



W.A.(MD) No.612 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.11.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.612 of 2020
and C.M.P.(MD) No.3912 of 2020

1.The conservator of Forest,
Tirunelveli Zone, NGO Colony,
RTO Office Backside,
Tirunelveli - 627 007.

2.The District Forest Officer with Wild Life Warden,
Tirunelveli Forest Division,
Perumalpuram Vasantha Nagar,
Tirunelveli District – 627 007.

... Appellants/Respondents

-Vs.-

P.Subbulakshmi

... Respondent/Writ Petitioner

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to
set aside the order dated 28.02.2020 made in W.P.(MD)No.26115 of 2019
on the file of this Court.

For Appellants : Mr.S.P.Maharajan
Special Government Pleader

For Respondent : Mr.Robert Chandrakumar
for M/s.G.Prabhu Rajadurai



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J U D G M E N T

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(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.)**

The Writ Appeal on hand has been instituted against the order dated 28.02.2020, passed in W.P.(MD) No.26115 of 2019.

2. The husband of the writ petitioner was working as Forest Guard and died on 09.07.1995 while he was in service. The respondent in the Writ Appeal filed an application on 30.04.1996, seeking appointment on compassionate ground to the son of the second wife of the deceased employee. The competent authority rejected the claim of the writ petitioner in proceedings dated 31.08.2019, which came to be challenged in the Writ Proceedings. Learned Single Judge granted the relief mainly on the ground that the subsequent application submitted on 11.03.2013, seeking compassionate ground is to be treated as a continuation for the purpose of providing appointment. Aggrieved by the said order, the Forest Department preferred the present Writ Appeal.

3. Learned Special Government Pleader appearing on behalf of the appellants mainly contended that on the date of submission of application on 30.04.1996, seeking appointment on compassionate



ground, the son of the second wife of the deceased employee was aged about 2 years and therefore, the application *per se* is not entertainable.

After a lapse of about 7 years and in the year 2013 subsequent application was filed, since the son of the deceased employee attained the age of majority. Any application submitted beyond the period of three years is not maintainable under the terms of the Scheme and therefore, the authorities have rightly rejected the claim of the writ petitioner.

4. Learned counsel appearing on behalf of the respondent objected the said contention by stating that during the earlier Writ Petition, this Court made an observation that the application submitted in the year 2013 is to be construed as continuation of the first application dated 30.04.1996 and therefore the case of the respondent is to be considered for providing appointment on compassionate grounds.

5. The controversy regarding the entertainability of the application is to be considered with reference to the conditions stipulated in the Scheme. High Court while exercising the power of judicial review in the matter of compassionate appointment is not expected to expand the scope of the Scheme, which would offend Article 14 and 16 of the



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Constitution of India and more so, in the event of providing appointment by expanding the Scheme would infringe the rights of lakhs of citizens, who all are aspiring to secure public employment through open competitive process.

6. In the present case, the application submitted on 30.04.1996 is not maintainable in view of the fact that the appointment was sought for a minor who was a two year old baby and therefore, at no stretch of imagination such application can be considered. Therefore, the application submitted by the petitioner in the year 2013 alone is to be taken into consideration, which was submitted in violation of Scheme for Compassionate Appointment. The application is to be submitted only by the eligible legal heir of the deceased employee and it is not as if an ineligible member of the family of the deceased employee is entitled to file an application for the purpose of reserving the appointment on compassionate ground.

7. Therefore, the application submitted in the year 2013 is not entertainable in view of the conditions stipulated in the Scheme. More so, the employee died in the year 1995 and 23 years had lapsed. In view of



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facts and circumstances, we do not find any valid reason to sustain the order impugned.

8. Consequently, the impugned order dated 28.02.2020, passed in W.P.(MD) No.26115 of 2019, is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S.J.,] & [V.L.N.J.,]
16.11.2023

NCC :Yes/No
Index :Yes/No
SJ

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