



WEB COPY

W.A.No.1389



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.1389 of 2023
and
CMP.No.13544 of 2023

Manikandan

.. Appellant

Versus

1. Murugan
2. Natarajan
3. The Principal Chief Conservator of Forest,
Panagal Maligi, Chennai.
4. The District Forest Officer,
Aathur Forest Division,
7/362A, Kattukottai Puthur Road,
Vada Chennimalai Post,
Aathur Taluk, Salem District.

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 29.11.2022 passed by the learned Judge in WP.No.32682 of 2018.

For Appellant	:	Mr.Chellapandi for R.Gokulakrishnan
For R1 & R2	:	Mr.N.Suresh
For R3 & R4	:	Mrs.S.Anitha, Special Government Pleader



JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

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This writ appeal arises out of the order passed by the learned Judge in W.P.No.32682 of 2018 on 29.11.2022.

2.The respondents 1 and 2 herein are the relatives of the appellant herein. The aforesaid writ petition has been filed by the respondents 1 and 2 herein for a direction to the authorities to pass appropriate orders in accordance with law on the representation / legal notice issued by them for taking action against the appellant herein.

3.It was projected by the respondents 1 and 2 before the writ court that the appellant herein was appointed as a Forest Guard on 20.05.2017 on compassionate ground due to the death of his father. Due to a dispute arose between the appellant and the respondents 1 and 2, a suit in O.S.No.178 of 2018 came to be filed and the same is pending. Further, the appellant has got criminal antecedents and a case in Crime No.155 of 2015 has been registered against him. According to the respondents 1 and 2, suppressing the information of pendency of the criminal case, the appellant secured appointment in the Forest Department.



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4. On the side of the Government, it was stated before the writ Court that the appellant was appointed inadvertently before verifying the antecedents and in this regard, a memo has been issued to the appellant, for which, he has submitted his reply, but, no further action has been taken due to the pendency of the writ petition.

5. On the other hand, it was submitted on behalf of the appellant before the writ Court that the writ petition has been filed by the respondents 1 and 2 with personal motive, since a civil dispute is existing between the parties and that, the appellant has been appointed as Forest Guard only after proper consideration of his application by the competent authorities and he is working for the past five years in the Department, without any adverse remarks.

6. Observing that Forest Department is an uniformed service and therefore, verification of character and antecedents are of paramount importance; that compassionate appointment is a concession and not a right and the scheme itself is violative of Articles 14 and 16 of the Constitution of India; that compassionate appointments are made without any verification and without any merit assessment and without following the rule of reservation; and that the Government has to take appropriate steps to ensure that proper verification of character and antecedents are undertaken before appointing persons on compassionate grounds, the learned Judge by order dated 29.11.2022, disposed of the writ petition directing the authorities to



initiate all further actions pursuant to the complaint given by the respondents 1 and 2 in accordance with the Rules in force and by following the procedures as contemplated.

7.Challenging the aforesaid order passed by the writ Court, this appeal has been filed by the appellant / incumbent.

8.The learned counsel for the appellant has submitted that there was no specific format provided by the Department so as to disclose any criminal antecedents of the applicants making application for compassionate appointment. The writ petition has been filed by the respondents 1 and 2 on personal scores since a civil dispute is existing between them and the appellant. The learned counsel for the appellant has also submitted that the appellant herein has been acquitted by the Judicial Magistrate Court and in this connection, he has filed a typed set enclosing the judgments made by the learned Judicial Magistrate, Thirukoilur in C.C.Nos.27 and 28 of 2016 dated 15.05.2023 and 29.05.2023 respectively, in which, the accused who had involved in the crimes, have been acquitted from the charges. Stating so, the learned counsel for the appellant prayed for setting aside the impugned order passed by the learned Judge.



9.The learned counsel for the respondents 1 and 2 herein has submitted that the impugned order passed by the learned Judge does not require any interference by this Court, as the same has been passed after taking note of all the facts and circumstances of the case.

10.Heard both sides and perused the records.

11.The facts remain that the appellant herein was appointed on compassionate grounds, on account of death of his father, while he was in service; and there was a civil dispute between the appellant and the respondents 1 and 2 herein. Based on the complaint lodged by the respondents 1 and 2 as if the appellant has suppressed his criminal antecedents, while joining in service, the department issued a memo to the appellant, directing him to furnish his explanation. The appellant has also duly submitted his explanation. While so, the respondents 1 and 2 preferred the writ petition, seeking a direction to the authorities to take action against the appellant. The learned Judge has disposed of the said writ petition, by the order impugned herein.

12.It is a common practice that a person making application will not disclose any information as to his involvement in a criminal case pending before the authority, unless it is specifically asked for. If the Government wants to have all the information of the applicants including declaration of the pendency of any criminal case, then, the



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Form meant for the same has to be framed in such a manner so as to elicit all the information as required by the authorities, but, it is not so in the case on hand. In this connection, the learned counsel for the appellant drew the attention of this court to a copy of the blank form enclosed at Page No.105 of the typed set of papers. On a perusal of the said form, it is seen that the column for indicating the pendency of the criminal proceedings is not there, which leads to the impression that there is no requirement to indicate the pendency of the criminal proceedings. Thus, it cannot be stated that the appellant had suppressed the information relating to his criminal antecedents. At this juncture, it is important to note that the appellant and others, have been acquitted from the criminal charges registered against them, on merits, as evident from the judgment passed by the Judicial Magistrate Court, Thirukovilur in C.C.No.27 of 2016 dated 15.05.2023. Further, it is seen that the respondents 1 and 2 have involved in certain crimes and they have been acquitted by the judgment made in C.C.No.28 of 2016 dated 29.05.2023. That apart, the appellant is working in the department for the past five years, without any adverse remarks. In the said circumstances, no useful purpose will be served if the departmental proceedings against the appellant are directed to be conducted by the respondent authorities.

13.In such view of the matter, the writ appeal stands allowed and the impugned order passed by the learned Judge is set aside. No costs. Consequently,



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connected miscellaneous petition is closed.

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J.]

[R.M.D., J.] [M.S.Q.,
07.11.2023

Index : Yes / No
Internet : Yes / No
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To

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