



W.P.No.6098 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

Coram

THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

W.P.No.6098 of 2025 &

WMP.No.6704 of 2025

P.Jagadeeswaran

... Petitioner

-Versus-

1. Government of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai – 600 009.

2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velacherry Main Road, Guindy,
Chennai – 600 032.

3. The District Forest Officer,
Dharmapuri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus calling for the entire records which culminated in Na.Ka.A.Aa3/15271/2024 dated 30.08.2024 passed by the second respondent and directing the first respondents to consider the petitioner's application for compassionate appointment to the post of forest watcher or forest guard or any other suitable post basis order passed by this



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court in W.P.No.19615 of 2012 dated 05.12.2013.

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For Petitioner : Mr.S.Mani

*For Respondents : Mr.C.Selvaraj,
Additional Government Pleader*

ORDER

The writ petition has been filed in the nature of a certiorarified mandamus calling for the records relating to an order dated 30.08.2024 passed by the second respondent and direct the first respondent to consider the application of the petitioner for compassionate appointment to the post of Forest Watcher/Forest Guard or any other suitable post. The petitioner placed reliance on an order passed by the learned Single Judge of this Court in W.P.No.19615 of 2012 dated 05.12.2013.

2. The father of the petitioner, namely R.Palani had been appointed as plot watcher on daily rated basis on 01.08.1987. Thereafter, as per policy of the Government by G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009, the service of the father was regularised as plot watcher, a supernumerary post on and from 25.04.2008. The father suddenly developed blindness in both his eyes and he was referred to Medical Board and a



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certificate was issued on 26.03.2024 that he had become 100% blind.

Thereafter he was permitted to retire from service on 28.09.2024 on the ground of medical invalidation. The application for compassionate appointment was made on 26.03.2018 and it was forwarded by the District Forest Officer on 02.05.2024. The application was rejected by the second respondent stating that since the father was working under special time scale of pay, there is no provision for appointment on compassionate basis.

3. The learned counsel for the petitioner however placed reliance on G.O.(Ms).No.13, Environment and Forest Department, dated 26.03.2018 wherein the case of the father of the petitioner and 65 others were examined. They had been discharged work on daily rated basis for more than 10 years and therefore, their services were regularised on special time scale of pay. In the annexure of the said Government Order, the name of the father also found.

4. In the counter affidavit filed by the third respondent, however, it had been stated that the father of the petitioner was working from daily wages post to supernumerary plot watcher on 25.04.2008 and therefore, the petitioner was not entitled to seek employment on compassionate grounds.



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5. But however, the counter is silent on the effect of GO(Ms.)No.13, Environment and Forest Department, dated 26.03.2018 wherein very specifically the name of the father was given. The said Government Order had been passed after examining the facts and circumstances and also noting that the names of those individuals who had completed more than 10 years of service as daily basis. It is under those circumstances, a decision had been taken to regularise their services on special time scale of pay. The two phrases are used “regularisation of service” and “special time scale of pay”. The key word is however regularisation of service. This would indicate that the father of the petitioner had been regularised as a Government Servant as defined in the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules 2023. The word Government Servant had been defined as follows:

*“(d) “**Government Servant**” means a person who has been appointed to any service or post in connection with the affairs of the State and includes a probationer, an approved probationer and a full member of a service:
Provided that the following persons shall not be considered as a Government servant for the purpose of these rules, namely:-*

(i) a person who is retained in service



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under clause (c) of sub-rule (1) of rule 56 of the Fundamental Rules;

(ii) a person who is on extension of service or re-employment;

(iii) a person who is appointed on casual, ad-hoc or contract basis on consolidated pay or daily wages;

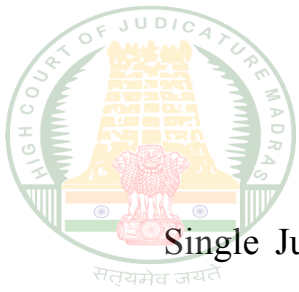
(iv) a person who is not placed under regular time scale of pay; and

(v) a person who is appointed to any post on special time scale of pay.

