

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.24863 of 2008

Vadivambal

... Petitioner

Vs

1. The State of Tamilnadu
Rep by its Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai.
2. The Principal Chief Conservator of Forests,
Panagal Buildings, Chennai-15. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent issued in Na.Ka.No.AB1/14637/07 dt 20.6.2007 and quash the same and direct the 1st respondent to grant age relaxation and appoint petitioner as a Forester

For Petitioner : Mr.A.Muthukumar

For Respondents : Mr.N.Inbanathan
Government Advocate (Forests)

O R D E R

The prayer in the writ petition is for a writ of ceritiorarified mandamus to call for the records of the second respondent issued in Na.Ka.No.AB1/14637/07 dated 20.06.2007 and quash the same and direct the first respondent to grant age relaxation and appoint the petitioner as a Forester.

2. The case of the petitioner is that she is a Post Graduate and she was appointed as an Assistant through employment exchange under Section 10(a)(1) on 24.06.1988. While she was in the temporary service, she was selected by the Tamilnadu Public Service Commission and she was posted as a typist in the office of the Conservator of Forests, Salem Circle, Salem District and accordingly she joined service on

13.02.1997 as a typist and continued there till 21.05.2001. Thereafter, the petitioner was transferred to Mettur Soil Conservation Scheme Division, Salem and she was working there till the filing of the writ petition. The petitioner had completed her probation period on 12.02.1999 and her service has been regularized with effect from 13.02.1997 in the post of Typist.

3. The further case of the petitioner is that as per G.O.Ms. 327 Environment and Forest Department dated 25.09.1990, the Government directed that women candidate also to be considered for recruitment to the posts of Foresters and Rangers in the Forest department, if otherwise qualified and as per the policy of the Government, 30% reservation is allotted for the women category. The petitioner states that she is fully qualified to hold the post of the Forester and she had requested the respondents to appoint her as a Forester through proper channel. For the said appointment the necessary age relaxation was also recommended by the Conservator of Forests, Salem Circle by communication dated 21.08.2003. As per the rule prescribed, for the appointment of Forester the age limit prescribed is 37 years and since the petitioner was 45 years old, such relaxation was sought for.

4. Thereafter, physical test was conducted on 23.12.2005 and necessary report was also submitted to the Conservator of Forests, Salem on 09.01.2006 along with the Medical Officer's report. Thereafter, vide proceedings in Na.Ka.No.2338/07 E1, dated 05.07.2007 the Conservator of Forests stated that the second respondent vide his proceedings in AB1/14637/07 dated 20.06.2007, rejected the request of the petitioner for the appointment of Forester. Aggrieved by the said rejection order dated 20.06.2007, passed by the second respondent the present writ petition has been filed.

5. The learned counsel appearing for the petitioner would submit that the petitioner is eligible for the post of Forester, and for the said post, the petitioner is having all the qualifications and the physical test was also conducted. The rejection of the petitioner request to the said post vide impugned order of the second respondent which is per se illegal and the first respondent should give appointment to the petitioner by giving relaxation of age as has been recommended by the Conservator of Forests, Salem.

6. I have considered the submission made by both sides.

7. In the impugned order, the second respondent stated that though the petitioner is having educational qualification as well as the physical fitness, her Date of Birth is 10.08.1958

and the petitioner had already reached the age of 48 years. Since the relevant rule of Tamilnadu Forest Subordinate Service Rule do not permit a person with such age to be appointed for the post of Forester, the petitioner cannot be appointed in the said post. Therefore, her request for the appointment for the post of Forester was rejected.

8. In so far as, the petitioner is concerned she was temporarily appointed as Typist in the forest department and had recently attained superannuation and retired peacefully from the department. The appointment sought for by the petitioner for the post of Foresters is a sanctioned post governed by the said service rules and the upper age must be fulfilled by the candidates.

9. Even at the time when the age relaxation was sought for by the petitioner, the same was not granted by the government. The petitioner can not expect that she should be appointed for the said post as she claimed. As age relaxation is a discretionary power of the authority, the claim of the persons who working temporarily or job-less in respect of the age relaxation, can be considered by the authority concerned, taking into consideration the specific facts and circumstances of the case and it is not mandatory.

10. Here in this case, the petitioner was already working in a permanent post in the same department and thereafter, she applied for better post. Unless the petitioner fulfills the rules, which is required, she cannot be considered for the appointment to the said post. Therefore, there is no illegality or error in the order passed by the second respondent. Therefore this Court feels that no interference is warranted. Since the petitioner had already retired from the original position, there is no financial loss or any other loss on her service benefits and also the petitioner did not seek any further claim on that basis.

11. For all these reasons, this Court holds that the impugned order is sustainable in the eye of law and can not be interfered with. Hence, the writ petition is liable to be dismissed and accordingly, dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Secretary to Government,
State of Tamilnadu,
Environment and Forest Department,
Fort St. George, Chennai.
2. The Principal Chief Conservator of Forests,
Panagal Buildings, Chennai-15.

+1cc to Mr.A.Muthukumar, Advocate, S.R.No.61224

+1cc to the Special Government Pleader(T), S.R.No.61554

W.P.No.24863 of 2008

EV(CO)
CA(01/12/2016)



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