



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

WEB COPY

W.P. (MD) No. 3858 of 2013

D. Munvar Sheriff

.. Petitioner

Vs.

1. The Secretary,
Forests and Environment Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Principal Chief Conservator of Forest,
No.1, Jennis Road,
Panagal Maaligai,
Saidapet,
Chennai - 600 015.
3. The District Forest Officer,
Thanjavur Forest Division,
Vallam,
Thanjavur District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of CERTIORARIFIED MANDAMUS, calling for the records pertaining to the order of the second respondent dated 21.02.2013 in Na.Ka.No.Na.2/50916/2012, quash the same and consequently, direct the 2nd respondent to pass orders to sanction the pension by giving notional promotion in the cadre of Forest Range Officer and further direct the 3rd respondent to grant all the service benefits to the petitioner within a stipulated time limit.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.R.Sethuraman,
Special Government Pleader

ORDER

The petitioner has come forward questioning the order dated 21.02.2013, stating that the petitioner is entitled to be promoted as Forest Range Officer and that the promotion shall be given notionally and all the benefits accrued therefrom has to be paid for the petitioner within a stipulated time limit.



2. The learned Counsel for the petitioner would submit that the petitioner was appointed as Office Assistant under the third respondent on 07.06.1971 and as such, the petitioner has rendered unblemished service. According to the petitioner, the minimum eligibility for promotion as Junior Assistant is that, a candidate should possess ten years of service in the cadre of Office Assistant and thereafter, on completion of five years in the cadre of Junior Assistant, he would be entitled to be promoted as Forester and after completion of ten years in the cadre of Forester, he will be entitled to be promoted as Forest Range Officer. As the petitioner is eligible for such promotion, he has made several representations seeking promotion, however, his request was not considered. Only after the directions of this Court, the representation of the petitioner was considered, but, the same was rejected by way of the impugned order. Aggrieved over the same, the petitioner is before this Court.

3. According to the petitioner, one Nagarajan, who is not a degree holder, was given promotion as Forest Range Officer from the cadre of Forester. Therefore, the respondents ought to have considered the case of the petitioner, instead of dismissing his plea and therefore, the learned Counsel for the petitioner prayed for allowing the present writ petition.

4. The learned Special Government Pleader, on instructions, would submit that the petitioner is not at all eligible for promotion, in the absence of service rules. That apart, the petitioner has completed 9th standard at the time of joining service and it is stated by the petitioner that he has qualified M.A. Degree, in Annamalai University, in Distance Education mode in the year 1995. The petitioner has not completed M.A. in regular mode, i.e., 10+2+3 and in one stroke, he has completed M.A. and sought promotion, stating that he has got qualification. Therefore, the respondents have rightly rejected the petitioner's plea.

5. Heard the learned Counsel on either side and perused the documents placed on record.

6. Though, the respondents, in their counter affidavit, have stated that the petitioner has not followed the correct method of acquiring qualification, namely, 10+2+3, in the impugned order, the respondents have categorically stated that in the absence of rules or Government Orders, the petitioner's request cannot be acceded to. The petitioner has also not produced any evidence to show that as per the Service Rules, he is entitled to be promoted and therefore, the reason for rejection as stated by the respondents in the impugned order, cannot be interfered with.



7. The other submission put forth by the respondents, that the petitioner has completed M.A. in one stroke, without following 10+2+3, has not been averred in the impugned order and therefore, the said contention is rejected. It is a settled law that the impugned order cannot be improved by means of a counter affidavit.

8. In result, this writ petition is dismissed and the rejection order dated 21.02.2013 stands confirmed. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

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GK

VB/PM/SAR4/28.11.2018/3P/4C

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