Explanation.- *A Government servant whose services are placed at the disposal of a company, corporation, organization, local authority, another State Government or the Union Government shall, for the purpose of these rules, be deemed to be a Government servant, notwithstanding that his salary is drawn from sources other than the Consolidated Fund of the State;”*

6. The learned Special Government Pleader placed reliance on the proviso to section 2(d) and stated that the father of the petitioner could not be considered as a Government Servant.

7. In this connection, a reference could also been made to the learned



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Single Judge in ***W.P.No.19615 of 2012 in K.Udayakumar v. The Principal***

Chief Conservator of Forest, Panagal Building, Saidapet, Chennai – 600 015

and another, wherein compassionate employment was sought by the petitioner therein whose father was working on daily wage basis and brought into special time scale of pay in a supernumerary post in the cadre of plot watcher. The learned Single Judge had examined an earlier order passed in W.P.No.13613 of 2011, wherein by order dated 30.09.2011, a similar issue had been examined which is extracted herein under:

“ 7. Learned counsel for the petitioner brought to my notice of an order passed by a learned Single Judge of this court under a similar situation made in W.P.No.13613 of 2011 dated 30.09.2011. A perusal of the said order would show that the petitioner therein made a similar request for compassionate appointment and the same was rejected by contending that the father of the petitioner therein was working on temporary basis and his services was not regularised. The learned Judge observed at paragraph Nos.6, 7, 8 and 9 as follows:

6. Heard this parties and perused the records. It is not denied by the respondents that the petitioner's father worked from 14.12.1982 to 31.03.2003 in Dharmapuri District as Plot



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Watcher and thereafter in Krishnagiri District from 1.4.2003 to 28.4.2008 for more than 25 years. In fact, the seniority list prepared by the respondent for regularisation pursuant to the G.O.Ms.No.64, Environment and Forest (FR-II) Department dated 8.3.1999, would show that the petitioner's father name was placed in the seniority list No.2443A in G.O.Ms.No.22 dated 28.02.2006 the government directed the services of the daily wage employees working in all Government Department, who have rendered 10 years of service as on 1.1.2005 to be regularised by appointing them in the time scale of pay post subject to their other qualifications.

7. As already found, the petitioner's father worked for more than 25 years and his name found place in the seniority list prepared by the first respondent. Even before his services were regularised, the petitioner's father passed away. Merely because, he passed away, it would not take away the rights of the petitioner to get compassionate appointment. If the petitioner's father was alive, his services would have been regularised, considering his services for 25 years. As on the date of his father death, his father's service was in the process of



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regularisation as evidence from the seniority list prepared by the respondents. Therefore, petitioner's father got the qualification of a regular employee. In that event, the petitioner is entitled for compassionate appointment. Therefore, the rejection order passed by the first respondent, reasoning that the petitioner's father was not appointed as Forest Watcher is set aside. Further the matter is remanded to the respondents to pass appropriate orders in the light of the order passed by this Court.

8. In the judgment of the Division Bench of this Court in Tamil Nadu State Transport Corporation, (Kumbakonam Division-I) Limited formerly Cholan Roadways Corpn. Ltd., vs. Lalitha reported in 2005 (2) CTC 246, it was held that government order is a beneficial legislation and liberal interpretation should be made. As per G.O.Ms.No.680 Transport Department dated December, 1997, the dependents of a driver in the said Corporation sought for compassionate appointment. However, the same was rejected based on clause-11 of the said Government order, which states that the dependents of such of those temporary employees, who had put in more than 240 days of



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work in a year before demise and regularised and confirmed employees are alone eligible for this concession. The Division Bench held that in paragraph 10 held as follows:

“10. The respondent's husband had no doubt worked for more than 240 days before his demise. In fact he had worked for 16 years. Hence, in our opinion, the respondent (his widow) is entitled to the benefit of the said G.O. There is no force in this appeal and it is dismissed. Consequently, WAMP No. 682 of 2005 is also dismissed.”

