

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.34132 of 2015
and
M.P.Nos.1 & 2 of 2015

A.Gopaldhas

.. Petitioner

- Vs -

1. The Principal Secretary to Government,
Environment and Forest,
Fort St. George, Chennai - 600 009.
2. The Principal Chief Conservator of Forests
and Head of Forest Force,
No.1, Panagal Building, Jeenisi Road,
Chennai - 600 015.

.. Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondent authorities to grant promotional benefits to the petitioner with retrospective effect from 2008 to the post of Asst. Conservator of Forest and further promotion to the petitioner to the post of Deputy Conservator of Forest with effect from 2013 and grant all consequential promotional and salary benefits, within a time to be fixed by this Court.

For Petitioner : Mr.S.Thanka Sivan

For Respondents : Mr.M.K.Subramanian
Special Government Pleader (Forests)

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that he joined the services of the Tamil Nadu Forest Department as Range Officer in the year 1981 and his promotion to the post of Assistant Conservator of Forest was due during the year 2007-2008 and seniority list was being finalized for promotion to the post of Assistant Conservator of Forests. However, the respondents failed to include his name in the panel for promotion on the ground that he was issued with a charge memo dated 25.02.2008. The petitioner filed W.P.No.18528 of 2008 praying for appropriate direction directing the respondents to pass orders on his representation dated 21.06.2008, relating to the said charge memo. Final order was passed in the said writ petition by this Court on 25.08.2008, directing the respondents to pass orders on his representation. However, the order was not complied with and on the other hand, the second respondent has proceeded with the finalization of the promotion list and omitted the name of the petitioner in the panel for promotion to the post of Assistant Conservator of Forest. The petitioner has filed W.P.No.21776 of 2008 praying for the issuance of Certiorarified Mandamus to quash the charge memo dated 25.02.2008 and consequently directed the respondents to grant all promotional and other attendant benefits. This Court passed final orders dated 11.09.2008, directing the respondents to complete the enquiry and pass final orders on or before 31.12.2008. However, no orders have been passed and ultimately the disciplinary authority has passed an order of punishment dated 16.04.2009, in and by which, depriving the petitioner incremental benefits with retrospective effect and with an observation that the same will not have any effect on his pension.

3. The petitioner has also filed W.P.No.10541 of 2008, praying for quashment of the order dated 16.04.2009, passed by the second respondent and consequential direction directing the respondent to grant increment and promotional benefits to him as per the existing seniority. The said writ petition was disposed of on 09.07.2009, quashing the order dated 16.04.2009 and further direction was also given stating that the petitioner is entitled to get promotional benefits including increments as per seniority existing prior to the charge memo dated 25.02.2008 and the said exercise was directed to be carried out within eight weeks from the date of receipt of a copy of the said order. However, the respondents challenged the said order by filing a writ appeal in W.A.No.2181 of 2010 and the same was dismissed on 05.09.2012. Thereafter, no further challenge has been made against the said judgment and it has become final.

4. The first respondent has issued G.O.(D).No.5, Environment and Forests (FR.1) Department, dated 07.01.2013, ordering inclusion of the name of the petitioner in the panel for promotion to the post of Assistant Conservator of Forest for the year 2008-2009 subject to the pending enquiry into the criminal charges framed against him in the light of Rule 39(d) of General Rules for the Tamil Nadu State and Subordinate Services and subject to the concurrence of the Tamil Nadu Public Service Commission, based on the above cited order of this Court dated 09.07.2009 made in W.P.No.10541 of 2009.

5. The petitioner has also filed a criminal original petition in Crl.O.P.No.6907 of 2011 to quash the charge sheet No.91 of 2009 in PRC No.68 of 2009 pending on the file of the Judicial Magistrate, Nanguneri, Thirunelveli district and it was also allowed on 05.06.2015 quashing the criminal proceedings lodged against the petitioner. The grievance now expressed by the petitioner is that there is no impediment for the respondents to grant promotion with retrospective effect from the year 2008 to the post of Assistant Conservator of Forest and further promotion to the post of Deputy Conservator of Forest with effect from 2013. In this regard, he has also submitted a representation on 17.06.2015 followed by a reminder representation dated 26.06.2015 and since no orders came to be passed, he has come forward to file this writ petition.

6. Mr.S.Thanka Sivan, learned counsel appearing for the petitioner would submit that in spite of the laxity exhibited by the respondents, the petitioner has approached this Court very many time, though he was successful in all the cases, the respondents have not chosen to give effect to the orders passed by this Court and since he is going to reach the age of superannuation within a period of two years, appropriate positive orders may be passed directing the respondents to grant promotion to the post of Assistant Conservator of Forest as well as to the post of Deputy Conservator of Forest.

7. The Court heard the submissions of Mr.M.K.Subramanian, learned Special Government Pleader (Forest) appearing for the respondents 1 and 2 and perused all the materials placed before it.

8. A perusal of the typed set of papers would disclose that there are positive directions in W.P.No.10541 of 2008 and challenge made to the said order in W.A.No.2181 of 2010 was also

dismissed and that apart the criminal prosecution launched against the petitioner has been quashed by this Court in Crl.O.P.No.6907 of 2011.

9. In the light of the above facts and circumstances, this Court is of the view that there may not be any impediment on the part of the respondents to consider the claim made by the petitioner positively.

10. In the result, the writ petition is disposed of and the respondents are directed to consider the representation of the petitioner dated 17.06.2015 followed by a reminder representation dated 26.06.2015, on merits and in accordance with law and in the light of the observations made in this writ petition and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CO)

True Copy

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Environment and Forest,
Fort St. George, Chennai - 600 009.
2. The Principal Chief Conservator of Forests
and Head of Forest Force,
No.1, Panagal Building, Jeensis Road,
Chennai - 600 015.

+lcc to Mr.S.ThankaSivan, Advocate Sr.58289

+lcc to The Special Government Pleader, Sr.58309

ctk[co]
srg 6/11/2015

W.P.No.34132 of 2015
and M.P.Nos.1 & 2 of 2015