

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.Nos.811, 812 and 877 of 2011 and WA(MD) No.1151 of 2017
and
MP.Nos.1, 1,1, 2, 2,2 and 3 of 2011 and
2 of 2012 and CMP (MD) No.7955 of 2017

W.A.No.811 of 2011:

- 1.G.Panneerselvam
- 2.C.Sundaram
- 3.P.Angamuthu
- 4.P.Vadivelu
- 5.M.Balakrishnan
- 6.C.Balasubramanian
- 7.M.Thirumugam
- 8.J.Rajeshkhanna
- 9.P.Krishnamoorthy

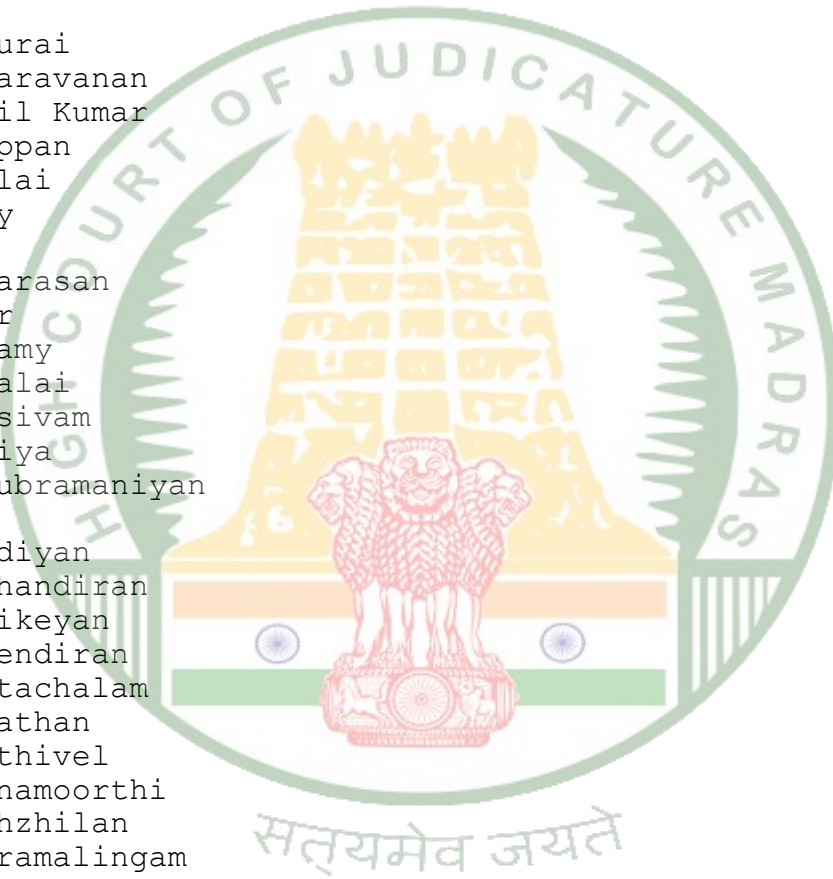
.... Appellants

vs.

- 1.The Principal Chief Conservator of Forests
and Head of Forest Force,
Chennai - 600 015.

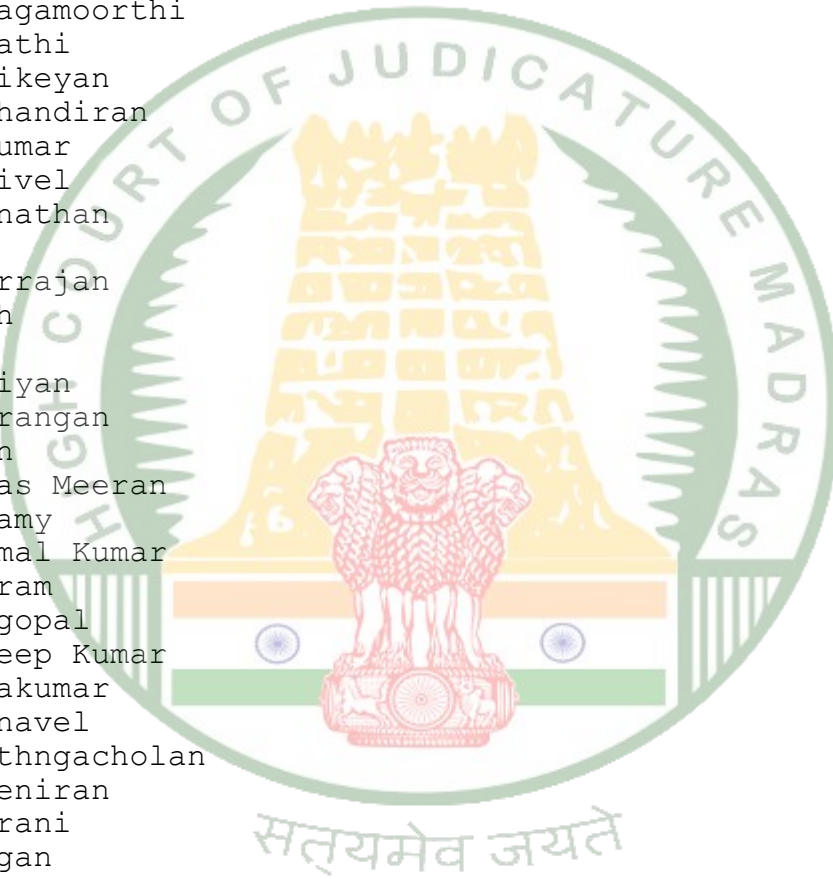
- 2.M.Subramanian
- 3.V.Venkatesan
- 4.S.Kandasamy
- 5.P.Govindan
- 6.N.Velu
- 7.K.Arunachalam
- 8.A.Sethuraman
- 9.M.Kalyanasundaram
- 10.K.Jegannathan
- 11.M.P.Periasamy
- 12.R.K.Subramanian
- 13.S.Sundaram
- 14.N.Chellappan
- 15.M.Rajendran (Sr)
- 16.K.Thangarasu
- 17.N.Jeyachandran
- 18.M.Shakesphere