9. Considering the fact that the petitioner's father worked for more than 25 years and also considering the above judgment that the petitioner is entitled for compassionate appointment, the writ petition is allowed. The matter is remanded and the respondents are directed to pass appropriate orders in the light of the orders passed by this Court within 12 weeks from the date of the receipt of a copy of the order.”

8. It is further seen that the above said order of the



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learned Single Judge was upheld in W.A.No.524 of 2012 dated 16.04.2012 by the Hon'ble First Bench of this Court wherein at paragraph No.3, it has been observed as follows:

“3. From a perusal of the impugned order, it appears that the deceased employee was appointed in the year 1982 and worked continuously without any break upto 2008, i.e., he was in continuous service for about 26 years. Hence, the contention of the appellant that the services of the deceased employee were not regularized is absolutely mischievous and capricious. The learned Single Judge, therefore, rightly held that the petitioner is entitled for compassionate appointment.”

9. It is further seen that the said order of the Hon'ble Division Bench was further challenged before the Apex Court in S.L.P.(Civil).CC No.7619 of 2013 and by an order dated 12.04.2013, the Hon'ble Supreme Court dismissed the S.L.P. by holding as follows:

“Delay condoned.

We are not inclined to interfere in the order passed by the High Court as it has been passed only by taking into consideration the peculiar facts of the case.



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The special leave petition is dismissed.”

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10. Thus, the issue involved in this case is squarely covered by the decision of the learned Single Judge which has been confirmed by the Hon'ble Division Bench and further by the Hon'ble Supreme Court.

11. Thus following the above said order of the learned Single Judge made in W.P.No.13613 of 2011 dated 30.09.2011, this writ petition is also allowed and the impugned order of the second respondent is set aside. Consequently, the respondents are directed to consider the claim of the petitioner for compassionate appointment and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this Order. No costs.

With the above direction, the writ petition is disposed of. No costs.”

The same order enures to the petitioner also.

8. Further reference has been made to yet another order of the learned Single Judge of this court in ***W.P.No.19540 of 2015 in P.Suresh v. the Principal Chief Conservator of Forests, Panagal Building, Saidapet, Chennai – 600 015 and another.*** By order dated 10.07.2015, the learned



Single Judge of this Court in similar circumstances had held as follows:

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“10. I have considered the submissions made by either side.

11. At the outset, this Court is of the considered view that the first respondent wrongly proceeded on the basis that the father of the petitioner was a daily wage employee. The father of the petitioner joined on 01.02.1976 as Plot Watcher in the Forest Department. He was on daily wages basis. After 27 years of service, he was regularized on 11.04.2003 and granted scale of pay. The order of the second respondent in See.Mu.No.9080/04/P1, dated 31.07.2004 makes it very clear that the deceased Government servant was brought into regular time scale of pay with effect from 12.04.2003. It is seen that the mother of the petitioner was granted with family pension, on the death of her husband. Admittedly, family pension is payable to the widow of the deceased regular Government servant. Hence, it is clear that the impugned order is liable to be quashed on the sole ground that the same was passed without application of mind and thus, the petitioner is entitled to compassionate appointment.

12.1. The judgment of the Constitution Bench of the Apex Court in Secretary, State of Karnataka V. Umadevi (3), [(2006) 4 SCC 1], relied on by the first respondent in the impugned order has no relevance to the facts of this



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case. The said judgment has nothing to do with providing compassionate appointment.

12.2. The Apex Court in the said judgment held that the employees appointed as temporary, casual, adhoc and on daily wages basis could not ask for regularisation (i) if there are no sanctioned posts ; (ii) if they do not possess requisite qualification for the post and (iii) if they were not appointed to the post following the selection procedure as prescribed in the recruitment rules. Even after holding so, the Apex Court carved out an exception in paragraph 53 of its judgment and held therein that as a one-time measure, the temporary employees could be regularised, if there are sanctioned posts and if they possess the requisite qualification provided the temporary employees served 10 years or more continuously.

