



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 11.03.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

**W.P. (MD)No.2358 of 2022**

WEB COPY

P.Babyshalini

... Petitioner

Vs.

1.The Principal Secretary to Government  
Environment and forest Department  
Government of Tamil Nadu  
Secretariat, Chennai 9

2.The Principal Chief conservator of Forests,  
Panagal Building  
Saidapet, Chennai 15

3.The Additional Principal Chief Conservator of Forests,  
Madurai Region, Madurai.

4.The District Forest Officer,  
Madurai Division, Madurai.

5.The Conservator of Forests  
Madurai Region, Madurai.

... Respondents

**PRAYER:** Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 4<sup>th</sup> respondent by his proceedings in Na.Ka.No.670/2017 Aa5 dated 17.10.2019 and quash the same and consequently direct the respondents to appoint the petitioner in any one of the post in the respondents department as suitable for the qualification of the petitioner within a stipulated period prescribed by this Court.

For Petitioner : Mr.K.Mahendran

For Respondents : Mr.M.Ramesh

Government Advocate

**ORDER**

The order of rejection dated 17.06.2019 rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2. The father of the writ petitioner late R.Pandi was working as Forest Watcher and died on 05.09.1919, while he was in service.

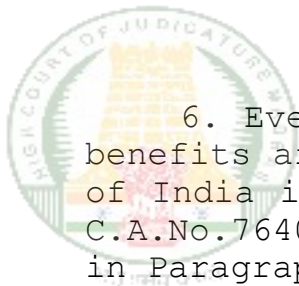


At the time of death of the deceased employee, the petitioner was aged about 9 years and was a minor. Thus, the mother of the writ petitioner submitted an application seeking employment on 28.07.2001.

3. The learned counsel for the petitioner made a submission that the Government imposed ban for appointment with effect from 23.08.2002 and the ban was lifted on 14.02.2006 and thereafter the mother of the writ petitioner submitted another application to provide employment on 28.07.2001 and the application was rejected and by the time, the mother of the writ petitioner has crossed the minimum age limit and the petitioner, on attaining the age of majority, again submitted an application on 17.06.2019. The said application is rejected vide impugned order dated 17.10.2019 stating that the application itself was submitted beyond the period of three years from the date of death of the deceased employee and therefore, the petitioner is not eligible to avail the claim of compassionate appointment.

4. The claim of compassionate appointment is a concession and cannot be claimed as an absolute right. The scheme is violative of Articles 14 and 16 of the Constitution of India. Thus, the claim is to be restricted to the extent without affecting the rights of the large number of eligible candidates, who are all aspiring to secure public employment through open competitive process. All appointments are to be made under the constitutional scheme and by providing equal opportunity to the eligible candidates longing to secure employment. Thus, any special scheme provided must be restricted to the extent that the appointments on compassionate grounds are made only to the deserving families and it is not as if one appointment to be provided to the family of the deceased employee. The very purpose and object of the scheme is to mitigate the circumstances arising on account of the sudden death of an employee, but not to provide appointment to the family of the deceased employee. Therefore, the mitigating factors are to be ascertained by the competent authorities for extending the claim of compassionate appointment.

5. Long lapse of time is also a ground to reject the appointment on compassionate ground. The efflux of time provides a ground to draw a factual inference that the indigent and penurious circumstances arose on account of the sudden death of an employee became vanished. Thus, the compassionate appointment cannot be granted after lapse of many years from the date of the death of the employees. This being the general principles, which are all reiterated by the Hon'ble Supreme Court of India in number of judgments, the scheme is to be implemented strictly in accordance with the terms and conditions stipulated by the Government under the Scheme.



6. Even to ascertain the indigent circumstances, the pensionary benefits are also to be taken into consideration. The Supreme Court of India in the case of **Union of India and others Vs. Amrita Sinha** C.A.No.7640 - 7641 of 2021 dated 11.12.2021 (2021 15 Scale 174) held in Paragraph No.10 as follows :

*"The monthly pension which was payable to the respondent was required to be taken into account in the award of merit points. The Tribunal, however, came to the conclusion that pension is paid for past service rendered by the employee and, hence, denial of compassionate appointment on that basis was not justifiable. This reasoning of the Tribunal is fallacious. Undoubtedly, pension is not an act of bounty, but is towards the service which has been rendered by an employee. However, in evaluating a claim for compassionate appointment, it is open to the authorities to evaluate the financial position of the family upon the death while in service. Compassionate appointment is not a vested right. It is provided in order to enable a family to tide over a financial crisis caused by the death of its wage-earner while in service. If the scheme requires that the family pension must be taken into account in evaluating the merits an application, it has to be followed."*

7. The learned counsel for the petitioner referred the orders passed by this Court in W.P.No.32749/2019, wherein, the case was remanded back. In the said order, the High Court remanded back the matter to the respondent authorities for fresh consideration on merits and in accordance with law. Such an order of remand need not be followed as a precedent, in view of the fact that the petitioner has not established her right for appointment and in the absence of establishing any such rights, it is unnecessary to remand the matter back to the authorities for reconsideration, as the same would not do any service to the cause of justice. Contrarily the litigant will be back again to the Court by way of another litigation. It will result in multiplicity of proceedings and ultimately it will do no service to the cause of justice. Therefore, remanding the matter is only unwarranted and the same need not be followed by the Court in all the cases.

8. As far as the present writ petition is concerned, the father of the petitioner died on 05.09.1999 and the mother submitted an application in the year 2001 and she crossed the age limit and thereafter the petitioner submitted an application in the year 2019, after a lapse of about 20 years from the date of the death of the deceased employee. After this length of time, the petitioner is not entitled for compassionate appointment and therefore, the writ



WEB COPY

**W.P.(MD)No.2358 of 2022**

petition is devoid of merits and stands dismissed accordingly. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022  
Sub Assistant Registrar(CS)

RR

To

- 1.The Principal Secretary to Government,  
Environment and forest Department  
Government of Tamil Nadu  
Secretariat, Chennai 9
- 2.The Principal Chief conservator of Forests,  
Panagal Building  
Saidapet, Chennai 15
- 3.The Additional Principal Chief Conservator of Forests,  
Madurai Region, Madurai.
- 4.The District Forest Officer,  
Madurai Division, Madurai.
- 5.The Conservator of Forests  
Madurai Region, Madurai.

+1 CC to M/s.K.MAHENDRAN, Advocate ( SR-11467[F] dated 11/03/2022 )

+1 CC to M/s.SPL GP ( SR-11870[F] dated 14/03/2022 )

**W.P. (MD)No.2358 of 2022**

**11.03.2022**

MGJ(30.03.2022) 4P 8C