19.C.Sundararaju
20.N.A.Arumugam
21.S.Muthuramalingam
22.A.M.Chinnathambi
23.G.Baskar
24.C.Vaithiyalingam
25.M.Rajendran (Jr)
26.S.Munisamy
27.K.Perumal
28.S.Pachiappan
29.A.Chinnu
30.K.Rajendran
31.K.Sekar
32.C.Annadurai
33.N.P.K.Saravanan
34.B.Senthil Kumar
35.G.Sakkappan
36.K.Poomalai
37.G.Murthy
38.R.Ravi
39.M.Tamilarasan
40.G.Baskar
41.M.Munusamy
42.S.Annamalai
43.M.Sathasivam
44.R.Sellaiya
45.M.Balasubramaniyan
46.S.Kumar
47.V.S.Pandiyan
48.C.Ravichandiran
49.S.Karthikeyan
50.T.K.Rajendiran
51.M.Vemkatachalam
52.S.Loganathan
53.M.C.Sakthivel
54.G.Krishnamoorthi
55.T.Elanchzhilan
56.S.Muthuramalingam
57.P.Somasundaram
58.R.Annadurai
59.L.Siyam Sundaram
60.G.Sathishkumar
61.T.K.Nagarajan
62.S.Singaravelu
63.S.Tamil Vendan
64.P.Balkirishnan
65.S.Jeyasingh
66.C.Elangovan
67.V.Singaravelu
68.R.Sonaimuthu
69.M.Subramaniyan



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70.S.Arunachalboopathy
71.S.Jayabalan
72.K.Panneerselvam
73.D.Basker
74.C.Senthilnathan
75.A.Annadurai
76.M.Sivakumar
77.S.Krishnamoorthi
78.M.Veluchamy
79.G.Selvaraj
80.C.Kalyani
81.C.Janarthanan
82.C.Vinayagamoothi
83.N.Ragupathi
84.N.Karthikeyan
85.D.Ramachandiran
86.S.Sivakumar
87.D.Sakthivel
88.A.Viswanathan
89.R.Kumar
90.B.Sundarrajan
91.B.Suresh
92.S.Kumar
93.P.Sikkaiyan
94.T.Pandurangan
95.V.Kandan
96.P.K.Ilyas Meeran
97.E.Munusamy
98.V.N.Nirmal Kumar
99.N.Athmaram
100.G.Renugopal
101.N.Pradeep Kumar
102.K.Dhanakumar
103.A.Mohanavel
104.S.Kulothngacholan
105.V.Raveeniran
106.A.S.Darani
107.M.Murugan
108.R.Ravi
109.B.Velmurugan
110.S.Sampathkumar
111.G.Rajendiran
112.R.Raja
113.P.Arul
114.V.Kumar
115.J.Saravanan
116.R.Banumoorthy
117.S.Murugesan
118.J.Gopalakrishnan
119.L.Sivakumar
120.R.Srinivasan

