



Writ Petition No.136 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
08.01.2024

PRONOUNCED ON
29.04.2024

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

Writ Petition No.136 of 2024
and W.M.P.No.150 of 2024

- 1.Union of India,
Represented by Secretary to Government of India,
Ministry of Environment and Forest,
New Delhi – 110 003.
- 2.The Principal/ Dean,
(Central Academy for State Forest Service Coimbatore,
(Formerly State Forest Service College, Coimbatore – 2) ... Petitioners

Vs

- 1.The Registrar,
Central Administrative Tribunal,
Chennai Bench.
- 2.S.Radhakannan ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the order of learned Tribunal dated 27.02.2023 in O.A.No.315 of 2020 to quash the same.

For Petitioner : Mr.A.R.L.Sundaresan



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ASGI
for Mr.R.Rajesh Vivekananthan
ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Writ Petition had been filed challenging the order of the Central Administrative Tribunal, wherein a direction had been issued to the petitioners to reconsider the claim of the applicant for compassionate appointment positively and to issue appropriate orders, within a period of three months.

2. Heard Mr.A.R.L.Sundaresan, learned Additional solicitor General of India, for Mr.R.Rajesh Vivekananthan, learned counsel for the petitioners.

3. The learned Additional Solicitor General appearing for the petitioners would submit that the deceased employee had died in the year 1996 and the claim for compassionate appointment has been made. Pursuant to the direction issued by the Administrative Tribunal, the claim of the second respondent was considered and was rejected on the ground that more



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than twenty two years have lapsed, since on the date of death of the employee and that the said employee was not a regular employee. He would submit that the object of compassionate appointment is to wade off the family of the deceased employee of the penury circumstances that they would face immediately on the death of the employee and therefore, after a period of nearly 22 years, it cannot be said that the family continued to be in the penury circumstances. He would heavily rely upon the judgment of the Hon'ble Apex Court made in Civil Appeal No.6910 of 2021 and Civil Appeal No.6958 of 2022 and contend that the Hon'ble Apex Court have also held that such a belated claim ought not to be entertained and therefore, he would submit that the order impugned herein would require interference of this Court.

4. We have considered the submissions made by the learned Additional Solicitor General and perused the materials available on record before this Court.

5. It is an admitted case that the father of the 2nd respondent was



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originally appointed as a casual daily labour on daily wages in the State Forest Service College, Coimbatore. During his life time, the father of the 2nd respondent along with others had approached the Central Administrative Tribunal in O.A.No.1789 of 1992 to regularise their services as Group-D employees in which the Tribunal had directed the Government to prepare a Scheme for regularisation. It is also not disputed that on 10.09.1993, the Government, Department of Personnel and Training by O.M.No.51016/2/90 had directed that the persons who have been working for more than 240 days in a year and who have rendered continuous service should be given a temporary status. Pursuant to the aforesaid O.M., even according to the petitioners, on 05.11.1993, the father of the 2nd respondent had been granted temporary status. However, before the completion of three year period for regularisation of the employee who had been conferred with temporary status, the father of the 2nd respondent had died on 05.09.1996. Immediately on the death of the deceased employee, the mother of the 2nd respondent namely the wife of the deceased employee had made a representation on 09.10.1996 to the Principal State Forest Service College, Coimbatore, seeking for compassionate appointment. The claim of the wife of the



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deceased was also recommended by the said authority by a communication dated 28.07.1997. The 2nd respondent and his mother had approached the Central Administrative Tribunal in O.A.No.759 of 1998 in which a direction was issued by the Tribunal on 03.09.1998, directing the petitioners to consider the representation made by the mother of the second respondent, dated 09.10.1996. In the mean time, notice of eviction was issued to the wife of the deceased employee calling upon her to evict them from the quarters that was allotted to the deceased employee.

