

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

WP.No.34074 of 2017
and
WMP.Nos.37814 & 37815 of 2017
and
WMP.No.3736 of 2018

M.Subramani

...Petitioner

Vs.

1. Government of Tamil Nadu,
Represented by Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai-600 009.

2.The Principal Chief Conservator of Forest,
Head of the Department,
Panagal Maligai,
Saidapet, Chennai - 600 015.

3.V.Saravana Kumar
4.P.Senthil
5.L.Kamalasanan
6.S.M.Sasikumar
7.P.Arunkumar

(R3 to R7 are impleaded as per order
dated 30.01.2018 by TRJ in
WMP.No.2484/2018 in WP.No.34074 of 2017).

8.C.Kalyani,
S/o.Chennavelai,
Forester,
Varthanadu Soil
Conservation of Forest Range,
Theni District.

9.G.Ram Kumar,
S/o.Gopala Krishnan,
Forester,
Kodaikanal,
Wild Life Disivion,
Perupallam Range, Dindigal District.

10.S.Ethiraj,
S/o.Sangaiah,
Forester,
Periyakulam Range, Theni District.

11.S.Jaya Singh,
S/o.Sakthivel, Forester,
Bodi Range,
Theni District.

12.V.Venkatesan,
Forester,
Uthamapalyam Range,
Theni District.

13.I.Senthil Kumar,
S/o.Irulandi,
Madurai Social Forest Division,
Madurai.

14.P.Liyakath Ali Khan,
A/o.Papehkahan Sahib,
Forest,
Sivagangai, Social Forest Division,
Sivagangai.

15.S.Balakrishnan,
S/o.Sellam, Forester,
Uthamapalayam Range,
Theni District.

16.K.Murugesan,
S/o.Kandiah,
Forester,
Kodaikanal Wild Life Division,
Dindigul District.

- 17.V.Pithaimani,
S/o.K.Velu,
Forester,
Madurai Research Range,
Agro Forestry Research Division,
Madurai.
- 18.S.Krishnamoorthy,
S/o.Sannasi, Forester Usilampatty Range,
Madurai Division.
- 19.M.Raju,
S/o.Muniyandy, Forester,
Cumbum West Range, Cumbum.
- 20.P.Murugadoss,
S/o.K.Pandian,
Forester, Forest Range Office,
Cumbum West Range, Cumbum.
- 21.M.Sivalingam,
S/o.E.Muthuthevar, Forester,
Forest Range Office, Cumbum.
- 22.R.Selvam,
S/o.P.Rajagopal, Chollavanthan Range,
Vandipatti, Madurai Circle.
- 23.S.Kamu, S/o.Semban,
Thani Varuthanadu Soil Conservation
Division, Theni.
- 24.M.Jaffar,
S/o.P.Munavarsha, Kodaikanal Range,
Dindigul Circle.
- 25.A.Arunachala Boopathi,
S/o.A.Sivagurunathan,
Chinnamanur Varuthanadu Soil
Conservation Division, Theni.
- 26.R.Suresh,
S/o.Ravi,
Ayyanur Forest Range,
Dindigul.
- ... Respondents

(R.8 to R.26 are imp leaded as per order dt.16.04.2018
by SMSJ in Wmp No.2287 of 2018 in w.P.No.34074/2017).

PRAYER

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records on the file of the second respondent herein in Ref.No.B2/13547/2016 dated 30.11.2017 quash the same to the limited extent of prescribing 6 years of regular service in the post of Forester as on 15.08.2017 and consequently direct the respondents to relax the rules 5(iii) of Special Rules of Tamil Nadu Forest Subordinate Service by reducing the qualifying service from 8 years to 5 year as made in respect of promotion to the post of Forest Rangers for the year 2015-2016 in proc.No.B2/35145/2015 dated 12.08.2016 by the second respondent.

For Petitioner : M/s.T.Dharani

For R1 & R2 : Mr.S.V.Vijay Prashanth,
Additional Government Pleader
(Forests)

For R3 to R7 : Mr.L.Chandrakumar

ORDER

The relief sought for in this writ petition is to call for the records with reference to the proceedings of the second respondent dated 30.11.2017 quash the same to the limited extent of prescribing 6 years of regular service in the post of Forester as on 15.08.2017 and consequently direct the respondents to relax the rules 5(iii) of Special Rules of Tamil Nadu Forest Subordinate Service by reducing the qualifying service from 8 years to 5 year as made in respect of promotion to the post of Forest Rangers for the year 2015-2016 by the second respondent.

2.The writ petitioner was appointed as Forest Guard through employment exchange on 22.10.2000. The petitioner was not promoted to the post of Forester on 21.12.2011 and the next avenue for promotion is to the post of Forest Ranger. Even the promotion to the post of Forester was granted subject to the final outcome of the writ appeals filed in the matter of promotion by the writ petitioner. The recruitment Rules for appointment of Forest Ranger by way of promotion stipulates that the employee should have served as a Forester for a period of not less than 8 years, and therefore, the petitioner is constrained to move the present writ petition seeking relaxation of the conditions stipulated in the recruitment Rules.

3.The main ground raised in this writ petition is that during the earlier Panel issued in the year 2015-2016, the second respondent has granted relaxation of the qualifying service from 8 years to 5 years, and therefore, the same benefit is to be extended to the writ petitioner for promotion to the post of Forest Ranger. Relying on the earlier relaxation granted for the Panel of the year 2015-2016, the writ petitioner claims that the same benefit of relaxation to be extended to him.

