

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 10.3.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.20744 of 2014

1 S.Davidraj ... petitioner

versus

1 The State of Tamilnadu
Rep.by The Secretary
Environment and Forest Department
Fort St. George Chennai-9

2 The Addl Chief Secretary to Government,
Environment and Forest Department,
Fort St. George Chennai-9

3 The Pricipal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai-600015 respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Mandamus directing the 1st and 2nd respondents to forthwith consider the claim of the petitioner for appointment as Assistant Conservator of Forest by transfer of service for the Panel Year 2011-12 and to consequently extend all benefits arising thereto from the date on which his immediate Junior was extended with the same of that of an Assistant Conservator of Forest

For petitioner

Mr.L.Chandrakumar

For respondents

Mr.N.Inbanathan, Government Advocate (F)

ORDER

The petitioner is presently working as Ranger with effect from 14 March 2001. The next avenue of promotion is to the post of Assistant Conservator of Forests by transfer of service under the Tamil Nadu Forest Service Rules. The petitioner was subjected to disciplinary proceedings on account of his involvement in a criminal case. Even after the period of punishment awarded by the Disciplinary Authority, his name was not considered for promotion to the post of Assistant Conservator of Forests. The petitioner, therefore, seeks a Writ of Mandamus directing the respondents to promote him to the post of Assistant Conservator of Forests, by transfer of service, for panel year 2011-12.

2. The third respondent in his counter affidavit contended that pursuant to the disciplinary proceedings conducted by the Commissioner of Disciplinary Proceedings, Tirunelveli, the pay of the petitioner has been reduced to bottom of the time scale in the post of Ranger for a period of three years without cumulative effect. The punishment was implemented from 1 April 2004 to 31 March 2007. Though at present punishment is not a bar for promotion, the third respondent contended that the criminal case is still pending against the petitioner and as such, the petitioner is not entitled to be considered for promotion.

3. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

4. The petitioner seeks promotion to the post of Assistant Conservator of Forests for the panel year 2011-12. The counter affidavit filed by the third respondent very clearly shows that the punishment imposed on the petitioner vide order dated 28 November 2002 was implemented from 1 April 2004 to 31 March 2007. There is a criminal case pending against the petitioner before Judicial Magistrate, Nanguneri. Sub rule (1-c) of Part-A, Schedule VII of General Rule for Tamil Nadu State and Subordinate Service Rules, provides that in case specific charges are framed or charge sheet has been filed in the criminal case on the crucial date, name of the employee would not be considered for inclusion in the approved list.

5. It is true that there is no departmental proceedings pending against the petitioner. Similarly, it is not in dispute that there is no currency of punishment. However, the fact remains that there is a criminal proceeding pending against the petitioner as on date. Moreover, the third respondent has made it clear that the petitioner was not in the zone of consideration for the panel year 2011-12. It was also clarified that none of his juniors were promoted as Assistant Conservator of Forests for the panel year 2011-12. I am therefore of the view that there is absolutely no merit in the contention taken by the petitioner that his name was not considered for the panel year 2011-12.

6. In the result, the Writ Petition is dismissed. No costs. Consequently, M.P.No.1/2014 is also dismissed.

Sd/-
Assistant Registrar

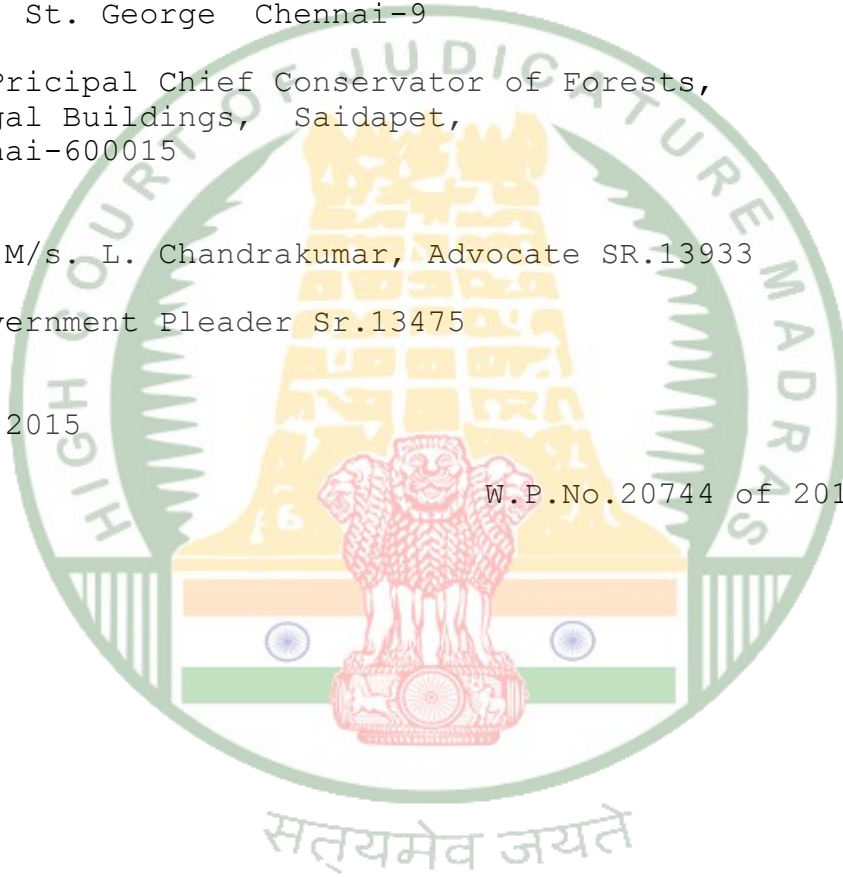
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Sub Assistant Registrar

To

- 1 The Secretary,
Environment and Forest Department
Fort St. George Chennai-9
 - 2 The Addl Chief Secretary to Government,
Environment and Forest Department,
Fort St. George Chennai-9
 - 3 The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai-600015
- + 1 cc to M/s. L. Chandrakumar, Advocate SR.13933
+ 1 cc Government Pleader Sr.13475
- MP(CO)
EU 23.03.2015

W.P.No.20744 of 2014



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