12.3. In the case on hand, the father of the petitioner served for more than two decades, viz., 27 years, on daily wages basis and thereafter, he was regularised in 2003. The Department nowhere cancelled his regularisation in service till his death. The learned counsel for the petitioner also brought to my notice that the person similarly situated like the father of the petitioner was also regularised, taking into account the long service rendered by him and the same was not disputed by the learned Government Advocate.

12.4. Hence, in my considered view, the judgment of the Apex Court in Umadevi's case (cited supra) has no



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application to the case on hand.

13.1. The next judgment, relied on in the impugned order, is the judgment of the Apex Court in Indian Drugs and Pharmaceuticals Ltd. Vs. Workmen, [(2007) 1 SCC 408].

13.2. That judgment relates to the claim of regularization of 10 casual workmen employed in the plant of the appellant at Rishikesh in Uttarakand State. Their claim for regularization was upheld by the Labour Court, though they were appointed beyond the sanctioned strength. The sanctioned strength was 1049 and there were 1299 workmen were employed at the relevant time. Those 10 workmen, in that case, were beyond 1299.

13.3. In those circumstances, the award of the Labour Court was interfered with by the High Court at Uttaranchal. However, the High Court directed the appellant therein to continue those 10 workmen in employment till their superannuation and to pay the wages of regular workmen.

13.4. The appellant therein approached the Apex Court pleading that the company was sick and the proceedings was pending before the BIFR and therefore, even the regular workmen were to be sent on VRS.

13.5. In those circumstances, the Apex Court, by following the judgment in Umadevi's case, held that the High Court committed grave error in issuing direction to



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continue the service of those workmen until their superannuation, particularly, when those 10 persons were appointed beyond sanctioned strength and reversed the judgment of the High Court. It is useful to extract the following passage in this regard :

“It has come in the evidence that the number of sanctioned posts in the company were only 1049, but there were already 1299 employees working in the company at the relevant time. We fail to understand how could 1299 employees be appointed when there were only 1049 sanctioned posts? Moreover, the ten concerned employees were over and above the 1299 already working in the company at the relevant time.

....

In our opinion the High Court failed to appreciate that when the appellant is still before the BIFR, and where the Government is making an effort to again present a revival proposal, there was no justification to saddle the appellant with liabilities on the basis of compassion when no legal right exists in favour of the concerned respondents. When there was no vacancy and the company was in poor financial condition, the impugned order was wholly uncalled for.



....

It is only a permanent employee who has a right to continue in service till the age of superannuation (unless he is dismissed or removed after an inquiry, or his service is terminated due to some other valid reason earlier).”

13.6. The aforesaid narration of facts of the case, that was considered by the Apex Court, would make it very clear that the said judgment also has no application to the case on hand. In this case, the Government has not disputed about the regularization of the service of the father of the petitioner in 2003 itself.

13.7. Hence, I have no hesitation to hold that this judgment, referred to in the impugned order, could render no assistance to the respondents.

14.1. The third judgment, relied on in the impugned order, is National Instituted of Technology V. Niraj Kumar Singh, [(2007) 2 SCC 481].

14.2. In that case, the respondent therein was appointed on compassionate ground due to the death of one B.P.Sinha, who was employed as Senior Storekeeper in the appellant institute. He died leaving behind his widow Srmt.Vidhya Devi and son. At the time of his death, his son Ashuthosh Kumar was aged about one year.

14.3. Smt.Vidhya Devi secured employment to the



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respondent herein by making false declaration as if the respondent was a grandson of the deceased. Actually, he was a grandson of the cousin brother of the deceased Government servant.

14.4. On coming to know that the appointment was secured on false ground, the appellant - Institute terminated the service of the respondent.

14.5. In the said case, in view of the earlier round of litigation, wherein, Smt.Vidhya Devi herself questioned the appointment of the respondent and sought to cancel the same, while seeking to provide employment to her son Ashutosh Kumar, on reaching the age of 18 years, the High Court rejected her claim and the Division Bench also confirmed the same.

