

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.2283, 2287 and 2290 of 2019

C.Kaliyamurthy ... Petitioner
(in W.P.No.2283 of 2019)

K.Muthusamy ... Petitioner
(in W.P.No.2287 of 2019)

K.Bakthavachalu ... Petitioner
(in W.P.No.2290 of 2019)

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department,
Fort St.George,
Chennai - 9.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai - 15. ... Respondents 1 &2
(in all W.Ps)
3. The District Forest Officer,
Salem Forest Division,
Salem - 7. ... 3rd Respondent
(in W.P.No.2283 of 2019)
3. The District Forest Officer,
Villupuram Forest Division,
Villupuram. ... 3rd Respondent
(in W.P.No.2287 of 2019)
3. The Wild Life Warden,
Guindy National Park,
Chennai - 22. ... 3rd Respondent
(in W.P.No.2290 of 2019)

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, directing the respondents to appoint the petitioner as Mali with effect from the date of their juniors promotion on 24.01.1995 as Forest Watcher by considering his representation in the light of the order passed in W.P.No.9708 of 2014 dated 12.09.2014, W.A.No.1703 of 2014 dated 20.01.2015, SLP(Civil).No.12056 of 2015 dated 05.07.2016, Cont.P.No.679 of 2015 dated 19.10.2016 and with all consequential benefits.

For Petitioners : M/s.K.Jenitha
(in all W.Ps)

For Respondents : Mrs.M.Lalitha
Government Advocate
(in all W.Ps)

COMMON ORDER

Mrs.M.Lalitha, learned Government Advocate takes notice for the respondents. By consent of both the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2.The petitioners have come up with these writ petitions seeking a direction to the respondents to consider their representations and appoint them as Malis with effect from the date of promotion of their juniors as Forest Watchers on 24.01.1995, with all consequential benefits, in the light of the order passed in W.P.No.9708 of 2014 dated 12.09.2014, W.A.No.1703 of 2014 dated 20.01.2015, SLP(Civil).No.12056 of 2015 dated 05.07.2016, Cont.P.No.679 of 2015 dated 19.10.2016.

3.According to the learned counsel for the petitioners, they were appointed as Plot Watchers on 02.04.1979, 01.10.1979 and 01.02.1985, respectively in Forestry Division. Thereafter, by virtue of G.O.Ms.No.64 Environment and Forest Department, dated 08.03.1999, their names were included in the Statewide Seniority List as Serial Nos.517, 634-B and 3998, respectively. Subsequently, the petitioners in W.P.Nos.2283 and 2287 of 2019 were appointed as Malis and thereafter, promoted as Forest Guard and the petitioner in W.P.No.2290 of 2019 was appointed as Bungalow Watcher. However, their seniority has not been considered on par with their juniors. Hence, the petitioners made representations dated 09.08.2017,12.06.2018 and 07.03.2018 respectively and the same are pending without any consideration. Therefore, these writ petitions.

4. The learned counsel for the petitioners submitted that one V.Aavan filed a writ petition in W.P.No.13317 of 2017 seeking the very same relief as sought in these writ petitions and this Court vide order dated 25.05.2017 disposed of the said writ petition. The relevant paragraphs of the said order are profitably extracted hereunder:

"3.The petitioner states that another similarly placed person, who is the junior of the petitioner herein, has approached this Court by filing W.P.No.9708 of 2014 and this Court has allowed the said writ petition. An appeal filed by the Department in W.A.No.1703 of 2014 against the said order was dismissed with a direction to appoint him as Forest Watcher by giving relaxation. Since the respondents have not complied with the order, a contempt petition was filed. Immediately, the respondents filed SLP No.12056 of 2015 before the Supreme Court and the same was dismissed on merits. Thereafter, a counter was filed in the contempt petition stating that there is no possibility in the service rule to appoint the petitioner therein as Forest Watcher by giving relaxation to the physical measurements. In view of the said counter filed, the Division Bench had given a direction to the respondents to appoint the petitioner therein to the post of Mali with effect from the date of his junior's appointment as Forest Watcher.

4.Reiterating the above, the learned counsel for the petitioner submits that even though the petitioner herein was appointed as Mali on 20.07.2004, the respondents failed to consider his seniority and not appointed him as Mali on par with his junior's appointment as Forest Watcher. He submitted that as per the orders of this Court, the petitioner herein is entitled for appointment to the post of Mali with effect from the date of promotion of his juniors as Forest Watcher. He also submitted that the petitioner has made a representation dated 24.01.1995 to the respondents in this regard.

5.Mr.M.Santhanaraman, learned Additional Government Pleader (Forests), takes notice for the respondents.

6.It is seen that a Division Bench of this Court in Cont.P.No.679 of 2015, by order dated

19.10.2016, considered the issue in respect of a similarly placed person like that of the petitioner, and issued a positive direction to consider the case of the petitioner therein on par with his juniors appointed in the post of Forest Watchers. As the juniors of the writ petitioner therein were appointed in the post of Forest Watcher, the writ petitioner's requirement in the post of Mali, was also directed to be considered from the date of his juniors' appointment in the Post of Forest Watcher. It was also directed that the seniority of the writ petitioner therein has to be maintained in the manner compared to his juniors in the said post of Forest Watcher.

7. Following the above, the respondents herein are directed to consider the case of the petitioner herein on par with his juniors appointed in the post of Forest Watchers. Since the juniors of the writ petitioner herein were appointed in the post of Forest Watcher, the writ petitioner's requirement in the post of Mali, is also directed to be considered from the date of his juniors' appointment in the Post of Forest Watcher. The seniority of the writ petitioner herein has to be maintained in the manner compared to his juniors in the said post of Forest Watcher.

8. The writ petition is disposed of accordingly. No costs."

Thus, the learned counsel submitted that it would suffice, if the representations of the petitioners would be considered by the respondents in line with the aforesaid order dated 25.05.2017 in W.P.No.13317 of 2017.

5. Mrs. M. Lalihta, learned Government Advocate, for the respondents has no objection for granting such relief to the petitioners.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the respondents to consider the petitioners' representations dated 09.08.2017, 12.06.2018 and 07.03.2018, respectively and pass appropriate orders, on merits and in accordance with law and also in the light of the aforesaid order dated 25.05.2017 in W.P.No.13317 of 2017, after affording due opportunity of personal hearing to the petitioners, within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, these writ petitions stand disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Fort St. George,
Chennai - 9.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai - 15.
3. The District Forest Officer,
Salem Forest Division,
Salem - 7.
4. The District Forest Officer,
Villupuram Forest Division,
Villupuram.
5. The Wild Life Warden,
Guindy National Park,
Chennai - 22.

+1cc to M/s.K.Jenitha, Advocate sr.6717

+1cc to Special Government Pleader(Forest), sr.6607

+1cc to M/s.K.Jenitha, Advocate in Sr.No.6716

+1cc to M/s.K.Jenitha, Advocate in Sr.No.6715 (26.04.2019)

W.P.Nos.2283,2287 and 2290 of 2019

gj(co)
nr 03/04/2019