

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.41999 of 2006

K.Sengodan

... Petitioner

Vs.

- 1.Government of Tamil Nadu rep.,
by Secretary to Government,
Environment and Forests Department,
Fort St.George,
Chennai - 600 009.
 - 2.The Principal Chief Conservator of Forests,
Panagal Buildings,
Chennai - 600 015.
 - 3.The Chief Conservator of Forests,
[Forest Administration],
O/o.The Principal Chief Conservator of Forests,
Panagal Buildings,
Chennai - 600 015.
 - 4.The Conservator of Forests,
Vellore Circle,
Vellore.
- Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the fourth respondent in Pro.No.B2/10121/98 dated 24.9.1998, quash the same and issue consequential directions to the first respondent to include the name of the petitioner in the panel for the year 2006-2007 for promotion as Assistant Conservator of Forests, without reference to the punishment ordered in Pro.No.B2/10121/98 dated 24.9.1998 of the fourth respondent.

For Petitioner : Mrs.Akshaya Shankar
For Respondents : Mr.K.K.Ramesh

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the order of the fourth respondent in

Pro.No.B2/10121/98 dated 24.09.1998, to quash the same and to issue consequential directions to the first respondent to include the name of the petitioner in the panel for the year 2006-2007 for promotion as Assistant Conservator of Forests, without reference to the punishment ordered in Pro.No.B2/10121/98 dated 24.09.1998 of the fourth respondent.

2.The case of the petitioner is that the petitioner joined the service as Forest Ranger on 01.11.1981 and that he is fully qualified for promotion as Assistant Conservator of Forests and his name was also found at Sl.No.39 in the proposal for inclusion of names in the panel for the year 2006-2007. However, he was not promoted as Assistant Conservator of Forests.

3.It is the further case of the petitioner that the District Forest Officer, Dharmapuri, issued a show cause notice under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules alleging failure to submit the measurement books and other documents relating to the development works at Hognakkal during the period from June, 1995 to February, 1996 while he was serving as Forest Ranger, Pennagaram Range and further alleging that cheques to the tune of Rs.1.66 Lakhs were disbursed to him for the said works.

4.It is the further case of the petitioner that the Conservator of Forests, Vellore Circle, Vellore vide order dated 24.09.1998 passed final order for recovery of the entire sum of Rs.1.66 Lakhs from the petitioner's pay in 83 monthly instalments. As against the same, the petitioner preferred appeal before the third respondent. However, during the pendency of the appeal, the order of recovery was implemented. Hence the petitioner preferred revision petition to the second respondent on 22.09.2006 seeking to set aside the order of recovery and to consider his claim for promotion as Assistant Conservator of Forests. Since no action was taken, the petitioner has come forward with this writ petition.

5.The learned counsel appearing for the petitioner would submit that though the petitioner filed appeal against the order of recovery, before a decision was taken on the appeal, the petitioner's promotion was deferred and it is unsustainable. If the appeal is disposed of, the petitioner may get a chance for promotion. The learned counsel further requests this Court to issue a direction to the respondents to consider the petitioner for promotion to the post of Assistant Conservator of Forests. Accordingly, he prayed for allowing the writ petition.

6.The respondents have filed a counter stating that the

petitioner was recruited as Forest Apprentice in the year 1980 under the Tamil Nadu Forest Sub-ordinate Service and was sent for training in Southern Forest Ranger College, Coimbatore and on completion of training was appointed as Ranger on 01.11.1981.

7.As per the counter, the next avenue of promotion from the post of Ranger in the Tamil Nadu Forest Sub-ordinate Service is appointment to the post of Assistant Conservator of Forests by recruitment by transfer. The eligibility criteria for the post of Assistant

Conservator of Forests as per Special Rules for the Tamil Nadu Forest Service are as follows:

(i)completion of 8 year of service in the post of Ranger;
(ii)passed the departmental test of Account Test for Executive Officer and Forest Revenue;
(iii)completed discipline of service in various disciplines for four years.

8.The counter further states that in addition to the above, as per the provisions of the guidelines for preparation of panel issued in G.O.Ms.No.368, Personnel and Administrative Reforms Department, dated 18.10.1993 read with Government letter Ms.No.248, Personnel and Administrative Reforms (S) Department, dated 20.10.1997 the individual should be free from 17(b) charges; Tribunal for disciplinary proceedings cases; currency of punishment; criminal cases etc.

9.The counter further states that the petitioner is one of the person who comes under the zone of consideration for the panel of Ranger fit for appointment as Assistant Conservator of Forests by recruitment by transfer for the year 2006-2007, for which, the crucial date is 15.08.2005. While considering the petitioner's name for the above panel, it was noticed that recovery order has been inflicted against him. The said punishment was pending currency against the Ranger on the crucial date. Hence, the petitioner is not eligible for appointment to the post of Assistant Conservator of Forests.

10.The learned counsel appearing for the respondents would submit that in view of the above facts, the petitioner was not considered for the next level of promotion. Unless the punishment imposed on the petitioner is set aside in the manner known to law, the petitioner is not entitled for any promotion. Accordingly, he prayed for dismissal of the writ petition.

11.I have considered the rival submissions made on either side and perused the materials available on record.

12.In view of the above facts, this Court is of the view that the petitioner's claim for promotion as Assistant Conservator of Forests could be considered only after the disposal of the appeal preferred by the petitioner before the third respondent. Hence, this Court directs the third respondent to dispose of the appeal preferred by the petitioner, if not already disposed, within a period of four weeks from the date of receipt of a copy of this order.

13.The writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

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To

- 1.Government of Tamil Nadu rep.,
by Secretary to Government,
Environment and Forests Department,
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Chennai - 600 015.
- 4.The Conservator of Forests,
Vellore Circle, Vellore.

+1cc to Special Government Pleader (Taxes)SR.No.38827

W.P.No.41999 of 2006

GN(02/07/2018)