



BEFORE THE MDURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2021

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THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD) Nos.5679 and 8370 of 2017

E.Vairavel ..... Petitioner in both petitions

Vs.

- 1.The Principal Conservator of Forest,  
1, Jeenis Road,  
Panagal Maligai,  
Chennai-600 015. .... 1<sup>st</sup> Respondent in W.P.(MD)No.5679 of 2017
- 2.The Chief Conservator of Forest,  
1, Jeenis Road,  
Panagal Maligai,  
Chennai-600 015. ....1<sup>st</sup> Respondent in W.P.(MD)No.8370 of 2017
- 3.The District Forest Officer,  
District Forest Office,  
Dindigul Division,  
Dindigul District. ....2<sup>nd</sup> Respondent in both petitions

Common Prayer : Writ Petitions filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the proceedings of the second respondent in Na.Ka.No.6038/2015g1, dated 20.04.2016 and 04.04.2017 respectively and quash the same and consequently, directing the respondents herein to consider the appointment of the petitioner on compassionate ground within the stipulated period fixed by this Court.

For Petitioner : Mr.R.Rajaraman

(in both petitions)

For Respondents : Mr.D.Muruganantham

(in both petitions) Additional Government Pleader

### COMMON ORDER

The present writ petitions are filed seeking to quash the impugned orders passed by the second respondent in Na.Ka.No.6038/2015g1, dated 20.04.2016 and 04.04.2017 respectively and consequently, to direct the respondents herein to consider the



appointment of the petitioner on compassionate ground within the stipulated period fixed by this Court.

2. Since the issues involved in these Writ Petitions are similar, these Writ Petitions are disposed of by way of this common order.

3. It is the case of the petitioner that the petitioner's father joined as a Social Worker in the Forest Department in the year 1985 and served as a Social Worker in the Forest Department for the period of 15 years and thereafter, the petitioner was appointed as a Watcher in the Forest Department in the year 1995 and further promoted to the post of Forest Guard and served as a Forest Guard upto 2012. In the year 2012, the petitioner's father, while he was in service, met with an accident and he was admitted in Meenakshi Mission Hospital, Madurai and died on 11.05.2012, leaving behind the petitioner and other legal heirs. Thereafter, the petitioner made an application for compassionate appointment on 13.10.2012 to the respondents along with the necessary documents and subsequently, he made several oral and written representations before the respondents on several occasions. But, the respondents have rejected the said proposal by way of two impugned orders, dated 20.04.2016 and 04.04.2017 on the ground that the petitioner has not annexed the Distress Certificate issued by the Revenue Officials and further, it reveals that the petitioner's family annual income is Rs.2,96,838/-. Since the petitioner is not in a distressed condition, the said application was rejected. Challenging the same, these writ petitions are filed with the above said prayers.

4. The learned counsel for the petitioner would submit that the petitioner's mother was a Government employee and she retired under Voluntary Retirement Scheme on health condition. After the retirement, the petitioner's mother received pension. The Revenue Officials issued an income certificate stating that the petitioner's family is receiving Rs.2,96,838/-. Further, the respondent has to consider whether the petitioner's family is in indigent circumstances or not and merely based on the certificate of the Revenue Official, the petitioner's application cannot be rejected. Hence, he prayed for allowing these petitions.

5. The learned Additional Government Pleader for the respondents would submit that the Government issued a Consolidated G.O.Ms.No.18, dated 23.01.2020. As per the above said G.O., if the petitioner's family is in indigent circumstances, he is eligible for compassionate appointment. In the said Government Order, it is stated that the appointing authorities shall examine the financial condition of the family of the deceased Government servant and offer job to an eligible member of the family only after satisfying themselves that, but for the provision of employment, the family will not be able to meet the crisis. The second condition is that a family having annual income of less than Rs.2,00,000/- only, will be treated to be in indigent circumstances. In the present writ



petitions, the Revenue Official issued a Certificate as if the family is receiving annual income of Rs.2,96,838/-. Hence, the petitioner is not entitled for compassionate appointment and further, the petitioner's mother received her pension and family pension of her husband as well as they are not entitled for compassionate appointment and they are not coming under the category of indigent circumstances.

6. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents and perused the materials available on record.

7. The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly.

8. The compassionate appointment is provided for a Government servant following the scheme of the Government. As rightly pointed out by the learned Additional Government Pleader for the respondents, the said schemes are governed by the Government Orders and subsequently, in the year 2020, a Consolidated Government Order was issued by the Labour and Employment Department in G.O.Ms.No.18, dated 23.01.2020, wherein, the relevant paragraph as under:-

**"Family to be in indigent circumstances to be eligibl  
under compassionate ground appointment**

(i) The appointing authorities shall examine the financial condition of the family of the deceased Government servant and offer job to an eligible member of the family only after satisfying themselves that, but for the provision of employment, the family will not be able to meet the crisis.

(ii) A family having annual income of less than Rupees two lakhs only will be treated to be in indigent circumstances.

(iii) The family pension of the deceased employee and the immovable property like living house of the employee need not be taken into account while assessing the income of the



family. However income received from the movable/immovable properties in the name of the Government Servant's family members should be taken into account. Certificate is to be issued by the jurisdiction Tahsildar.

(iv) In the case of the deceased Government servant who belong to other State but worked in Tamil Nadu Government Service, they should obtain the requisite certificate from the Tahsildar of his place of residence in Tamil Nadu and also from the Revenue Divisional Officer or Deputy Collector of his native State.

(v) The compassionate ground appointment will not be considered:-

(a) In case any person of the deceased Government Servant's family is in regular employment in Government/Private Enterprises.

(b) The wife of the deceased Government Servant who applied for appointment for herself is remarried."

9. In the present case, a perusal of the impugned order would reveal that the petitioner's family is receiving annual income of Rs.2,96,838/- and hence, he is not entitled for compassionate appointment. However, the petitioner's mother is also receiving pension and her husband's family pension. Hence, both these writ petitions are liable to be dismissed and accordingly, both the writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar ()

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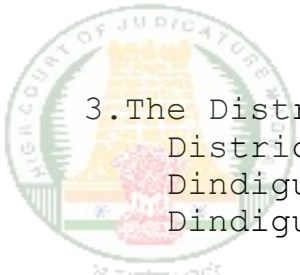
Sub Assistant Registrar(CS)

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To

1. The Principal Conservator of Forest,  
1, Jeenis Road,  
Panagal Maligai,  
Chennai-600 015.

2. The Chief Conservator of Forest,  
1, Jeenis Road,  
Panagal Maligai,  
Chennai-600 015.



3.The District Forest Officer,  
District Forest Office,  
Dindigul Division,  
Dindigul District.

+2 CC to Mr.R.RAJARAMAN, Advocate ( SR-1289,1287[F]dated  
20/01/2021 )

+1 CC to SPL GP ( SR-1367,1366[F] dated 20/01/2021 )

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VB (15.02.2021) 5P 7C