

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1487 of 2015

and

M.P.No.1 of 2015

1. Principal Chief Conservator of Forests,
Panagal Maaligai,
Saidapet, Chennai - 15.

2. District Forest Officer,
Vellore Division, Vellore. Appellants

versus

M.Loganathan Respondent

PRAYER: Appeal filed against the order passed by this Court dated 20.07.2012 made in W.P.No.20060 of 2010.

W.P.No.20060 of 2010:-

Petition filed under Article 226 of the Constitution of India, seeking for a writ of Mandamus directing the 1st respondent to promote the petitioner as Forester from the panel of the year 2009-2010 retrospectively from the date of his immediate juniors got promoted

For Appellants : Mr.Balaramesh,
Special Government Pleader

For Respondents : Mr.S.Mani

J U D G M E N T

(Order of the Court made by R.SUBRAMANIAN,J.)

The challenge in this Writ Appeal is to the order dated 20.07.2012 made in W.P.No.20060 of 2010, in and by which, the learned Single Judge had allowed the Writ Petition directing the respondents to consider the name of the petitioner/ respondent herein for promotion as Forester by including his name in the Panel for the year 2009-10. The respondent in the Writ Petition had sought for a Writ of Mandamus for inclusion of his name in

the promotion panel for the post of Forester drawn for the year 2009-10 and promote him retrospectively from the date of the promotion of his immediate junior.

2. According to the respondent, he had joined the Department as Forest Guard on 15.04.1997, he was also granted Selection Grade in the post of Forest Guard on completion of 10 years of service. While so, for the reasons best known to the appellants, his name was not considered for inclusion in the panel for promotion to the post of Forester drawn for the year 2009-10. Claiming that the crucial date for preparation of panel is 15.08.2009 and that there was no impediment in the form of charge or a punishment to have his name included in the promotion panel, the respondent herein had approached this court seeking the relief of Mandamus as aforesaid.

3. The Writ Petition was opposed by the appellants herein contending that a charge memo dated 13.10.2006 was issued to the respondent and the same was served on him on 28.03.2007. The charge related to willful dis-obedience of transfer orders and having gone on leave without obtaining necessary permission. In view of the pendency of the charge memo, the respondent's name was not included in the promotion panel for the year 2009-10.

4. It was also brought to the notice of the learned Single Judge that the absence of the respondent from duty from the period from 17.05.2006 to 06.02.2007 was also regularized by the order of the 2nd appellant dated 24.05.2008. It is only after such regularization, the respondent was favoured with an order granting him selection grade on 17.11.2008 on completion of 10 years of service as a Forest Guard. Taking note of the above submissions, the learned Single Judge allowed the Writ Petition issuing the Writ of Mandamus directing inclusion of the name of the respondent in the panel for the year 2009-10 and to grant promotion if he is otherwise found fit for promotion. It is this order of the learned Single Judge which is challenged in this Writ Appeal.

5. We have heard Mr. Balaramesh, learned Special Government Pleader appearing for the appellants and Mr. S. Mani, learned counsel appearing for the respondent.

6. The charge memo dated 13.10.2006 has been produced. By the proceeding dated 09.07.2007, the 2nd appellant had imposed a punishment of stoppage of increment for a period of one year without cumulative effect. It is also clarified that the said punishment will not affect the pension of the respondent. Mr. Balaramesh, learned Special Government Pleader relying upon the proceedings dated 09.07.2007 would contend that the

punishment imposed was in currency on the crucial date for drawing the panel for promotion as Forester for the year 2009-10 and hence, the name of the respondent was not included in the panel for promotion.

7. Pending the above Writ Appeal, the 1st appellant had by his proceedings in Na.Ka.No.AB1/14949/2014 dated 08.10.2015 complied with the order of this Court made in W.P.No.20060 of 2010 dated 20.07.2012 by granting notional promotion to the respondent from the date on which his immediate junior Mr.R.Ravi who was in Sl.No.117 was given promotion. In view of the said proceedings we refrain from going into the question as to whether non-inclusion of the name of the respondent for the promotion panel for the year 2009-10 to the post of Forester is justified or not.

8. We make it clear that the promotion granted will only be notional promotion and the respondent will not be entitled to a salary in the promoted post for the period between date of promotion of his junior Mr.Ravi till the date of his actual promotion as a Forester.

9. The Writ Appeal is disposed of with the above directions. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dsa

To

1.The Principal Chief Conservator of Forests,
Panagal Maaligai, Saidapet, Chennai - 15.

2.The District Forest Officer,
Vellore Division, Vellore.

+1cc to Mr.S.Mani, Advocate, S.R.No.43660

+1cc to the Special Government Pleader(F), S.R.No.43069

W.A.No.1487 of 2015

SVN(CO)
CS/25/07/18