

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19983 of 2010

G.M.Saravana Muthu

.. Petitioner

vs

The Principal Chief Conservator of Forests,
Mettur Range,
Mettur, Salem District.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to forthwith give notional promotion to the petitioner as a Forester with effect from 24.11.2003 and consequently promote the petitioner as Forest Ranger as per G.O.Ms.No.292, Environment and Forest Department, dated 28.10.2004.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.M.Santhanaraman (Forest),
Additional Government Pleader

O R D E R

सत्यमेव जयते

The relief sought for in this Writ Petition is for a direction to be issued to the respondent to forthwith give notional promotion to the petitioner as a Forester, with effect from 24.11.2003 and consequently promote the petitioner as Forest Ranger as per G.O.Ms.No.292, Environment and Forest Department, dated 28.10.2004.

2. The learned counsel appearing on behalf of the writ petitioner states that the petitioner was directly recruited as Forest Guard on 16.10.1989 and subsequently, he was fully qualified and eligible to be promoted to the next cadre of

promotion to the post of Forester, with effect from 15.08.2002. The name of the petitioner was included in the list of candidates for selection and later, the same was deferred. The learned counsel appearing for the petitioner states that a charge memo was issued to the petitioner on 12.12.2002. However, the charge memo was issued under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Pendency of a charge memo under Rule 17(a) is not a bar for promoting the writ petitioner. Therefore, the petitioner ought to have been promotion on par with his juniors.

3.The learned Additional Government Pleader appearing on behalf of the respondent states that the petitioner is factually incorrect. In fact, the name of the petitioner was not considered in the panel for the promotion to the post of Forester during the year 2003-04 and the same has been communicated vide proceedings Proc.No.AB1/34000/03 by the Principal Chief Conservator of Forests, Chennai dated 24.11.2003. However, the petitioner was not selected on account of currency of punishment imposed on him on the crucial date on 15.08.2002.

4. The respondent filed the counter affidavit stating that as per G.O.Ms.No.248, Personnel and Administrative Reforms Department dated 20.10.1997 and Government letter No.18824/S/2005-2 dated 07.10.2005, the petitioner was not suffering any punishment or charge sheet on the crucial date on 15.08.2002. However, the charge memo was issued on 12.12.2002 and on 08.04.2003(i.e) after the crucial date on 15.08.2002. Thereafter, the petitioner was undergoing punishment on the date of approval of the panel list. On perusal of the list of selected candidates, the respondent in proceedings stated supra dated 24.11.2003, stated that the name of the petitioner was found in serial No.173 wherein the petitioner was considered and not selected on account of the currency of punishment.

5. This Court is of the opinion that the currency of punishment is a bar for promotion as per the Government rules in this regard, An employee suffering from an order of punishment cannot be promoted to the higher post and only after the expiry of the currency of punishment, he will be eligible for promotion to the higher posts, There is no infirmity in respect of non-selection of the writ petitioner to the promotion of post.

6. This Court finds that the reasons stated by the learned Additional Government Pleader appearing on behalf of the

respondent are certainly convincing and in accordance with the rules in force. Thus, the writ petitioner failed to establish any ground so as to consider his case for promotion. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

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msrm/sts Sub Assistant Registrar

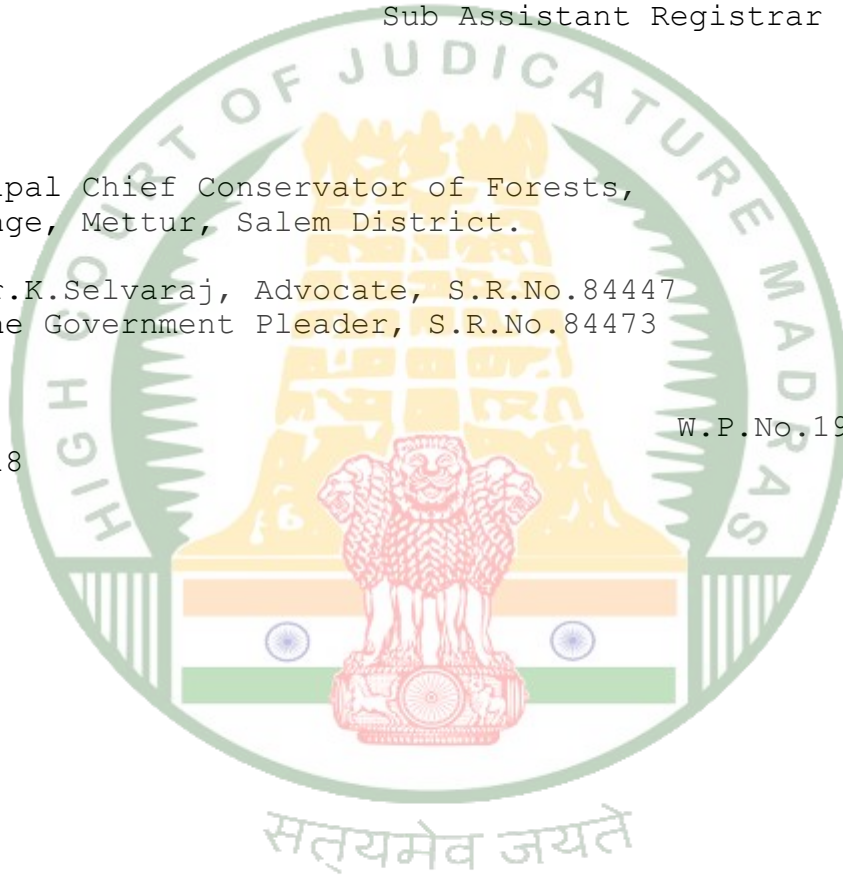
To

The Principal Chief Conservator of Forests,
Mettur Range, Mettur, Salem District.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.84447
+1cc to the Government Pleader, S.R.No.84473

CS/04/01/18

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