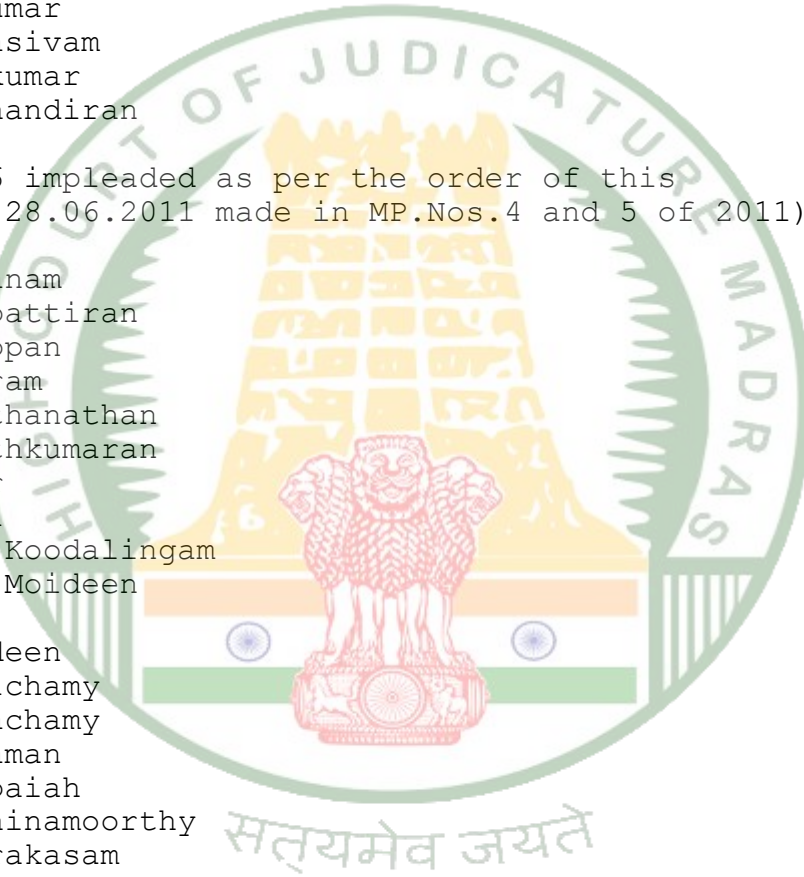


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121.N.Imayaraj
122.A.Muralikrishnan
123.B.Munusamy
124.G.Arunraj
125.T.M.Gokulraj
126.V.Ravikumar
127.R.Rajkumar
128.P.Radakrishnan
129.P.Suppan
130.D.Chandirasekaran
131.S.Mohan
132.S.Murugasamy
133.S.Sivakumar
134.M.Paramasivam
135.M.Selvakumar
136.M.Ravichandiran

(R32 to R136 impleaded as per the order of this court dated 28.06.2011 made in MP.Nos.4 and 5 of 2011)

137.N.Santhanam
138.I.Veerapattiran
139.S.Vasiappan
140.P.Pandaram
141.K.G.Santhanathan
142.N.Sampathkumaran
143.S.Udayar
144.V.V.Giri
145.K.Muthu Koodalingam
146.I.Kadar Moideen
147.G.Raja
148.A.Samsudeen
149.K.Vellaichamy
150.P.Chellachamy
151.G.Jeyaraman
152.R.Karuppaiah
153.R.Dhakshinamoorthy
154.S.Sivaprakasam
155.a.Rajendran
156.Y.Santhakumaran
157.M.Chinnamuniyan
158.G.Venkatachalam
159.K.Chellakannu
160.Pachiyappan
161.P.Vadivel
162.K.Raman
163.C.Karunanithi
164.V.Perumal
165.S.Tharukavanan
166.K.M.Rajendran
167.P.Karuppiyah



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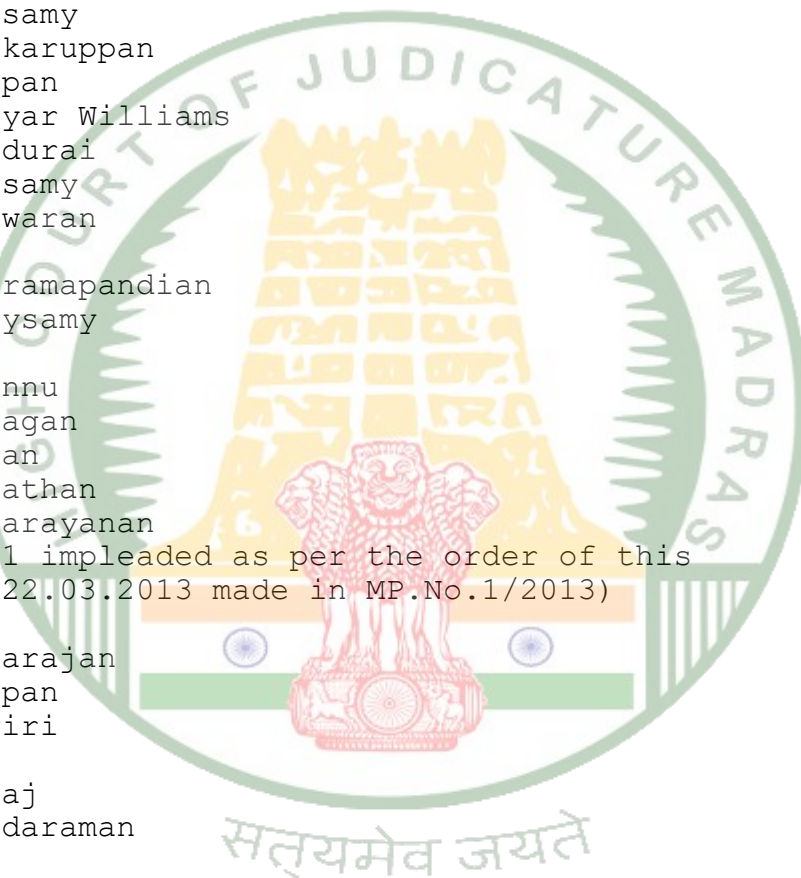
168.V.Karunanithi
169.S.Samiyappan

(R137 to 169 impleaded as per the order of this
Court dated 27.7.2012 made in MP.No.1/2012)

170.K.Elango
171.T.Arul
172.V.Balasubramaniam
173.P.David
174.M.Murugan
175.S.Ramakrishnan
176.R.Periyasamy
177.P.Periyakaruppan
178.M.Rangappan
179.K.Saveriyar Williams
180.S.Chinnadurai
181.P.Palanisamy
182.S.Koteeswaran
183.G.Murali
184.R.A.Jayaramapandian
185.A.Anthonysamy
186.M.Pandi
187.M.Samikannu
188.R.Anbazhagan
189.A.Chandran
190.K.Viswanathan
191.P.Sethunarayanan
(R171 to R191 impleaded as per the order of this
Court dated 22.03.2013 made in MP.No.1/2013)

192.N.Varadharajan
193.V.Vediappan
194.P.Vedhagiri
195.V.Rayar
196.L.Durairaj
197.R.Kothandaraman
198.C.Raman
199.S.Jayarajan
200.Samikannu
201.P.Periyakaruppan
202.K.Nagarajan
203.S.Robert Kennedy
204.S.Peter
205.T.Palpandi

