



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18716 of 2021

M.Mutharasan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Environment and Forest Department,  
Fort.St.George,  
Chennai - 600 009.
2. The Principal Chief Conservator of Forest  
and Head of Forest Force,  
Panagal Building,  
Saidapet,  
Chennai - 15.
3. The Conservator of Forests,  
Chennai Circle,  
Chennai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's last representation dated 21.09.2020 for the appointment to the post of Forester Guard on Compassionate ground, considering the degree qualification possessed by the petitioner in the light of the order made in W.P.No.28670 of 2011 dated 27.01.2014 within time frame.

For Petitioner : Ms.K. Jenitha

For Respondents : Mr.L.S.M.Hasan Fizal  
Government Advocate

ORDER

This writ petition has been filed to direct the second respondent, to consider the petitioner's representation dated 21.09.2020 for appointment to the post of Forest Guard, on compassionate ground, considering the qualification possessed by the petitioner in the light of the order made in W.P.No.28670 of 2011, dated 27.01.2014, within time frame.



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2. It is the case of the petitioner that the petitioner was appointed as a Forest Watcher in the year 2013, after the petitioner had filed proceeding before the Tamil Nadu Administrative Tribunal and later, before this Court in W.P.No.17418 of 2010 which came to be disposed by an order dated 08.09.2011. It is further submitted that the petitioner's father, while in service with the respondents, was murdered and it took nearly 20 years for the respondents to appoint the petitioner on compassionate ground in the year 2013 as Forest Watcher pursuant to the aforesaid order of this Court in W.P.No.17418 of 2010 dated 08.09.2011.

3. The second respondent has not considered the representation of the petitioner dated 21.09.2020. It is further submitted that by the time the petitioner was appointed, the petitioner had completed a degree in Bachelor of Arts in Economics from University of Madras. It is submitted that the petitioner is entitled to be appointed as a Forest Guard in terms of G.O.Ms.No.1499, Labour and Employment (Q1) Department, dated 03.08.1989.

4. It is submitted that though the issue is now squarely covered by the following two cases:-

(i) In M.Manikandan vs. State of Tamil Nadu rep. by the Principal Secretary to Government (W.P. No.28670 of 2011 dated 27.01.2014).

(ii) In C.Prabakaran vs. The Secretary to Government (W.P. (MD).Nos.13354 and 13355 of 2013 dated 06.12.2018).

5. Mr.L.S.M.Hasan Fizal, learned Government Advocate appearing on behalf of the respondents and submits that the petitioner was appointed on compassionate ground. The fact indicates that the petitioner's family did not suffer from any indigence inasmuch as the petitioner was able to complete his education through the regular course offered by the Madras University in 2006.

6. He further submits that G.O.Ms.No.1499, Labour and Employment (Q1) Department, dated 03.08.1989 has now been subsumed into another G.O.(3D) No.36, Environment and Forest(FR9) Department, dated 24.06.2013. Therefore, the petitioner cannot be accommodated in the higher post of Forest Guard. It is submitted that the appointment on compassionate ground cannot mean the petitioner can be appointed to the higher post merely because, the petitioner had subsequently obtained higher qualification.

7. Heard both sides and perused the materials available on record.



8. It is noticed that at the time when the petitioner's father passed away under unfortunate circumstances on 24.08.1993, G.O.Ms.No.1499, Labour and Employment (Q1) Department, dated 03.08.1989 was in force. However, due to the policy of the Government, appointments were not made to the posts of Forest Guard.

9. The petitioner has approached the Tamil Nadu Administrative Tribunal and thereafter this Court in W.P.No.17418 of 2010, which came to be disposed in favour the petitioner by an order dated 08.09.2011 with a direction to the first respondent to consider the application of the petitioner dated 21.02.2002 along with the representation dated 05.11.2009 in the light of G.O.Ms.No.16, Personnel and Administrative Department dated 21.02.2006. Under some what similar circumstances, this Court has allowed the relief to the similarly placed persons in the two orders cited above by the learned counsel for the petitioner.

10. That apart, today also writ petition was disposed in W.P. No.18651 of 2021 in favour of another person under similar circumstances. The right of the petitioner for being appointed to an appropriate post would be based on the qualification he possessed in terms of the relevant Government Orders which were in force on the date of application and on the date of appointment on compassionate ground. If the appointment was made then and there and as and when the application for appointment was made, the petitioner cannot claim a right to be appointed in the higher post based on the subsequent qualification.

11. The respondents are therefore directed to consider the representation dated 21.09.2020 of the petitioner favourably in the light of orders passed by this Court in M.Mutharasan vs. The Government of Tamil Nadu (W.P.No.17418 of 2010 dated 08.09.2011) and in V.Muthamilselvan vs. The State of Tamil Nadu (W.P. No. 18651 of 2021 dated 06.09.2021) within a period of six weeks from the date of receipt of a copy of this order.

12. This writ petition is disposed with the above direction. No costs.

Sd/-  
Assistant Registrar (C0)

// True Copy //

Sub Assistant Registrar

dm/kbs



To

1. The Secretary to Government,  
State of Tamil Nadu,  
Environment and Forest Department,  
Fort.St.George,  
Chennai - 600 009.

2. The Principal Chief Conservator of Forest  
And Head of Forest Force,  
Panagal Building,  
Saidapet, Chennai - 15.

3. The Conservator of Forests,  
Chennai Circle, Chennai.

+1CC to M/s.K.Jenitha, Advocate, SR.No. 44826

+1CC to Special Government Pleader,(forest) SR.No. 45278

+1CC to The Government Pleader, SR.No. 45569

W.P.No.18716 of 2021

SV I(CO)

B.VC (01/10/2021)