6. Challenging the same, an application in O.A.No.1073 of 2001 was filed before the Central Administrative Tribunal and the Central Administrative Tribunal had stayed the order of eviction, dated 04.10.2001 till the disposal of the representation, dated 24.07.1996, which has been alleged to have been given by the second respondent's father husband seeking for regularisation. The said representation seems to have been rejected by the Government holding that the deceased did not possess the qualification prescribed and therefore, he is not eligible to be regularised. This order came to be challenged by the wife of the deceased in



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O.A.No.1000 of 2003 and by an order dated 16.06.2004, the Central Administrative Tribunal had set aside the said order and had directed the respondents therein to consider the case of the deceased employee for regularisation in the light of the discussion made therein. Pursuant to the said order by a communication dated 23.11.2005, the Director of Forest Education, Government of India, Ministry of Environment and Forests had addressed a letter to the Principal, State Forest Service College, Coimbatore, in Ref.No.3-34/99-DFT/3473-75 dated 23.11.2005, in which it had been indicated that in the light of the order passed by the Tribunal in O.A.No.1000 of 2003, had directed the addressee to consider and grant consequential benefits, if there is any to the dependents of the deceased employee. No proceeding of compliance with the order of Tribunal made in O.A.No.1000 of 2003, dated 16.06.2004, pursuant to a letter of the Director of Forest Education dated 23.11.2005 had been produced before us. The 2nd respondent and his mother have been making fervent attempts seeking redressal of their grievance at least by grant of compassionate appointment. In fact, they had also approached the Tribunal in O.A.No.310 of 2014 and the Tribunal by order, dated 23.04.2018, had again directed the authority to



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consider the case of the 2nd respondent by holding that the case of the 2nd respondent has considerable merits and hence, should be sympathetically considered. Since, the same had not been complied with, a contempt has also been filed which came to be closed recording a statement made by the Standing Counsel that a Writ Petition has been preferred by the Department. The said Writ Petition in W.P.No.30990 of 2018 was also disposed of by giving a direction to the petitioners to consider the case of the 2nd respondent. Pursuant to the said order, the petitioner had rejected the claim of the 2nd respondent by holding that the claim cannot be entertained at this distant of time and that the 1st respondent's father was not a regular Government servant at the time of his death. The said order was assailed by the 2nd respondent before the Central Administrative Tribunal and the Central Administrative Tribunal had given a specific finding that the action of the petitioners not only goes against the object of the scheme of compassionate appointment, but is also against the scheme of grant of temporary status. The Tribunal had also given a specific finding that the petitioners was not keen in following the order passed by the Tribunal.



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7. Admittedly, the Tribunal by order dated 16.06.2004 in

O.A.No.1000 of 2003 had set aside the order refusing the regularisation of services of the deceased employee (father of the 2nd respondent) and directed the petitioners to consider the case of the 2nd respondent relating to regularisation of deceased employee in the light of the discussions made therein. The said order, even as of today stands not complied with by the petitioners. To negative the same, no documents had also been produced before us or even in the order that was impugned before the Tribunal. This is in our view, *prima facie* is contemptuous. At least in the present case, they did not have a right to make a submission that the father of the 2nd respondent is not entitled for regularisation. In that context, the reasonings that had been assigned by the petitioners in rejecting the claim of the 2nd respondent by assigning the reason that the father of the 2nd respondent is not a regular Government servant would have to fail.

8. With regard to the 2nd reason given by the petitioners in rejecting the claim that 22 years had lapsed from the time of death, it could be seen that immediately on the death of the father of the 2nd respondent, the widow



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of the deceased employee had given an application for compassionate appointment and thereafter, she had been driven to the Courts seeking to consider such application. Even though, it was rejected earlier, the same had been set aside by the Tribunal and had been directed to consider in the proper perspective. Therefore, the said reasonings cannot also be put against the 2nd respondent. In such view of the matter, we do not find any merits in this Writ Petition.

9. Accordingly, this Writ Petition is dismissed. The petitioners shall comply with the direction issued by the Tribunal, within a period of eight (8) weeks from the date of receipt of a copy of this order. However, there shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B., J.)
29.04.2024

Index: Yes/No
Speaking Order/Non Speaking Order

9/12



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Neutral Citation: Yes/No
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To

The Registrar,
Central Administrative Tribunal,
Chennai Bench.



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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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A Pre-delivery order made in
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