(R192 to R205 impleaded as per the order of this
Court dated 27.06.2013 made in MP.No.3/2013)
206.K.Krishnan
207.R.Muthusamy
208.C.Samikannu



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209.M.Lingasamy
210.J.Pandi
211.S.Kandasamy
212.M.Subramanian
213.N.Ramachandran
214.A.Anthonisamy
215.A.Tamilmaran
216.V.Durairaj

(R206 to R216 impleaded as per the order of this
Court dated 27.6.2013 made in MP.No.2/2013)

217.D.Vinayagaraj
218.P.Viruman
219.K.Raja
220.P.Pathinettan
221.M.Andar
222.M.Muthiah
223.C.Panneerselvam
224.K.Surulinathan

(R217 to 224 impleaded as per the order of this
Court dated 16.8.2013 made in MP.No.4/2013)

225.S.Sasikumar
226.J.Jayaseelan
227.K.Chinnathambi
228.K.Madhavan

(R225 to 228 impleaded
as per the order of this
Court dated 12/09/2013 in MP.5/2013) ...

Respondents

W.A.No.812 of 2011:

C.Sundaram

... Appellant

सत्यमेव जयते vs.

1.The Principal Chief Conservator of Forest
and Head of Force,
Panagal Buildings,
Saidapet, Chennai - 600 015.

2.The District Forest Officer,
Kodaikanal, Dindigul District.

3.A.Venkatesan

4.A.Sethuraman

... Respondents

W.A.No.877 of 2011:

1.K.Arivazhagan
2.N.Kuppuswamy
3.R.Ravi

... Appellants

vs.

1.The Principal Chief Conservator of Forest
and Head of Force,
Panagal Buildings,
Saidapet, Chennai - 600 015.

2.M.Subramanian
3.V.Venkatesan
4.S.Kandasamy
5.P.Govindan
6.N.Velu
7.K.Arunachalam
8.A.Sethuraman
9.M.Kalyanasundaram
10.K.Jegannathan
11.M.P.Periasamy
12.R.K.Subramanian
13.S.Sundaram
14.N.Chellappan
15.M.Rajendran (Sr)
16.K.Thangarasu
17.N.Jeyachandran
18.M.Shakesphere
19.C.sundararaju
20.N.A.Arumugam
21.S.Muthuramalingam
22.A.M.Chinnathambi
23.G.Baskar
24.C.Vaithiyalingam
25.M.Rajendran (Jr)
26.S.Munisamy
27.O.Elumalai
28.A.Srinivasan
29.A.Bhoopathy
30.R.Navarathinam
31.M.Arul Jothi
32.P.Velumani
33.P.Subramanian
34.C.Kanagarajan

(R31 to R34 impleaded as per the order of this
Court dated 22.03.2013 made in MP.No.1/2012)

... Respondents

W.A. (MD) No. 1151 of 2017:

- 1.K.Balakrishnan
- 2.M.Vivekananthan
- 3.M.Palanichamy
- 4.P.Shankar
- 5.P.Bhuvaneswaran
- 6.A.Natarajan
- 7.R.Karthikeyan

... Appellants

vs.

- 1.The State of Tamil Nadu
rep. by its Secretary,
Department of Environment and Forest,
St. George Fort,
Chennai - 14.
- 2.The Principal Chief Conservator of Forest,
Panagal Maaligai,
Chennai.
- 3.Sampantha Moorthy
- 4.S.Jayarajan
- 5.N.Ramachandran
- 6.J.Pandi
- 7.S.Udayar
- 8.C.Samikkannu
- 9.K.Nataraj
- 10.T.Pal Pandi
- 11.P.Sethu Narayanan
- 12.Antonysamy
- 13.S.Peter
- 14.P.Shanmugam
- 15.A.Tamilmaran
- 16.S.Robert Kennedy
- 17.K.Samikkannu
- 18.R.Kothandaraman
- 19.M.Subbaiah
- 20.Vetrivel
- 21.S.Arunkumar
- 22.P.Periasamy
- 23.K.Thirugnanasambantham
- 24.S.Anbumani
- 25.Swaminathan
- 26.Panneerselvam
- 27.S.Gnanasambantham
- 28.C.Sundarrajan
- 29.A.Rajendran
- 30.Selvam
- 31.Selventhiran
- 32.S.Saravanan

33.K.Sithurengan
34.R.Rajamanickam
35.C.Manickam
36.N.Ramasamy
37.C.Rajagopal
38.C.Balakrishnan
39.D.Jeyanthi
40.A.Manickam
41.O.Selvaraj
42.M.Ramadoss
43.V.Perumal
44.M.Subramanian

... Respondents

Writ Appeals filed under Clause 15 of the Letters Patent against the orders dated 04.03.2011, 04.03.2011, 04.03.2011 and 05.07.2017 passed by a learned Single Judge of this Court in W.P.Nos.22331/2009, 24275/2010 and 19697/2009 and WP.(MD) No.13015/2016 respectively.

WP.No.19697 of 2009:The Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in his proceeding N. AB2/33871/05 dated 05.08.2009 quash the same and consequently direct the 1st respondent to desist from making any further revision or alteration to the settled seniority position as provided in the state wide seniority list of forest Guards.

