

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 14.06.2017
CORAM

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR**W.P. (MD) .No.447 of 2014**

K.Paul Pandian

...Petitioner

Vs.

1. The Government of Tamilnadu,
Rep. by its Secretary,
Environment and Forest Department,
Fort St. George, Secretariat,
Chennai- 600 009.

2. The Principal Chief Conservator of Forests,
(Head of Forest Force)
Panagal Maaligai,
Saidapet, Chennai.

.. Respondents

PRAYER:Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to pay the petitioner's arrears of salary in the post of Forest Ranger from 31.10.2008 till the date of his retirement on 31.08.2012 as per the order passed by this Court in W.P.(MD) No.2871 of 2012, dated 21.08.2012 with interest at 18% per annum.

For Petitioner : Ms.P.Kalaiyarasi Bharathi.
For Respondent : Mr.J.Gunaseelan Muthiah,
Government Advocate.

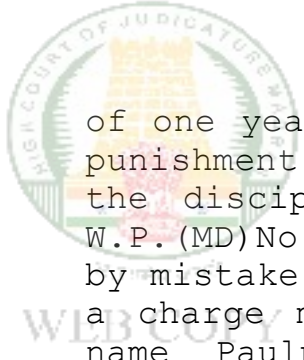
O R D E R

This Writ petition has been filed by the petitioner for issuance of a Writ of Mandamus directing the respondents to pay the petitioner's arrears of salary in the post of Forest Ranger from 31.10.2008 till the date of his retirement on 31.08.2012 as per the direction of this Court in W.P.(MD) No.2871 of 2012, dated 21.08.2012 with interest at 18% per annum.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The brief facts that are necessary for the final disposal of the Writ Petition are as follows:

3.1. The petitioner was appointed as a Forester in the Forest Department in the year 1982. He also retired from service on 31.08.2012. However, a charge memo was issued against the petitioner and a punishment of stoppage of increment for a period



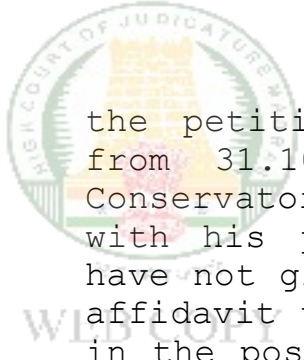
of one year was also imposed against the petitioner. The order of punishment of stoppage of increment for a period of one year by the disciplinary authority was challenged by the petitioner in W.P.(MD)No.2871 of 2012 on the ground that the charges were issued by mistake of identity. In other words, the petitioner was issued a charge memo for the misconduct of another person having same name Paulpandian. This mistake of identity was ultimately established by the petitioner and therefore the writ petition filed by the petitioner was allowed by on order dated 21.08.2012.

4. It is also admitted that the petitioner's name was not included in the promotional panel only because of the charge memo and the disciplinary proceedings pending against the petitioner. In the writ Petition filed by the petitioner in W.P(MD) No.2871/2012, this Court was pleased to pass an order holding that the petitioner is entitled to consequential benefits including the right to be considered for the promotion, in case it was denied to the petitioner due to the impugned punishment. It was further observed that in case the petitioner is found eligible for promotion he shall be promoted from the date of promotion of his immediate junior with all consequential benefits. Pursuant to this, the Chief Conservator of Forests by his proceedings dated 18.04.2013 has also clarified the position in the following manner.

"7) The pay of Thiru k.Paulpandian, Forester (Rtd) in the category of Forest Range Officer may be fixed on par with his Junior Thiru M.Lakshmanasamy, (SI.No.24) in the selection list as per the fundamental rule 27 (17) and the benefits accrued, as on 31.08.2012 shall be taken into account for calculating the pensionary benefits of the individual, since he has retired from service on 31.08.2012 on superannuation."

5. Despite the fact that the petitioner was denied the benefit of promotion and the salary, he was eligible to get in the promotional post, due to the mistake committed by the respondent, the respondents has not granted the benefits in tune with the direction of this Court in W.P.(MD) 2871 of 2012 and the proceedings of the second respondent himself dated 18.04.2013.

6. It is also not in dispute that the petitioner is eligible for promotion and entitled to be included in the panel for the promotion as Ranger in the year 2008-2009 for which the crucial date was 15.08.2008. Hence, the petitioner ought to have been given promotion with effect from 15.08.2008 as Ranger. This benefit of promotion was denied to the petitioner only because of the disciplinary proceeding in which he was involved by mistake. Since the petitioner is not involved, the respondent ought to have considered the petitioner's case. Surprisingly, the respondents have filed a counter affidavit disputing the right of the petitioner to seek promotion with effect from August 2008. Petitioner's junior by name M.Lakshmanasamy was promoted. Since



the petitioner's junior was promoted on 18.04.2013 with effect from 31.10.2008, a direction was also issued by the Chief Conservator of Forests to fix the pay of the petitioner on par with his junior. However, for no valid reasons the respondents have not given. It is contented by the respondents in the counter affidavit that the petitioner is not entitled to arrears of salary in the post of Forest Ranger from 31.10.2008 till the date of his retirement. According to the respondents, the stand taken by them is supported by Sub Rule 17 of Rule 27 of Fundamental Rules. The stand taken by the respondents cannot be sustained. Having regard to the orders passed by this Court and the proceedings of the second respondent, the petitioner's salary should be refixed with effect from the date on which he is entitled to get promotion. In that view of the matter, the petitioner is entitled to succeed in this Writ Petition.

7. The respondents are directed to pay the petitioner's arrears of salary in the post of Ranger with effect from 31.10.2008 till the date of his retirement that is on 31.08.2012. The petitioner is also entitled to interest at the rate of 18% per annum. This exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
The Government of Tamilnadu,
Environment and Forest Department,
Fort St. George, Secretariat,
Chennai- 600 009.
2. The Principal Chief Conservator of Forests,
(Head of Forest Force)
Panagal Maaligai,
Saidapet, Chennai.

+1cc to M/S. P.KALAIYARASI BHARATHI, Advocate, SR.No.60283.
+1cc to Special Government Pleader, SR.No.60988.

W.P. (MD) .No.447 of 2014
14.06.2017