



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR.JUSTICE **G. ARUL MURUGAN**

W.A.No. 266 of 2025

T.Ramesh

...Appellant

Vs.

1. The State of Tamilnadu
Rep. by its Secretary to Government
Labour Welfare and Skill
Development Department,
Secretariat, Chennai 600 009.
2. The Principal Chief Conservator of Forests,
Head Officer, Panagal Building,
Saidapet, Chennai 600 015.
3. The Forest Ranger,
Department of Forests,
Tirunelveli Division,
Tirunelvli, Tirunelveli District.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside
the order passed in WP No.25279 of 2021 dated 21.08.2024.



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For Appellant : Mr.N.Manoharan

For Respondents : Mr. K.H.Ravikumar
Government Advocate

J U D G M E N T

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

The claim of the appellant for compassionate appointment was rejected on more than one ground. One of the grounds for rejection was that the appellant was aged above 40 on the date of the application.

2. The appellant's father, who was working as a Forest Guard, died in harness on 05.07.2020, the appellant made an application on 25.11.2020. The said application was rejected on the ground that the appellant was over aged and on the ground that one of the brothers of the appellant was working in Central Reserve Police. The ultimate conclusion was that the family was not in indigent circumstances. Upon challenge, the Writ Court upheld the order on the ground that the petitioner had sought for appointment at the age of 41 and the maximum age limit prescribed under



G.O.(Ms).No.18 dated 23.01.2020, which was in force on the relevant date is 40. The learned counsel for the appellant would vehemently contend that the very G.O. invests the power of relaxation in the Authority to whom the application is made. Reliance is placed upon Clause (vi) of the procedure for processing applications which reads as follows:

“(vi) If any relaxation is necessary, he should send necessary, proposals within 15 days to the Government in administrative Department for orders.”

3. Of course, the power to relax is vested in the Government and it is the discretion of the Appointing Authority which considers the application for compassionate appointment to relax or not to relax. We do not think we can substitute our discretion to that of the Appointing Authority. The learned counsel for the appellant would rely upon the judgment of the Hon’ble Supreme Court in ***Canara Bank vs. Ajith Kumar G.K***, reported in ***2025 SCC Online SC 290***, wherein the Hon’ble Supreme Court after considering the entire scheme of compassionate appointment had this to say



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on the age criteria:

“34. Whether relaxation in age ought to have been granted is the next sub-issue. A contention raised on behalf of the respondent, and which succeeded, was to the effect that since he was overaged only by eight months on the date of death of his father, he should have been granted relaxation of age for which power was conferred by the scheme of 1993. We are conscious that there is substance in the contention on behalf of the respondent that this issue is no longer open to be decided here. The decision initially taken that the respondent was over-aged had been set aside in the first round of litigation and, therefore, the principle of res judicata is indeed attracted.

35. However, the point having been argued at some length, our views on interpretation of the scheme of 1993 could be of some worth for courts deciding similar such issue in future. We are in agreement with learned counsel for the appellant that the question of relaxation would arise only when the claimant satisfies the other requirements of the scheme of 1993 for compassionate appointment. What seems to be logical is that no dependant, who otherwise satisfies



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all criteria for compassionate appointment including suitability, should be told off at the gate solely on the ground of age-bar. If the age of the claimant is found to be within the relaxable limit, discretion is available to be exercised in an appropriate case. Relaxation of age is a step to be taken in the final stages of the entire process and it would arise for consideration provided all other conditions for appointment are satisfied. If in a given case, such as this, that the family of the deceased is not found to be indigent, the first threshold is not crossed and thereby, the process does not progress any further. In such a case, it would be in idle formality to consider whether relaxation of age should be granted.”

4. No doubt the power to relax is available but the exercise of that power is dependant on the other facts and circumstances prevailing in each case. In the case on hand, we not only find that the appellant's brother is employed but the appellant's father has left certain cultivable lands. Therefore, it cannot be said that the order of rejection is completely baseless.



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5. Hence, we see no ground to interfere with the order of Writ Court, the Appeal fails and it is accordingly dismissed. There shall be no order as to costs.

(R.SUBRAMANIAN, J.) (G. ARUL MURUGAN, J.)
25.03.2025

jv

Index : No
Neutral Citation : No
Speaking order

To

1. The Secretary to Government
Government of Tamilnadu
Labour Welfare and Skill
Development Department,
Secretariat, Chennai 600 009.
2. The Principal Chief Conservator of Forests,
Head Officer, Panagal Building,
Saidapet, Chennai 600 015.
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