



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2021
CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD)No.4679 of 2018

K.Periyasamy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department,
Fort.St.George,
Chennai - 9.

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

3. The Divisional Forest Officer,
Crash Plantation Division,
Karur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in Na.Ka.No.2498/2016/pa2 dated 05.07.2017 and quash the same with consequential direction to the respondents to reconsider the petitioner's claim with regard to compassionate appointment in the light of the order passed by this Court in W.P.No.13613 of 2011 dated 30.09.2011 and W.A.No.524 of 2012 dated 16.04.2012 within the time frame.

For Petitioner : M/s.K.Jenitha

For Respondents : Mr.A.K.Manickam,
Government Counsel.

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the third respondent in Na.Ka.No.2498/2016/pa2 dated 05.07.2017 and quash the same with a consequential direction to the respondents to reconsider the petitioner's claim with regard to compassionate appointment in the light of the order passed by this Court in W.P.No.13613 of 2011 dated 30.09.2011 and W.A.No.524 of 2012 dated 16.04.2012 within the time frame.



2. Heard the learned counsel appearing for the petitioner and the learned Government Counsel appearing for the respondents.

3. According to the petitioner, the petitioner's father was appointed as Social Forestry Division at Kulithalai range. After rendering a long service i.e., more than 26 years, as per G.O.Ms.No.95, his father's service was brought into regular time scale of pay in supernumerary post. His father died on 21.06.2012 while in service. Since his father was the only breadwinner of the family, his mother submitted a representation on 17.01.2014 to the second respondent for family pension and for compassionate appointment. The said application was rejected on the ground that the petitioner was appointed as a daily wage employee in the respondent department. Thereafter, the petitioner filed a writ petition in WP.No.31276 of 2016 for a compassionate appointment. The said writ petition was disposed of with a direction to the second respondent to consider the representation dated 17.01.2014 submitted by the petitioner's mother seeking compassionate appointment to the petitioner and pass appropriate orders in the light of the judgment of the First Bench of this Court dated 16.04.2012 made in W.A.No.524 of 2012. The third respondent after receiving the copy of the order of this Court, could not comply with the direction of this Court and rejected the application for compassionate appointment vide his impugned proceedings dated 05.07.2017. Challenging the same, the present writ petition has been filed before this Court.

4. Additional counter affidavit has been filed by the third respondent. In the additional counter affidavit, he has stated as follows:

"It is respectfully submitted that the request of the petitioner sought for in WP.(MD) No.4679 of 2017 has been reconsidered on the basis of Government letter and Principal Chief Conservator of Forests, Chennai instructions in Letter no.S2/16585/2018 dated 02.05.2018, the petitioner has been asked to submit application along with all required certificates in the office Ref no.2498 of 2016 E2 dated 08.06.2018, since no application specifying the post and the required certificates not received till date from the petitioner. It is submitted that on receipt of application and all required certificates from the petitioner, immediate action will be taken to submit the proposal for compassionate ground appointment to the Principal Chief Conservator of Forests, Chennai".



5.The learned counsel for the petitioner urges this Court to afford an opportunity to the petitioner to submit the required documents to the third respondent and based on the said documents, the third respondent may be directed to consider the request for the compassionate appointment.

WEB COPY

6.On considering the the submissions made by the learned counsel on either side and also the additional counter affidavit filed by the third respondent, the impugned order dated 05.07.2017 passed by the third respondent is quashed and remitted the matter back to the third respondent to consider afresh and pass appropriate orders. In the meantime, the petitioner shall submit the required documents to the third respondent as stated in the preceding paragraph within a period of two weeks from the date of receipt of a copy of this order. If such documents are submitted by the petitioner, the 3rd respondent shall consider the same in accordance with law and pass appropriate orders at the earliest, preferably within a period of 12 weeks thereafter. In case, the petitioner fails to file the documents within the aforesaid period, the respondent shall communicate the petitioner for rejecting his claim.

7. The Writ Petition stands allowed with the above direction. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dn

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Fort.St.George,
Chennai - 9.



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

3. The Divisional Forest Officer,
Crash Plantation Division,
Karur.

+1 CC to M/s.GP (SR-25879[F] dated 11/08/2021)

+1 CC to M/s.K.JENITHA, Advocate (SR-25861[F] dated 11/08/2021)

W.P (MD) No. 4679 of 2018
10.08.2021

RK (19.08.2021) 4P 6C