



WEB COPY



WP.No.11279 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.11279 of 2015

and

M.P.No.1 of 2015

P.Thirumalai Achi

.... Petitioner

Vs

1. Government of Tamil Nadu,
Represented by Secretary to Government,
Environment & Forest Department,
Secretariat, Chennai – 600 009.

2. The Principal Chief Conservator of Forests,
and Head of Forest Department,
Chennai – 600 015.

3. The Additional Principal Chief Conservator of
Forests and Dean Tamil Nadu Forest Academy,
Coimbatore – 641 002.

4. The Chief Conservator Forests and Principal,
Tamil Nadu Forest College Vaigai Dean,
Theni District – 625 562.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India
praying to issue Writ of Certiorarified Mandamus calling for the records
relating to the impugned proceedings of the second respondent in his
Mu.Mu.No.AG2/37880/2011 dated 14.09.2011, quash the same and



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consequently direct the respondents herein to reconsider the petitioner's claim mde in her representation dated 22.06.2011, 01.12.2013 and 25.04.2014 for appointment on compassionate ground for her son M.Karpagavinayagam, instead of herself and appoint him in any suitable posts according to his education qualification.

For Petitioner : Mr.R.Dhanasekar
For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned proceedings dated 14.09.2011 in Mu.Mu.No.AG2/37880/2011 passed by the second respondent, thereby rejected the representation of the petitioner for appointment of compassionate ground for her son.

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

3. The petitioner's husband was serving as Driver in the office of the Department of Driver and Conservator of Forests, Tiger Reserve, Ambasamudram, Tirunelveli District. While he was in service, on



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04.08.1999 due to an accident, he died leaving behind his wife, two sons and a daughter. The petitioner submitted an application for compassionate appointment on 07.02.2002. The second respondent, where the petitioner's husband last served by a communication dated 10.07.2002, informed that there is ban on appointment of compassionate ground as per G.O.Ms.No.212, dated 29.11.2001 read with Government Letter No.20/G dated 01.03.2002. Even after completion of twelve years from the date of death of her husband, no order was communicated to the petitioner. Therefore, the petitioner submitted a representation. Finally, on 27.01.2012, the second respondent appointed the petitioner as Sweeper in the office of the third respondent, who in turn posted her to the Tamil Nadu Forestry College, Vaigai Dam, Theni District. However, the petitioner did not join duty due to her illness. Again, she made a representation dated 01.02.2013 to reconsider her request for appointment of her son on compassionate ground and the same was rejected.

4. The learned counsel for the petitioner submitted that on the demise of the Government servant, his legal heirs, viz., wife or husband or other dependants, who are nominated by the deceased employee, are



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eligible for appointment on compassionate ground, provided the other dependants give “No Objection”. The petitioner sought for compassionate appointment to her son, since he is also eligible to be appointed on compassionate ground. Though the petitioner was offered appointment to the post of Sweeper, it was given only after a period of twelve years. If the said post was given immediately after demise of her husband, she would have brought up her children by giving good education.

5. In support of his contention, he relied upon the Judgment reported in **(2006) 9 SCC 195** in the case of ***Syed Khadim Hussain Vs. State of Bihar and others***, in which the Hon'ble Supreme Court of India held that as the widow had submitted application in time the authorities should have considered her application, but since eleven years had passed she would not be in a position to join Government service and as such it was a fit case, where the appellant should have been considered for appointment.

6. A perusal of the counter filed by the fourth respondent revealed that the petitioner had submitted her application for



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compassionate appointment on 02.03.2000. Her educational qualification was VIII Standard. It was forwarded to Field Director and Conservator, Project Tiger, Tirunelveli and requested to relax the educational qualification and appoint her as Office Assistant. However, the petitioner made a representation requesting the fourth respondent to appoint her after completion of VIII Standard. However, it was informed by the Principal Chief Conservator of Forests (Head of the Department), Chennai, that no relaxation can be made except for Sweeper post and also informed that whether the petitioner is willing to serve as a Sweeper in Vaigai Dam Forest College. Though there was a ban on compassionate appointment, the case of the petitioner is a special one and therefore a proposal was sent for relaxation. However, she was unable to join in the post of Sweeper, she made an application for appointment of his son on compassionate ground.

7. In respect of compassionate appointment, there are three basic rules such as (i) the application should be made within a period of three years from the date of death of the employee (ii) the compassionate appointment can be applied for any one of the legal heirs and (iii) the compassionate appointment shall be given based on the educational



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qualification at the time of application. Though the petitioner was appointed to the post of Sweeper on compassionate ground, the petitioner refused to join. After a period of twelve years, she submitted an application for compassionate appointment of her son. Therefore, the application of the petitioner was rightly rejected by the second respondent.

8. In view of the above, this Court finds no infirmity or illegality in the impugned proceedings dated 14.09.2011 in Mu.Mu.No.AG2/37880/2011 passed by the second respondent. Thus the writ petition lacks merits and is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index: Yes/No
Internet: Yes/No
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