WP.No.22331 of 2009:The Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the 1st respondent dt 5.8.2009 in Proc. No.AB2/33871/2005 and quash the same and consequently forbear the 1st respondent from making any further revision or alteration to the settled seniority position as provided in the state wide seniority list of Forest Guards.

WP.No.24275 of 2010:The Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the 2nd respondent dt 21.8.2009 in Pa.A.No.79/2009. Pa.2 and quash the same.

WP.No.13015 of 2016:The Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the second respondents proceedings in Ref.No.AB1/32897/2015, dated 02.02.2016 and quash the same as illegal and further direct the respondents 1 and 2 to prepare a fair seniority panel for the Post of Forester.

WA.Nos.811, 812 and 877/2011

For Appellants : Mr.S.Vijayan, SC for
Mr.M.Ravi

For R1 : Mrs.Narmadha Sampath, AAG
in WA.811 & 877/2011 assisted by S.V.Vijayprashanth
For R1 & R2 in AGP (F)
WA.812/2011

For R2 to R26 : Mr.AR.L.Sundareshan, SC
in W.A.No.811 of 2011 for M.Siva Ayyappan
For R4 in WA.812/2011

For R3 in WA.No.812/2011 : Given up

For R31 to R34 : Mr.S.Sivakumar
in WA.877/2011

For R170 to 191 & 206 to 216
in WA.No.811/2011 : Mr.L.Chandrakumar

For R137 to 169 : Mr.S.Siva Sankar
in WA.No.811/2011

For R225 to 228 in : Mr.R.Singaravelan, SC for
WA.No.811/2011 Mr.M.R.Jothimanian

For R27 to 31 in : Given up
WA.No.811/11

For R32 to R85 : Mr.S.Anbazhagan,
in WA.No.811/2011 No appearance

For R86 to R136 : Mr.P.N.Swaminathan
in WA.No.811/2011 No appearance

For R192 to R205 : Mr.S.Mani
in WA.No.811/2011 No appearance

For R217 to R224 : Mr.G.Thalamutharasu
in WA.No.811/2011 No appearance

WA (MD) No.1151/2017

For Appellants : Mr.M.C.Swamy,
No appearance

For R1 & R2 : Mrs.Narmadha Sampath,AAG
assisted by S.V.Vijayprashanth
AGP (F)

For R3, 22, 24, 25, 27
28, 30, 31,32, 34, 35, 36
37, 41, 42, 43 & 44 : Mrs.Selvi George

For R21 : M/s.C.M.Arumugam
M/s.A.Rajamohamed

Notice served
No Appearance :RR 6,7,8,9,10,11,12,14,
16,17,18,23,29,33,38, 39

Not Ready Notice :RR5, 13, 15, 19, 26, 40

For R4 & R19 : Mr.R.Sundar

For R22 : Mr.M.Venkatesan (Caveator)
No appearance

For R20 : Mr.M.Muthugeethayan
No appearance

.....
COMMON JUDGMENT

(Common Judgment of the Court was made by
HULUVADI G. RAMESH, J.)

The issue involved in all these writ appeals is with regard to the fixation of inter-se seniority between the direct recruits and the promotees of the Forest Guard fit for promotion to the post of Foresters. To be precise, the direct recruits are the persons, who were directly appointed to the post of Forest Guards by direct recruitment, whereas, the promotees are the persons, who were initially appointed as Plot Watchers/Village Social Forestry Workers on daily wage basis and subsequently, their services were regularised in the cadre post of Forest Watchers and have been given promotion temporarily to the post of Forest Guards. Hence, all the writ appeals are considered together and are disposed of, by this common judgment.

2.The unsuccessful writ petitioners are the appellants herein. W.A.Nos.811, 812 and 877 of 2011 are directed against the order dated 04.03.2011 passed by a learned Single Judge in

WP.Nos. 22331/2009, 24275/2010 and 19697/2009, whereas, WP.(MD). No.1151 of 2017, which originally filed before the Madurai Bench was subsequently transferred to the Principal Seat at Madras, to be tried along with the aforesaid writ appeals, is directed against the order dated 05.07.2017 passed by another learned Single Judge in WP.(MD) No.13015 of 2016. By the orders impugned herein, both the sets of writ petitions were dismissed.

3.The facts of the case in WA Nos.811, 812 and 877 of 2011 are that some of the appellants were initially appointed as Mazdoor in 1980, later regularly appointed as Forest Watchers during 1990 and subsequently, promoted as Forest Guards during 1999, while some other appellants were initially appointed as Forest Watchers and later promoted as Forest Guards on 22.09.1999 and 18.07.2003 respectively. Further, some of the appellants were directly recruited as Forest Guards on various dates in the years 1998 and 2000. According to the appellants, they are all qualified and are eligible for promotion and are likely to be empaneled for promotion. However, without affording any opportunity of hearing to the appellants, the Principal Chief Conservator of Forests, Chennai passed an order dated 5.8.2009, whereby, the seniority of 24 Forest Guards have been altered and they have been placed above the appellants and various other similarly placed Forest Guards. Subsequently, the District Forest officer, Kodaikanal, Dindigul District passed an order dated 21.08.2009 fixing the key date for seniority fit for promotion to the post of Foresters as 16.09.1998. Feeling aggrieved, the appellants filed W.P.Nos.22331/2009, 24275/2010 and 19697/2009, which were dismissed by the order dated 04.03.2011. Hence, the present writ appeals.

