



W.P.(MD)No.13076 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.09.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.13076 of 2017

and

W.M.P.(MD)No.10122 of 2017

S.Asmath Hasina Fathima

... Petitioner

/Vs./

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment & Forest Department,
Secretariat, Chennai.

2.The District Forest Officer,
O/o.The District Forest Office,
Theni Division,
KRR Nagar, Housing Board Colony,
Theni, Theni District.

3.The Wildlife Warden,
O/o. The Wildlife Warden Office,
Megamalai Forest Division,
Theni, Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus calling for the records relating



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to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No. 4658/2014 pa2 dated 11.06.2014 and the consequential order passed by the 3rd respondent Na.Ka.No. 4215/2015/pa dated 29.07.2015 and the consequential order passed by the 3rd respondent in O.Mu.No. 7973/2016/ pa 1 dated 30.09.2016 and quash the same as illegal and consequently to direct the respondents to appoint the petitioner in any one of the post commensurate to the qualification of the petitioner on compassionate ground within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Mohammed Suhail
for M/s.Ajmal Associates

For Respondents : Mr.G.Suriya Ananth
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order of the second respondent dated 11.06.2014 and the consequential order passed by the third respondent dated 29.07.2015 as well as the consequential order dated 30.09.2016 passed by the third respondent rejecting the petitioner's request for compassionate appointment on the ground that the said application was not filed within a period of three years from the date of death of the petitioner's father.



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2. A counter affidavit has been filed by the third respondent reiterating the contents of the impugned orders and reiterating that the petitioner is not entitled for compassionate appointment.

3. The following facts are undisputed:-

(a) The petitioner's father, namely, M.S.S.Hameed was working as Forester in Theni Division and he died on 12.08.2000, while he was in service;

(b) At the time of death of the petitioner's father, namely, M.S.S.Hameed, the petitioner, who is his daughter was aged about 4 ½ years;

(c) M.S.S.Hameed's wife, who is the petitioner's mother submitted a representation dated 29.09.2000 with the respondents seeking for compassionate appointment for the petitioner, as she was not eligible to be appointed on compassionate grounds;

(d) The petitioner attained the age of 18 years on 06.03.2014. The petitioner submitted a representation on 05.06.2014 immediately after attaining majority seeking appointment on compassionate grounds;

(e) Under the impugned order, the second respondent, by his



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proceedings dated 11.06.2014 has rejected the petitioner's request for compassionate appointment on the ground that at the time of submitting the application on 29.09.2000, the petitioner was not qualified.

4. Admittedly, the request for compassionate appointment was made by the petitioner's mother as early as on 29.09.2000 itself and on that date, the petitioner, who is her daughter was aged about 4 ½ years. Admittedly, the petitioner attained majority only on 06.03.2014.

5. Infact, as seen from the representation of the petitioner's mother dated 29.09.2000, she has sought for compassionate appointment only for the petitioner and she has also stated that she is not eligible to be appointed on compassionate basis. However, under the impugned order dated 11.06.2014 passed by the second respondent, the request of the petitioner for compassionate appointment has been rejected only on the ground that at the time of submitting the application on 29.09.2000 by the petitioner's mother seeking for compassionate appointment, the petitioner was not qualified.



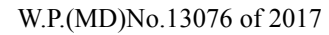
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6. A purposeful interpretation will have to be given with regard to the time limit prescribed for seeking compassionate appointment. It is impossible for the petitioner to be appointed on compassionate basis on the date when the petitioner's mother submitted a representation dated 29.09.2000 seeking for compassionate appointment for the petitioner, as admittedly on that date, the petitioner was aged only about 4 ½ years.

7. The law has now been well settled by various decisions rendered by this Court including the decision rendered by the Division Bench of this Court, wherein it has been categorically held that the period of three years that has been provided under the Circular and the Government Order, namely, G.O.Ms.No.18, Labour and Employment Department, dated 23.01.2000 has to be given a meaningful interpretation and the period of three years must be reckoned from the date on which the person becomes a major.

8. The following authorities reiterate the aforementioned proposition:-



9. By total non-application of mind to the well settled law and despite the fact that the petitioner had attained majority only on 06.03.2014, the respondents have rejected the petitioner's request seeking for compassionate appointment. Necessarily the impugned orders will have to be quashed and the writ petition will have to be allowed.



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10. Accordingly, the impugned orders dated 11.06.2014 passed by the second respondent and the consequential orders dated 29.07.2015 and 30.09.2016 passed by the third respondent are hereby quashed and this writ petition is allowed by directing the respondents 2 and 3 to reconsider the petitioner's application seeking for compassionate appointment to the petitioner on compassionate grounds without quoting the three years period and the said exercise shall be completed by the second and third respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
NCC : Yes / No
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ABDUL QUDDHOSE, J.

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TO:

- 1.The Secretary to Government,
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Secretariat,
Chennai.
- 2.The District Forest Officer,
O/o.The District Forest Office,
Theni Division,
KRR Nagar, Housing Board Colony,
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O/o. The Wildlife Warden Office,
Megamalai Forest Division,
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Order made in
W.P.(MD)No.13076 of 2017

Dated:
03.09.2024