4.The learned Additional Government Pleader appearing on behalf of the Department states that during the earlier promotion there were dearth of qualified candidates and on that ground, the relaxation was granted. This apart, during the year 2015-2016, there was a large number of vacancies and in order to run the Administration smoothly, promotions were provided by granting relaxation of Rules. However, during the current year, there are many qualified candidates are available, and therefore, the same benefit cannot be extended. This apart, it is contended that presently, the experience in the post of Forester is reduced from 8 years to 6 years and therefore, further concession of 5 years cannot be granted, so as to sue the writ petitioner for promotion.

5.The learned counsel appearing on behalf of the contesting respondents also submitted that the respondents are fully qualified for promotion to the post of Forest Ranger and having all requisite qualifications as prescribed under the recruitment Rules in force. Therefore, by granting relaxation to the writ petitioner, the right of promotion to the eligible and qualified persons cannot be denied. This apart, the relaxation can never be granted as a matter of right, and therefore, the writ petition is liable to be rejected. This apart, the challenge made is only a circular issued inviting the proposals from the Competent Authorities in respect of the eligible candidates qualified for promotions. Therefore, the writ petitioner has not established any cause of action for considering the relief as such sought for in this writ petition.

6.This Court is of an opinion that the order challenged is proceedings dated 30.11.2017 is nothing but instructions issued to the authorities calling particulars of all the qualified Foresters as on 15.08.2017, and therefore, a Panel has to be finalised as per the notification. Therefore, the present writ petition is premature and cannot be entertained. Even at this point of time, the writ petitioner has an opportunity to submit his representations to the Competent Authorities. This apart, the instructions issued calling for the particulars of the eligible candidates cannot constitute a cause of action for the purpose of moving a writ petition. Therefore, the challenge made in this writ petition itself is untenable. The procedures

contemplated for promotion is that after calling the names of all the eligible candidates, then the Authorities Competent has to consider the eligible candidates and publish an approved Panel, and thereafter, grant promotion in accordance with the Rules. This being the procedures to be followed, the present writ petition filed challenging the mere instructions issued by the respondents calling particulars of the eligible candidates cannot be entertained. The writ petition is not only premature, the writ petitioner has not established any cause of action for the purpose of moving the present writ petition.

7.The second limb of the prayer sought for is to grant relaxation in favour of the writ petitioner in respect of the service experience. The service experience of eight years prescribed in the Rules are proposed to be reduced as six years on the ground of administrative exigencies. Thus, further concession of relaxation can never be claimed as a matter of right. Rule of relaxation is an exception, and can never be followed in a routine matter. The power of relaxation cannot be exercised to grant benefit to a person. The relaxation is to be granted only to mitigate the injustice if occurred, while taking administrative decisions. Therefore, relaxation can never be claimed as a matter of right. The Authorities Competent also not empowered to grant relaxation in a routine manner so as to grant promotion to a person or a class of persons. This being the principles to be followed. This Court is of an opinion that the writ petitioner has not made out any ground for considering the relief as such sought for in this writ petition.

8.Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KP/Lok

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To

1. Government of Tamil Nadu,
Represented by Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai-600 009.

2.The Principal Chief Conservator of Forest,
Head of the Department,
Panagal Maligai,
Saidapet, Chennai - 600 015.

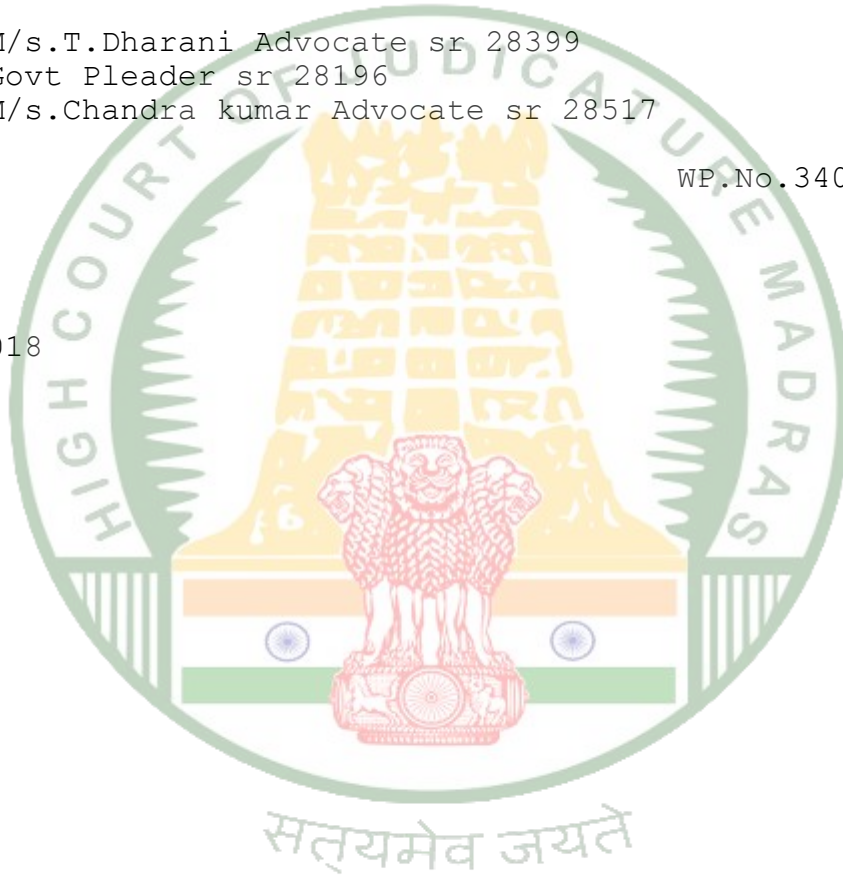
+1 cc to M/s.T.Dharani Advocate sr 28399

+1 cc to Govt Pleader sr 28196

+1 cc to M/s.Chandra kumar Advocate sr 28517

WP.No.34074 of 2017

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