4.The facts of the case in WA.(MD)No.1151 of 2017 are that the appellants were appointed as Forest Guards by direct recruitment through employment exchange in the year 2008. According to them, some of the persons, who were absorbed in 2008 and 2009 as Forest Watchers and were subsequently, promoted as Forest Guards only in 2011, 2012 and 2013 and so on, were placed above the appellants in the seniority list fit for promotion to the post of Foresters prepared by the authority concerned. As per G.O.Ms.No.76, Environment and Forests (PR2) Department, Dated 10.07.2014, the persons, who have worked as Forest Guards for minimum 8 years satisfactory service only, are eligible to promote as Foresters. Contrary to the same, the third respondent and respondents 20 to 44, who have not completed the 8 years of actual satisfactory service, have been included in the seniority list, by the proceedings dated 2.2.2016 issued by the Principal Chief Conservator of Forests, Chennai. Hence, the appellants filed WP.No.13015/2016, which was dismissed, by the order dated 5.7.2017. Hence, this writ appeal.

5.We have heard the rival submissions and perused the materials placed before us.

6.It appears from the records that vide G.O.Ms.No.172, Environment and Forests Department, dated 8.3.1991, One Unit System was introduced for promotion of Forest Watchers as Forest Guards in the Forest Department, which came into force with effect from 06.04.1992. Subsequently, the Government issued G.O.Ms.No.332, Environment and Forest Department, Dated 22.12.1994, prescribing the educational qualification as SSLC for absorbing the daily wage workers as "Plot Watchers" and "Social Forest Workers". The records further proceed to state that those who did not possess SSLC qualification, approached the Tribunal by filing O.A.No.197 of 1995. Pursuant to the order of the Tribunal, G.O.Ms.No.64, Environment and Forest (F2) Department, Dated 08.03.1999 came to be passed, relaxing the educational qualification from SSLC to that of read and write in Tamil. While so, the Government issued G.O.Ms.No.145, Environment and Forest (FR.II) Department, Dated 10.05.1995, revising the existing ratio for appointment/promotion to the post of Forest Guards, as follows:

- (i) Direct Recruitment : 60%
- (ii) Promotion : 35%
- (iii) Transfer from the members of
Tamil Nadu Basic Service in Forest: 5%
Department

The Government also issued G.O.Ms.No.95, Environment and Forests (FR-II) Department, Dated 7.8.2009, granting time scale of pay to those persons, who have been working as Forest Workers/Plot Watchers.

7.Admittedly, no seniority panel was drawn from 1992 to 2002 and no regular promotion was given till 2002. On earlier occasions, some of the respondents have filed WP.Nos.12604/2005, 41408/2005, 17229/2007 and 17230/2007, which, by order dated 03.01.2008, were disposed of directing the official respondents to consider the representation of the petitioners dated 30.08.2003 as well as the fresh representations to be made by them after giving due opportunity of personal hearing to all the parties and pass orders on merits and in accordance with law. Further, a Review Application No.32 of 2008 was filed by one V.Venkatesan and others and the same was disposed of, by order dated 27.06.2008, directing the official respondents to consider the representation in the light of the Government Orders.

8.The Government has constituted a Committee headed by the Joint Director along with two other members for ascertaining the possibilities of implementation of the orders passed by this Court in W.P.Nos.12604 of 2005, 41408 of 2005, 17229 of 2007 and 17230 of 2007 dated 3.1.2008 and in Review Application No.32 of 2008 dated 27.6.2008 and to consolidate the seniority list of

Forest Guards as on 1.1.2009. Thereafter, the Principal Chief Conservator of Forests, Chennai, passed the order dated 05.08.2009 revising the seniority of 24 persons in the seniority list of Forest Guards placing them above the appellants and several others, who were directly recruited as Forest Guards and regularly promoted as Forest Guards. Subsequently, the second respondent passed an order dated 21.08.2009, whereby, one Sethuraman, whose date of promotion was fixed as 16.09.1998 as the key date and was given regularization with effect from 16.09.1998. Challenging those two orders, WP.Nos.22331/2009, 24275/2010 and 19697/2009 came to be filed by the appellants and the same were dismissed by the learned Single Judge, by the order dated 4.3.2011, against which, WA.Nos.811, 812 and 877/2011 came to be filed by the appellants. Thereafter, the Principal Chief Conservator of Forests, Chennai has passed the order dated 02.02.2016, preparing a list of Forest Guards with driving licence, Members of Tamil Nadu Ministerial Service and Assistant Draughtsman in the Forest Department fit for promotion to the post of Foresters for the years 2013-14, 2014-15 and 2015-16, who are qualified upto 15.08.2015, against which, WP. (MD)No.13015 of 2016 came to be filed by the direct recruits of the year 2008. The learned Single Judge dismissed the said writ petition, by the order dated 5.7.2017, against which, W.A(MD). No.1151/2017 came to be filed.

9.It is the main contention of the appellants in WA.Nos.811, 812 and 877/2011 that without providing any opportunity to them, the authorities have passed the orders, revising the seniority of 24 Forest Guards and fixing the key date for determining the seniority fit for promotion to the post of Foresters as 16.09.1998, due to which, the seniority of the appellants was affected and hence, the same are arbitrary, unfair and against the principles of natural justice, whereas, the official respondents stated that the said Sethuraman joined as Forest Guard with effect from 16.9.1998, whereas, the appellants were appointed as Forest Guards during 1998-2000 and hence, the authority has taken into consideration the date 16.09.1998 as the key date for determination of the issue involved herein.

