



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.32499 of 2014

M.Sathiyaraj

... Petitioner

Vs

1.The Conservator of Forest,
Vellore Regional,
Phase III, Sathuvachery,
Vellore, Vellore District - 632 009.

2.The District Forest Officer,
Phase III, Sathuvachery,
Vellore, Vellore District - 632 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Na.Ka.No. 8267/2014 dated 05.08.2014 and quash the same and further to direct the respondent herein to grant compassionate appointment to the petitioner herein.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.S.Prabhu, AGP

ORDER

The relief sought for in this writ petition is to call for the records of the 1st respondent in Na.Ka.No. 8267/2014 dated 05.08.2014 and quash the same and consequently direct the respondent to grant compassionate appointment to the petitioner herein.

2.According to the petitioner, his father late K.Murugan (Roll No.5070) was employed as a Plot Watcher from 01.05.1987 to 23.05.2005. He died on 23.05.2005, while he was in employment. Thereafter, the petitioner made a representation on 09.01.2014 to the District Forest Officer, Vellore /second respondent seeking appointment on compassionate grounds, which was rejected



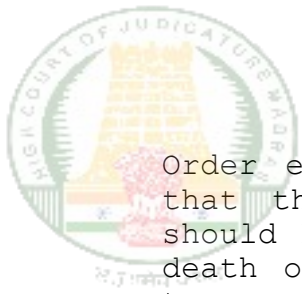
by letter dated 22.01.2014. Subsequently, he made another representation on 25.02.2014 to the Chief Minister Cell, which was forwarded to the 1st respondent, who, in turn, by proceedings dated 05.08.2014, rejected the claim of the petitioner stating that his father was employed as a watchman on temporary basis on daily wages and there is no provision for granting appointment on compassionate grounds for those family members, who were dependent on such temporary employees. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, a detailed counter affidavit was filed by the respondents, wherein, it is inter alia stated that the petitioner's father was engaged as Plot Watcher on daily wage basis from 01.09.1988 to 29.03.2001 and thereafter, he was not engaged in the department; and there was no regular post of Plot Watcher and the petitioner's father was not engaged against any sanctioned post; and hence the claim of the petitioner seeking compassionate appointment was rejected. It is also stated that the petitioner made representation after a lapse of eight years and there is no provision in the Government Rules and Regulations for granting appointment on compassionate grounds for those family members who were dependent on temporary employees. With these averments, the respondents sought for dismissal of the writ petition.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents and also perused the materials placed before this Court.

5. It is an admitted fact that though the petitioner's father died, while he was in employment, he was not a regular employee of the respondent Department and he was engaged as a Plot Watcher on daily wage basis. Further, the petitioner made application seeking compassionate appointment, after a lapse of 8 years from the date of death of his father, which is barred by limitation. Therefore, the first respondent rejected the claim of the petitioner seeking appointment on compassionate grounds, by the order impugned herein.

6. This Court has no quarrel with the legal proposition that the compassionate appointment is intended to protect the family of the deceased from the sudden financial crisis and provide for livelihood and the family has to move on from the indigent circumstances. However, it cannot be disputed that such appointment is not a matter of right and it should be considered only on the basis of relevant scheme prevailing on the date of demise of the employee. It is to be pointed out at this juncture that in the recent G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 which supersedes all the Government



Order earlier passed from the year 1972, it is clearly stated that the application seeking compassionate ground appointment should be made within a period of three years from the date of death of the Government servant; and the persons who are under temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularised, are not eligible for consideration to such appointment. Hence, there is error or illegality in the order so passed by the first respondent rejecting the claim of the petitioner.

7. In this context, it is relevant to quote the observation of the Supreme Court in *State of Haryana v. Rani Devi* [1996 (5) SCC 308], that the appointment on compassionate grounds cannot be made after a lapse of the period specified in the rules as it is not a vested right to exercise at any time in future. That apart, in *Chief Commissioner, Central Excise and Customs and others v. Prabhat Singh* [(2012) 13 SCC 412], it was held by the Supreme Court that "the Court should not fall prey to any sympathy syndrome of issue direction for compassionate appointment dehors prescribed norms".

8. Further, it is pertinent to mention here that the issue involved herein came up for consideration in WP.(MD)No.7016 of 2011 by way of reference to the Full Bench of this Court, which answered the same by order dated 11.03.2020, paragraph 32(a) of which is profitably extracted hereunder:

"Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the Scheme that has been framed by the employer. Any deviation from the Scheme is not permissible."

9. Therefore, this Court cannot take a different stand contrary to the recent G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020 as well the decision of the Full Bench of this Court in WP.(MD).N0.7016 of 2011 dated 11.03.2020.

10. Accordingly, this writ petition deserves to be dismissed and is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl



To

1.The Conservator of Forest,
Vellore Regional,
Phase III, Sathuvachery,
Vellore, Vellore District - 632 009.

2.The District Forest Officer,
Phase III, Sathuvachery,
Vellore, Vellore District - 632 009.

+1CC to the Special Government Pleader SR No.20776

W.P.No.32499 of 2014

VM (CO)
PR (19/07/2021)