14.6. In that context, the termination of the respondent was sought to be interfered with by the High Court.

14.7. The Apex Court held that the scheme of compassionate appointment provides for appointment to the widow or one of the children of the deceased Government servant and not to a grandson that too, the grandson of the cousin brother of the deceased Government servant. Hence, the Apex Court held in categorical terms that the very appointment of the respondent was illegal and without jurisdiction and the appointment was obtained by practicing fraud upon the appellant and therefore, the same



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was nullity. In this regard, it is useful to extract the following passage from that judgment in (2007) 2 SCC 481

:

“But, it now stands admitted that he was not the natural grandson of late Shri B.P. Sinha but was a grandson of his cousin brother. Therefore, he was not entitled for appointment in terms of the scheme of the Institute. The Institute, therefore, committed an illegality in granting him such an appointment.

....

If the appointment of the respondent was wholly illegal and without jurisdiction and such an appointment had been obtained by practising fraud upon the appellant, the same was a nullity. We are, however, not oblivious of the fact that the same attained finality in view of the fact that the writ petition of the said Vidhya Devi was dismissed. Despite the same, the principles of res judicata shall not apply in a case of this nature. It is well- known that where an order is passed by an authority which lacks inherent jurisdiction, the principles of res judicata would not apply, the same being nullity.”

14.7. Hence, that judgment would render no assistance to the case on hand.



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15.1. *The last judgment, relied on in the impugned order, is the judgment of the Apex Court in I.G. (Karmik) V. Prahalad Mani Tripathi, [(2007) 6 SCC 162].*

15.2. *That case also could have no assistance to the respondent. In that case, the father of the respondent was a Constable in Uttar Pradesh Police Service. He died in harness, while he was in service. The respondent applied for compassionate appointment. He was considered for appointment for the post of Constable. But he was found not eligible, as he did not satisfy the physical standard stipulated in the Rules. Hence, he was appointed as a Peon.*

15.3. *He accepted the said appointment without any demur whatsoever. But he approached the Uttar Pradesh Services Tribunal, Lucknow, seeking to absorb him in the post of Police Constable, after five years of his appointment.*

15.4. *The Tribunal allowed his claim. The High Court also confirmed the judgment of the Tribunal.*

15.5. *When the matter was taken to the Apex Court, the Apex Court held that both the Tribunal and the High Court committed error in issuing a direction for regularization to the class III Post of Constable. The following passage in the judgment is usefully extracted in this regard :*

“Respondent, thus, could be offered an appointment only to the post for which he was



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suitable.

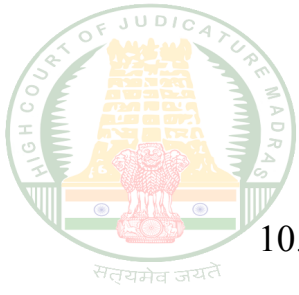
Furthermore, Appellant accepted the said post without any demur whatsoever. He, therefore, upon obtaining appointment in a lower post could not have been permitted to turn round and contend that he was entitled for a higher post although not eligible therefor. A person cannot be appointed unless he fulfils the eligibility criteria.”

15.6. Therefore, I am of the view that the said judgment has no application to the facts of this case.

16. For the foregoing reasons, I have no hesitation to quash the impugned order and also to issue a positive direction to the first respondent to provide compassionate appointment to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is allowed. No costs.”

9. The reasons stated therein would directly apply to the fact of the case.

In view of the reasons stated, the impugned order is set aside and a direction is issued to the first respondent to provide compassionate appointment to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.



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10. The writ petition stands allowed. There shall be no order as to costs.

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Consequently the connected miscellaneous petition is closed.

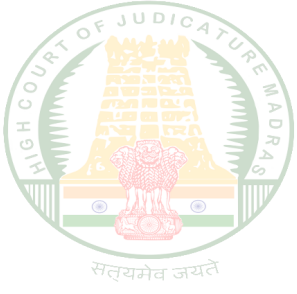
26.03.2025

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Index : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No



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To

- 1.The Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai – 600 009.
- 2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velacherry Main Road, Guindy,
Chennai – 600 032.
- 3.The District Forest Officer,
Dharmapuri.



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