10.It is the contention of the appellants in WA(MD) No.1151/2017 before the learned Single Judge that the official respondents did not issue the seniority list of Forest Guards for the past 10 years and only as per the directions of this Court, they prepared the draft seniority list with so many anomalies by including several ineligible persons, who are not entitled for promotion to the post of Foresters. The same has been seriously refuted by the learned counsel for the official respondents, stating that prior to the implementation of One Unit System, the panels were prepared for the post of Forest Guards in the circle level according to their Circle seniority

in the post of Forest watchers etc. Therefore, according to Rule 35(aa) of the Tamil Nadu State and Subordinate Services Rules, the date of joining in the post of Forest Guards has to be taken up for fixing inter-se seniority in the post of Forest Guards. The learned counsel for the official respondents further submitted that the subordinates in the Forest Department, i.e., Forest Watcher, Forest Guard, Forester and Forest Range Officer, play an important role in the protection and management of forests and wildlife in the State; their promotions, seniority and service conditions are governed by appropriate rules and regulations in force and are being followed scrupulously; the post of Forester in the department carries unique duties and responsibilities; and the fixation of inter-se seniority among the Forest Guards and resultant promotion to the post of Foresters from the post of Forest Guards have been meddled with by various orders of the Tribunal as well as this Court, which has resulted in undesirable consequences.

11. By the orders impugned herein, both the learned Single Judges dismissed the batch of writ petitions, confirming the orders passed by the authorities concerned. Hence, the present two sets of writ appeals before this Court.

12. On 08.11.2017, when the matter was taken up for consideration, this Court directed the official respondents to draw a provisional seniority list with regard to inter-se seniority between the direct recruits and the promotees of Forest Guards, according to their date of appointment and their date of regularisation respectively and circulate a copy of the same to the persons empanelled in such seniority list, so as to enable them to file their objections, if any. Thereafter, the official respondents was directed to draw a final seniority list for promotion to the post of Foresters. It was made clear that while preparing such inter-se seniority list, the official respondents should take into account the ineligibility of promotees or direct recruits, who suffered punishment or subjected to disciplinary proceedings etc.

13. Accordingly, the Principal Chief Conservator of Forests, Chennai has prepared the provisional inter-se seniority list of Forest Guard/Forest Guard with driving licence as on 1.11.2017, to which, the appellants have filed their respective objections, inter alia, stating that the promotees have been placed above the appellants, who have all been bunched together. The respondents 225 to 228 in WA.No.811 of 2011 have also filed their objections to the seniority list prepared by the official respondents, stating that they are the direct recruits between the years 2009 and 2011 and they wanted to fix the seniority based on the date of entry/appointment into the post of Forest Guards. All the appellants and the respondents 225 to 228 stated

that the authority has not followed the prescribed rules and the Government Order in force, due to which, the promotees, who have subsequently, been promoted as Forest Guards, have been placed above the direct recruits.

14.It is well settled law that the appointment and promotion must be in accordance with the Rules; direct recruits takes the seniority from the date on which they start discharging the duties of the post borne for the cadre, while temporary appointee appointed on ad hoc Rules or on consolidated basis get seniority from the date of regular appointment. [Refer: 1995 (Suppl) 1 SCC 572 (V.Srinivasan v. Government of Andhra Pradesh)].

15.During the course of arguments, the learned Senior Counsel for the appellants produced a chart with regard to appointment of Forest Guards for the year 1995 to 2001 by way of direct recruitment, promotion and transfer, which reads as follows:

Year	Direct recruitment Percentage	Promotion Percentage	Transfer Percentage
1995	1.72%	98.28%	
1996	6.57%	92.10%	1.31%
1997	82.79%	16.66%	
1998	32.43%	64.86%	
1999	11.11%	88.88%	
2000	56.70%	43.29%	
2001	29%	71%	

Further, the learned Additional Advocate General submitted a chart disclosing the details of appointment of Forest Guards from 2008-09 to 2016-17, which is extracted hereunder:

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As per ratio (No. of post)			As per working strength (No. of Post)			Short fall (No. of post)		
Direct (60%)	Promotion (35%)	Transfer (5%)	Direct	Promotion	Transfer	Direct	Promotion	Transfer
1472	859	123	424	1147	20	-1048	+228	-103

The above two charts would clearly show that the authority concerned has not strictly followed the principle of rota-quota with regard to the appointment of the Forest Guards. It is pertinent to point out here that the Tamil Nadu Forest Subordinate Services Rules prescribes the method of recruitment and qualification for the post of Forest Guards. Further, the post of Forest Guards shall be filled up in three modes viz., by (i) direct recruitment; (ii) promotion from among the Forest Watcher; and (iii) transfer from the Ministerial of service of the respondent department in the ratio of 60 : 35 : 5. Contrary to the same, notional promotion was given to the Plot Watchers/Social Forestry Workers. As such, this Court comes to an irresistible conclusion that there is no strict adherence of the rota-quota rule with regard to the appointment of the Forest Guards, on the part of the official respondents.

16. Secondly, it is an admitted fact that there was no proper seniority list drawn among the Forest Guards for further promotion of Foresters. The direct recruits as well as the promotees to the post of Forest Guards expressed their different grievances with regard to the inter-se seniority list drafted by the official respondents on the ground that they have been placed below their juniors, who have subsequently, been promoted to the post of Forest Guards.

