



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.20133 of 2016

S.Kishore Kumar ... Petitioner
Vs.

1.The Principal Chief Conservator of Forest,
7th Floor, Panagal Maligai,
Saidapet,
Chennai - 15.

2.The Conservator of Forest,
Madurai Region,
Madurai-2.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned rejection order passed by the first respondent in Na.Ka.No.52006/2013², dated 05.06.2014 and quash the same as illegal and consequently direct the respondents to provide appointment to the petitioner on compassionate ground, as per G.O. (Ms.)No.554, dated 09.04.1990.

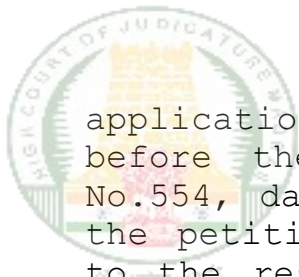
For Petitioner : K.C.Ramalingam

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the rejection order passed by the first respondent in Na.Ka.No.52006/2013², dated 05.06.2014 and to quash the same and consequently, direct the respondents to provide appointment to the petitioner on compassionate ground, as per G.O.(Ms.)No.554, dated 09.04.1990.

2. The case of the petitioner is that he is a qualified Diploma Engineer in Electronics and Communication Engineering and he has also completed Advanced Diploma in Hardware Technology and Networking Course in the year 2012. After obtaining the said qualifications, the father of the petitioner has submitted an



application for compassionate appointment to the petitioner, before the first respondent, on 25.04.2013, as per G.O.(Ms.) No.554, dated 09.04.1990. But the same was not considered. Hence, the petitioner's father has made a representation on 10.07.2013, to the respondents and the same was also not considered by the respondents. Therefore, the petitioner has filed a writ petition in W.P.(MD).No.19226 of 2013 before this Court, seeking direction to the respondents to consider the representation of the petitioner, dated 02.04.2013. This Court, by order dated 06.12.2013, directed the first respondent to consider the representation of the petitioner, dated 25.04.2013 and pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of that order. After receiving the copy of the order dated 06.12.2012, the petitioner has made a representation to the respondents on 21.12.2013, along with the copy of the order dated 06.12.2013. In compliance of the said order, the first respondent has passed the impugned order on 05.06.2014, rejecting the request of the petitioner, on the ground that the father of the petitioner was permitted to retire from service at the age of 55 ½ years. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner's father was worked as Junior Assistant in the Office of Assistant Conservator of Forests, Forest Protection Squad, K.Pudur, Madurai and he was permitted to retire from service on medical invalidation on 30.06.2007, by the proceedings of the second respondent, dated 28.06.2007. Thereafter, the petitioner's father has submitted an application for compassionate appointment to the petitioner, before the first respondent, on 25.04.2013 and the same was not considered. Therefore, the petitioner has filed a writ petition in W.P.(MD). No.19226 of 2013 before this Court and this Court, by order dated 06.12.2013, directed the first respondent to consider the representation of the petitioner, dated 25.04.2013. However, the first respondent, without considering the G.O.(Ms.)No.554, dated 09.04.1990, has rejected the request of the petitioner, without any valid reason. He would further submit that the petitioner's family is living in indigent circumstances and the Hon'ble Apex Court, in 2004(3) CTC 120, has categorically held that the compassionate appointment cannot be denied on the ground of age. Hence, he prayed for allowing this writ petition.

4. Per Contra, the learned Additional Government Pleader appearing for the respondents would submit that admittedly the petitioner's father medically invalidated at the age of 55 ½ years. However, the representation of the petitioner was made after lapse of five years. He would further submit that though the father of the petitioner medically invalidated in the year 2007,



the petitioner has completed the course in the year 2012 and attained majority in the year 2013 and thereafter, he has made a representation in the year 2013, which was rejected, on the ground that the father of the petitioner was permitted to retire from service at the age of 55 ½ years. He would further submit that in G.O.(Ms.)No.554, Labour and Employment Department, dated 09.04.1990, it has been stated that the concession should not, however, be extended to the cases where the Government Servants retired on or after attaining the age of 50 years. Subsequently, the said G.O. was superseded by G.O.(Ms.).No.18, dated 23.01.2020, wherein, maximum age limit has been enhanced to 53 years. Hence, he prayed for dismissal.

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

6. The facts in the present case are not in dispute. Admittedly, the petitioner's father medically invalidated in the year 2007, at the age of 55 ½ years and the petitioner has attained majority in the year 2013. Thereafter, the petitioner has made a representation for compassionate appointment and the same was rejected, on the ground that at the time of retirement on medical invalidation, the age of the petitioner's father is 55 years 6 months and 17 days. As per G.O.(Ms.)No.554, Labour and Employment Department, dated 09.04.1990, the concession should not, however, be extended to the cases where the Government Servants retired on or after attaining the age of 50 years. Subsequently, the said G.O. was superseded by G.O.(Ms.).No.18, dated 23.01.2020, wherein, maximum limit of age has been enhanced to 53 years to extend the concession of compassionate appointment in the case of retirement on medical invalidation.

7. In the light of the above, there is no merit in this writ petition and it deserves dismissal and accordingly, the Writ Petition is dismissed. However, in the circumstances of the case, there will be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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 Principal Chief Conservator of Forest,
7th Floor, Panagal Maligai,
Saidapet,
Chennai - 15.

2.The Conservator of Forest,
Madurai Region,
Madurai-2.

+1 CC to SGP (SR-3980[F] dated 09/02/2021)

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KM (22.03.2021) 4P 4C