

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32795 of 2016

A.Sundaramurthy

... Petitioner

Vs

- 1 The State of Tamilnadu
rep. by its Secretary to Government
Environment and Forest Department Fort St.
George Chennai-9
- 2 The Principal Chief Conservator of Forest
Panagal Building
Saidapet Chennai-15
- 3 The Divisional Forest Officer
Modern Nursery Division Dharmapuri ... Respondents.

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to include the petitioner's name in the panel for the year 2013-14 and to promote him as Forest Guard with retrospective effect from the date of Junior's promotion within time frame with all consequential monetary benefits.

For Petitioner :Mr.K.Jenitha
For Respondents :Mr.N.Inbanathan,
Govt. Advocate.

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to include his name in the panel for the year 2013-14 and to promote him as Forest Guard with retrospective effect from the date of Junior's promotion within time frame with all consequential monetary benefits.

3. It is the case of the petitioner that he joined service as Plot Watcher on 1.12.1979 and was re-designated as Social Forestry Worker and he was paid from contingencies. The respondents have issued G.O.Ms.No.64, Environment and Forest Department, dated 8.3.1999 for preparation of State Wide seniority list of Social Forestry Workers / Plot Watchers to regularize their services as Forest Watcher / Mali as and when the vacancy arises. As per the said GO, his name was included in Sl.No.685. Thereafter, by the proceedings of the second respondent dated 23.2.2003, he was appointed and allotted as Forest Watcher in the Coimbatore Circle. However, the District Forest Officer rejected him for want of physical qualification. Thereafter, he was appointed as Mali on 12.8.2009. The petitioner's state wide seniority number is 485, but, his service was not regularized on par with his junior, who was placed at Sl.No.486. As per the date of appointment in the regular post, the petitioner should be included in the seniority list of panel for promotion to the post of Forest Guard and subsequently, he should be promoted as per his seniority. The respondents have prepared the panel of Forest Watchers / Mali and members transferred from Tamil Nadu Basic service fit for promotion to the post of Forest Guards for the year 2013-14 and the crucial date was fixed as 15.8.2013. As per the said list, the petitioner's name should be included in the panel and he should be promoted to the post of Forest Guard. The said panel was finalized and posting orders were issued on 14.11.2014. In that panel, his name should be included in between Sl.Nos.266 and 267. But, his name was not included in the panel for promotion. Hence, he made a representation dated 6.8.2015 to the respondents to include his name in the panel for the year 2013-14 and to promote him to the post of Forest Guard with effect from the date of his junior's promotion. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition.

4. Learned counsel appearing for the petitioner submitted that the Forest Watcher / Mali is equally eligible to get promotion to the post of Forest Guard and equal proposition should be followed at the time of promotion. However, without considering the fact that the petitioner was appointed as Mali in a regular post on 12.8.2009, his name was not considered for his next avenue of promotion as per the seniority list. Hence, the present petition.

5. I have also heard the learned Government Advocate (Forest), appearing for the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner,

this Court directs the petitioner to give a fresh representation along with a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order, and on receipt of the same, the respondents are directed to consider the said representation seeking inclusion of the petitioner's name in the panel for the year 2013-14 and to promote him as Forest Guard with retrospective effect from the date of Junior's promotion and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary to Government
State of Tamilnadu
Environment and Forest Department Fort St.
George Chennai-9
- 2 The Principal Chief Conservator of Forest
Panagal Building
Saidapet Chennai-15
- 3 The Divisional Forest Officer
Modern Nursery Division Dharmapuri

+1cc to Mr.K.Jenitha, Advocate Sr.59929

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srg 23/11/2016