionate ground. The issue as to whether the petitioner's husband was a regular employee or his appointment was contrary to the Government orders is concerned at the distant point of time cannot be invoked as the petitioner is receiving family pension from the Government of Tamil Nadu after the death of her husband late K.Sampath. The Respondents shall consider the application of the petitioner and pass appropriate orders on merits in accordance with law within a period of six weeks from the date of receipt of a copy of this order.



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9. This writ petition is disposed in the above direction.
Consequently, connected WMP. is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
Government of Tamil Nadu
Environment and Forest Department,
Fort St. George,
Chennai - 600 009.
- 2.The Principal Chief Conservator of Forest,
Having office at Panagal Maligai,
Saidapet, Chennai - 600 015.
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Vellore District.
- 4.The District Forest Officer,
Vellore, Vellore District.
- 5.The Assistant Director of Land Survey,
Vellore District, Vellore -9.

+1cc to Mr.S.Mani, Advocate Sr No.39808
+1cc to Special Government Pleader (Forest) Sr No.39837
+1cc to Government Pleader Sr No.39428

W.P.No.14106 of 2020

GJ (CO)
PR (27/08/2021)