17. This Court is of the opinion that the inter-se seniority between the direct recruits and the promotees has to be worked out on a year-to-year basis, applying the ratio provided under the Government Order and the same has to be determined only from the respective dates on which their respective quota became available in a particular year. This Court is of the further opinion that as and when the direct recruitment was made, the direct recruits would be entitled to placement of their seniority to the vacancies reserved for them as per the ratio. Similarly, where the promotees came to be promoted in accordance with the rules in excess of their quota, they could not be given seniority, but should be given seniority only from the respective dates, on which vacancies in their quota were available. As regards the ad hoc/stop gap

appointment, it would not entitle an individual to the benefit of seniority from the date of such ad hoc/stop gap appointment, inasmuch as such service not being according to the rules; the period of officiation could not be taken into account for seniority; and the continuous length of ad hoc service could not be so counted.

18.As the quota rule was directly inter-related with the seniority rule and once the quota rule is given up, the seniority rule became wholly otiose and ineffective. In other words, where the quota rule is linked with the seniority rule, if the first rule breaks down or is legally not adhered to, giving effect to the second rule would be unjust, inequitable and improper.

19.That apart, it may be pertinent to mention here that steps for appointment of direct recruits were actually taken by the Government many a year before their appointment actually took place, but the appointments came in place only after considerable delay. Though as per law, the direct recruits cannot be faulted with for the delay caused in their appointments, it must be borne in mind that the delay in their appointments should not place them in a disadvantageous position. It is not out of place to state here that the delay that occasioned in the appointment was only qua direct recruits and not qua promotee officers.

20.Further, once a person is appointed or promoted as Forest Guard according to rule, his seniority has to be counted from the date of his appointment. The corollary of the above rule is that where such appointment is only ad hoc and not according to rules and made only as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.

21.In the present case, on the basis of the orders passed by the Tribunal as well as this Court, temporary promotion was given to the Plot Watchers/Social Forestry Workers, who were absorbed in the cadre of Forest Watchers, to the post of Forest Guards, without looking into the consequences of the rota-quota rule, which created anomaly between two classes viz., promotees and direct recruits of the Forest Guards. The rota-quota rule based on seniority has to be maintained in the matter of promotion among the persons whose services were regularised in the cadre of Plot Watchers and Social Forestry Workers. After regularisation from the temporary post, their turn comes for promotion to the post of Forest Guards as per the ratio in force. However, what is to be noticed in the process of promotion to the post of Forest Guards is that ratio has not

been followed. The promotees who are ineligible, have enjoyed the benefit of promotion to the post of Forest Guards, which, in our opinion, is against the rota-quota rule. Hence, such promotion can be treated as ad hoc promotion and they should be reverted back and given promotion, in accordance with the rota-quota rule.

22. In such view of the matter, this Court has no incertitude in holding that there is violation of the rota-quota rule, which created greater anomalies in the cadre of Forest Guards between the direct recruits and promotees. To rectify the same, the matter is remanded to the Committee constituted for the purpose of determining the seniority of Forest Guards for fresh consideration.

23. Accordingly, this Court issues the following directions:

(i) The appellants as well as the private respondents before this Court shall submit a detailed representation within a period of one month from the date of receipt a copy of this judgment and appear before the Committee either in person or through their respective counsel, to explain their seniority position, so as to enable the Committee to draft the fresh seniority list of the Forest Guards fit for promotion to the post of Foresters.

(ii) The Committee shall consider the representation of the parties and prepare the seniority list of the Forest Guards fit for promotion to the post of Foresters, on merits and in accordance with the relevant rules and Government Orders and applying the rota-quota rule and pass orders, within a period of six months from the date of receipt of a copy of this judgment.

(iii) The Committee shall determine the seniority of the Forest Guards from the date of appointment in the case of direct recruits and from the date of regularization, in the case of promotees. While doing so, the Committee shall follow the principles of natural justice, good conscience and equity.

(iv) With regard to the issue relating to regularisation of the Forest Watchers, the Committee shall act in accordance with the directions issued in G.O.Ms.No.95, Environment and Forests (FR-2) Department, dated 07.08.2009.

(v) The Committee shall not count the service rendered by the promotees, on account of ad hoc promotion, while determining the seniority.

24.All the writ appeals stand disposed of, as indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar (CSIV)

True Copy

Sub-Assistant Registrar

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To

1.The Principal Chief Conservator of Forests
and head of Forest Force
Saidapet, Chennai -15.

2.The District Forest Officer,
Kodaikanal, Dindigul District.

3.The Secretary
Department of Environment and Forest St.George Fort,
Chennai-9

4.The Sub Assistant Registrar
Madurai bench of Madras High Court, Madurai

+1 cc to Mr.M.R.Jothimanan Advocate sr 29246
+1 cc to Mr.M.Ravi Advocate sr 29002
+1 cc to Mr.C.M.Arumugam Advocate sr 28743
+1 cc to Mr.L.Chandrakumar Advocate sr 28944
+1 cc to Mrs.Lesi Saravanan Advocate sr 30086
+1 cc to the Special Government Pleader(F) sr 28648
+2 ccs to M/s.R.Sundar Advocate sr 35233
+1 cc to M/s. Selvi George Advocate sr 28583 dt 14/06/2018

W.A.Nos.811, 812, and 877 of 2011
and WA (MD) No.1151 of 2017

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