

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2017

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.3841 of 2016 and

W.M.P.Nos.3213 and 3214 of 2016

K.Sankaralingam

... Petitioner

Vs.

- 1.Union of India Represented by
The Secretary to Government,
Ministry of Environment and Forest Dept.,
Pariyavarani Bhawan
New Delhi -110 003.
- 2.The Union Public Service Commission,
Represented by its Secretary,
Dholpur House, Shajahan Road,
New Delhi.
- 3.The State of Tamil Nadu,
Represented by its Secretary to Government,
Environment and Forest Department,
Secretariat, Fort St.George,
Chennai -9.
- 4.The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai - 600 015.
- 5.The Registrar,
The Hon'ble Central Administrative Tribunal,
Madras Bench, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus, to call for the records on the file of 5th respondent in O.A.No.74 of 2013 dated 10.06.2015 and quash the same as unjust, illegal and incompetent and consequently direct the respondents to convene the Review Selection Committee Meeting to review the Select List of 2000 in order to consider the

candidature of the petitioner for appointment by promotion to IFS (consequent on the orders issued by the 3rd respondent in G.O.(2D) No.64, E & F Dept., dated 29.12.2010) notionally, with retrospective effect from the date of promotion of petitioner's immediate junior Thiru K.Sankaran (who was promoted to IFS vide G.O.Ms.No.64, Environment and Forest Department, dated 24.04.2001 in accordance with letter No.17013/18/2000 IFS II, dated 4.4.2001 of the first respondent within a time frame.

For Petitioner : Dr.P.S.Vijayakumar

For R2 : Mr.R.Priya Kumar

For R3 and R4 : Mr.A.Kumar
Spl.Govt.Pleader

O R D E R

K.K.SASIDHARAN, J.

The representation submitted by the petitioner for conducting a Review Selection Committee Meeting to review the Select List of the year 2000 and to consider his candidature for appointment by promotion to the Indian Forest Service was rejected by the first respondent, primarily on the ground that there was no specific direction given by the High Court in its order dated 20 August 2009 in W.P.No.5699 of 2007. The order passed by the first respondent was unsuccessfully challenged before the Madras Bench of the Central Administrative Tribunal. Feeling aggrieved by the order dated 10 June 2015 in O.A.No.74 of 2013, the petitioner is before this Court.

2. The learned counsel for the petitioner contended that the High Court while allowing the writ petition in W.P.No.5699 of 2007 filed by the petitioner directed the respondents to grant him all service and monetary benefits. According to the learned counsel, the service benefits would also include promotion and as such, the Tribunal was not correct in rejecting the request made by the petitioner to quash the impugned order.

3. The learned counsel for the Union Public Service Commission and the learned Special Government Pleader appearing on behalf of the State of Tamil Nadu contended that in the absence of a specific direction to call a Review Selection Committee Meeting and give promotion, the petitioner was not correct in making a claim for promotion.

4. The petitioner was initially appointed as Forest Ranger on 01.11.1967. He was promoted to the post of Assistant Conservator of Forests on 21.09.1990. He was confirmed in the

post of Assistant Conservator of Forests with effect from 10.09.1999 at par with his junior Thiru.P.A.Abubacker vide order dated 14.07.2000. The next avenue of promotion was to the post of Deputy Conservator of Forests. Since there was a charge sheet pending against the petitioner, he was not given promotion. The disciplinary proceedings culminated in passing an order of punishment of stoppage of increment for three months without cumulative effect. The order passed by the third respondent was challenged by the petitioner in O.A.No.577 of 2002 and 647 of 2002. The Original Applications were transferred to the High Court and re-numbered as W.P.Nos.5699 and 9406 of 2007. The learned single Judge, by order dated 20 August, 2009 quashed the punishment and directed the respondents to grant all service and monetary benefits to the petitioner.

5. The Principal Secretary, Environment and Forests Department, Government of Tamil Nadu forwarded the papers of the petitioner to the Ministry of Environment and Forests, Government of India. The Union Public Service Commission was not inclined to convene the Review Selection Committee Meeting to review the Select List of the year 2000 for the purpose of considering the case of the petitioner for promotion to Indian Forest Service for want of specific direction by the High Court. The Ministry of Environment and Forests, by letter dated 18.05.2012 communicated the decision of the UPSC to the Government of Tamil Nadu. The order was put in issue before the Tribunal. The Tribunal concurred with the submission made on behalf of the respondents that there was no specific direction to convene the Review Selection Committee Meeting and as such, the authorities were correct in rejecting the request to give promotion to the petitioner.

6. The learned counsel for the respondents fairly submitted that the petitioner was eligible for promotion. It is also a matter of record that in view of the confirmation of the service of the petitioner in the post of Assistant Conservator of Forests with effect from 10.09.1999, he was eligible for inclusion in the select list of the year 2000. It was only on account of the pendency of disciplinary proceedings, his name was not included in the select list of the year 2000. Since the punishment imposed on the petitioner was quashed by the High Court, the petitioner was correct in making a request to review the Select List and include his name for promotion.

7. The respondents accepted the order passed by the learned Single Judge dated 20 August, 2009 in W.P.No.5699 of 2007 and 9406 of 2007. There was a specific order quashing the penalty and granting all service benefits to the petitioner. The term "Service Benefits" would also include "promotion". The absence of express words in the order to convene Review Promotion Committee Meeting alone made the first respondent to reject the

request for promotion by including the name of the petitioner in the select list of the year 2000. Since the order passed by the learned single Judge has become final, respondents 1,2 and 4 were bound to conduct Review Promotion Committee Meeting to review the select list. This aspect was not considered by the Tribunal. We are therefore of the view that the impugned order is liable to be set aside.

8. In the result the order dated 10 June, 2015 is set aside. The Original Application in O.A.No.74 of 2013 is allowed.

9. The respondents 3 and 4 are directed to forward the papers to the first respondent for convening a Review Promotion Committee Meeting to review the select list of the year 2000 and consider the case of the petitioner for promotion to the Indian Forest Service. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. In the up shot, we allow the writ petition. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

svki

To

1.The Secretary to Government,
Union of India
Ministry of Environment and Forest Dept.,
Pariyavaran Bhawan
New Delhi -110 003.

2. The Secretary,
The Union Public Service Commission,
Dholpur House, Shajahan Road,
New Delhi.

3. The Secretary to Government,
The State of Tamil Nadu,
Environment and Forest Department,
Secretariat, Fort St.George,
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4.The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet, Chennai - 600 015.

5.The Registrar,
The Hon'ble Central Administrative Tribunal,
Madras Bench, Chennai.

+1cc to Dr.P.S.Vijayakumar,Advocate sr.40696

+1cc to Mr.J.Madanagopal Rao,Advocate sr.40569

+1cc to Mr.R.Priyakumar,Advocate sr.40361

++1cc to Special Government Pleader(Forest)sr.40475

W.P.No.3841 of 2016

vsn(co)
ss(23/6/2017)



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