



WEB COPY



W.P.No.10388 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.P.No.10388 of 2022 and
WMP.Nos.10106 & 10107 of 2022

1.S.Saradha

2.S.Mahendar Babu

... Petitioners

Vs

- 1.The Government of Tamil Nadu,
Rep., by its Principal Secretary to Government,
Environmental and Forest Department,
Secretariat, Chennai - 600 009
- 2.The Government of Tamil Nadu,
Rep., by its Additional Secretary to Government,
Environmental and Forest Department,
Secretariat, Chennai - 600 009
- 3.The Principal Chief Conservator of Forests
(Head of the Department),
Panagal Maligai, Saidapet,
Chennai-600 015.
- 4.The District Collector,
Collectorate Office,
Salem Main Road,
Dharmapuri-636 705.
- 5.The Chief Conservator of Forests,
Dharmapuri Zone,



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Dharmapuri-5.

6.The Conservator of Forests,
Dharmapuri Zone,
Dharmapuri-5.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 08.01.2021 passed in Letter no.14/ Environment-Forest (V.9) Department by the 2nd Respondent and the consequent impugned letter in Na.Ka.No.N2/33255/2016 dated 04.02.2021 of the 3rd Respondent and Letter in Na.Ka.No.6650/2019/P3 dated 09.02.2021 of the 6th Respondent and quash the same and consequently direct the Respondents to consider the substitution of the name of the 2nd Petitioner in the place of the 1st Petitioner's name kept at Sl.No.172 of the temporary waiting list of appointment on compassionate grounds within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar
For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader



ORDER

WEB COPY This Writ petition has been filed challenging the impugned order dated 08.01.2021 passed in Letter No. no.14/ Environment-Forest (V.9) Department by the 2nd Respondent and the consequent impugned letter in Na.Ka.No.N2/33255/2016 dated 04.02.2021 of the 3rd Respondent and Letter in Na.Ka.No.6650/2019/P3 dated 09.02.2021 of the 6th Respondent and quash the same and consequently to direct the respondents to appoint the 1st petitioner's son under compassionate grounds.

2. The case of the Writ petitioners is that the first petitioner's husband was working as Statistical Analyst in the office of respondents 5 and 6 and he died on 04.07.2010, while he was in employment. After the death of her husband, the first petitioner had submitted an application on 13.09.2010 to the respondents, for appointment under compassionate grounds. At the time of submitting the said application, she was aged about 49 years and the second petitioner's age was 12 years. However, the said application submitted by her was kept in seniority list by the respondents. Subsequently, when the first petitioner had crossed the age limit for appointment in Government service, she made another representation dated 06.08.2015, to the 6th respondent. On receipt of the said representation, the sixth respondent had forwarded a letter



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dated 13.08.2015 to the third respondent, wherein he had recommended to grant the post of Junior Assistant to the second petitioner. Further, the fifth-respondent has also recommended for the grant of post of Junior Assistant to the second-petitioner. However, now the impugned order dated 08.01.2021, has been passed by the second respondent rejecting the appointment on compassionate grounds. Challenging the said impugned order, this Writ petition is filed.

3. A counter has been filed by the sixth respondent. It is specifically stated in the counter that though the first petitioner gave an application, as several applications were kept pending by then seeking employment on compassionate ground, the same was kept in seniority. However, thereafter the first-petitioner sought alternate employment for her son/the second petitioner in lieu of her turn. But, on the date of the alternate appointment, the application of the first-petitioner had become lapsed as on that date she had already turned 60 years, and thus her application became not suitable for consideration. Further, the second petitioner's application was also given after a period of three years. Therefore, it is stated that the prayer in the writ petition is not valid in the eye of law.



4. Heard, Mr.Bharath Kumar, learned counsel appearing on behalf of the petitioners and Mr.V.Jeevagiridharan, learned Additional Government Pleader, appearing on behalf of the respondents.

5. It is the contention of the learned counsel for the petitioners that despite the first petitioner submitted the application for appointment on compassionate grounds immediately after the death of her husband, her application was kept pending in the seniority list. Only after completing the age of 60 years, she was informed that her application is in queue. However, at that time, since the second petitioner attained the age of majority, she has sought an appointment for the second petitioner, in lieu of her seniority, which was also recommended by the sixth respondent to the third respondent. However, now the impugned order has been passed rejecting the request for appointment of the second petitioner.

6. Perused the entire records of the case.

7. It is relevant to note that the object of compassionate appointment is only to alleviate the distress of the family due to the sudden loss of the Government servant and further, appointment on compassionate ground is an



exception to the general rule and no one can claim it as a matter of right.

Though the first petitioner had filed an application within the cut off period of three years, the application has been kept in pending since there were more applications pending at the given point of time and by the time, her turn came, she had already reached 60 years. At the relevant point of time in the year 2017, a request was made by the first petitioner to convert her application in favour of the second petitioner, her son, as by that time he had completed the education and therefore sought for compassionate appointment for him.

8. On the above factual matrix, when the very application for appointment has lapsed and the first-petitioner has also turned 60 years, this court is of the view that as a matter of right the petitioners cannot claim appointment on compassionate ground to remove the distress of the government servant's family, as the norms prevailing on the date of consideration of the application should be the basis for consideration of claim for compassionate appointment.

9. Even recently, the Hon'ble Supreme Court in the case of ***State of Uttar Pradesh & Ors Vs. V.Premalata ((2022) 1 SCC 30) para 8***, has made observations in respect of implementation of the scheme of compassionate



appointment and the relevant portion of the observations at paragraph No.8, are

extracted hereunder:

“8. While considering the issue involved in the present appeal, the law laid down by this Court on compassionate ground on the death of the deceased employee are required to be referred to and considered. In the recent decision, this Court in State of Karnataka vs. V.Somayashree [(2021) 12 SCC 20], had occasion to consider the principle governing the grant of appointment on compassionate ground. After referring to the decision of this Court in N.C.Santhosh vs. State of Karnataka [(2020) 7 SCC 617], this Court has summarized the principle governing the grant of appointment on compassionate ground as under:

10.1. That the compassionate appointment is an exception to the general rule;

10.2. That no aspirant has a right to compassionate appointment;

10.3. The appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Articles 14 and 16 of the Constitution of India;

10.4. Appointment on compassionate ground can be made only on fulfilling the norms laid down by the States policy and/or satisfaction of the eligibility criteria as per the policy;

10.5. The norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment”



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10. In the light of the above, this court is of the view that, at this stage

the petitioners cannot claim appointment as a matter of fact.

11. Accordingly, this Writ petition is dismissed. No costs. Connected

Miscellaneous petitions are closed.

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mrn/mpl

Index : Yes / No

Speaking Order / Non Speaking Order

Neutral Citation:Yes/No



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