

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 18.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. Nos.35593 OF 2004, 22016/2004,
22419/2004, 22887/2004, 22889/2004, 26372/2004, 33212/2004

W.P.No.35593 of 2004

1 M.S.RAMADHAS
2 P.MAYALAGU
3 I.AMALRAJ
4 V.KAMARAJ
5 M.PITCHAI
6 M.ANBALAGAN
7 R.MOHANRAJ
8 R.VENKATASAMY
9 A.GOPALADHAS
10 R.RAJASEKARAN
11 P.SORNAPPAN
12 N.S.GOPALAKRISHNAN
13 M.GOVINDAN
14 A.RAJAGOPAL
15 N.SIGAMANI
16 K.JAYAMANI
17 K.MANOKARAN
18 S.PITCHAI
19 K.RAGUNATHAN
20 R.NEETHIRAJAN
21 N.THANGARAJ
22. MS.RAMDHAS
23. K.RAJENDRAN
24. N.S.GOPALAKRISHNAN
25. I.AMALRAJ
26. R.RAJASEKARAN
27. R.VENKATASAMI

... petitioners in WP.No.35593/04
... petitioners in WP.No.22016/04
... petitioners in WP.No.22419/04
... petitioners in WP.No.22887/04
... petitioners in WP.No.22889/04
... petitioners in WP.No.26372/04
... petitioners in WP.No.33212/04

Vs

1. THE STATE OF TAMIL NADU REP.
BY ITS SECRETARY ENVIRONMENT & FORESTS
DEPT. FORT ST.GEORGE CHENNAI-9.

2. THE PRINCIPAL CHIEF
CONSERVATOR OF FORESTS PANAGAL
BUILDINGS SAIDAPET CHENNAI-15
.. 1 and 2nd Respondent in WP.No.35593,22016,
22419,22887 22889,26372,33212/04

3. THE SECRETARY
TAMILNADU PUBLIC SERVICE COMMISSION
GOVERNMENT ESTATE CHENNAI-2
.. 3rd Respondent in WP No.35593,22016,22419/04

A.THIYAGARAJ & R3 in WP No.22419/04
(R8 IMPEADED AS PER COURT ORDR
DT.18/08/04 IN WPMP.28053/04)

4 R.MOHANDOSS S/O P.RAMASAMY
121 VASANTHI BHAVAN INDIRAL NAGAR CHE-16
(R4 IMPEADED AS PER COURT ORDER DT.
18/08/04 IN WPMP.28052/04)

5 A.KRISHNAMURTHY S/O J.ARUMUG
47/80 NORTH SOLINGAR ST. KORAVADU
MAYILADUTHURAI NAGAI DISTRICT (R5 IMPEADED
AS PRR COURT ORDER DT.18/08/04 IN WPMP.
28254/04 BY PSDJ)

6 C.SREERAGHAVAN S/O CHINNAGOP
AL 1 FIRST ST. (R6 IMPEADED AS PER COURT
ORDER DT.18/08/04)

7 A.MUTHUKRISHNAN
(R7 IMPEADED AS PER ORDER DT 18/08/14 IN WMP.27734/04)
..R4 TO R7 in WP 22419/2011

8 M.THEGARAJAN S/O P.MUNIANDI
NADAR KAVARAI ST. GUDIYATHAM VELLORE DIST.
(R8 IMPEADED AS PER ORDR DT.26/08/2004 IN
WPMP.27973/04 BY PSDJ)

9 S.SOUNDARARAJAN W/O S.SUBBIAH
5 VINAYAGAR NAGAR MADURAI - 70 (R9
IMPEADED S PER COURT ORDR DT.26/08/04 IN
WPMP.29074/04 BY PSDJ)

... Respondent 8 to 9 in WP No.22419/04

Writ Petition No.35593/04 filed under Art.226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to draw the panel of persons fit for promotion to the post of Assistant Conservator of Forests from Ranger as a non selection one after first/initially drawing a seniority list of rangers as per statutory rules and on the basis of W.A.No.1113 of 1985 dated 19.12.1985 and as assigned by the Tamil Nadu Public Service Commission as well as the Rule of Reservation in cadre of Ranger.

Prayer in WP No.22016/2004 : Writ petition filed under Article 226 of the constitution of India praying for a writ of certioraiied mandamus to call or records on the file of the 1st respondent in connection with the order passed by him in G.O.Ms.No.492(E & F) (F2) dept dated 24.12.97 and quash the same and direct the respondents to include the petitioner also in the panel for promotion to the posting Assistant Conservator of Forests for the year 2002-2003 and promote the petitioner without any reference to any of the charge sheets pending against the petitioner in view of the Rule 39(d) of the Tamil Nadu State and Subordinate Service Rules and he law laid down by the Hon'ble Supreme Court of India in a number of cases.

Prayer in WP No.22419/04, WP No.2287/2004, WP No.22889/2004 : Writ petition filed under Article 226 of the constitution of India praying for a writ of certioraiied mandamus directing the respondents to consider the claim of the petitioner and promote him as Assistant Conservator of Forest, from the date on which his immediate junior was promoted as such with all consequential benefits arising thereto on the basis of the representation dated 21.7.2004.

Prayer in WP No.26372/2004 : Writ petition filed under Article 226 of the constitution of India praying for a writ of certioraiied mandamus for bearing the respondents, their men, agents and officials from conducting any selection to the post of Assistant Conservator of Forests without following the seniority straightly and reservation policy and promoting any candidates to the post of Assistant Conservator of Forests on the basis of the selection if conducted already in view of the Hon'ble Division Bench of Madras High Court in W.A.1113/85 dated 19.12.85 confirming the order of the Hon'ble High Court in W.P.No.11575/81 dated 19.10.84 without any necessary amendment.

Prayer in WP No.33212/2004 : Writ petition filed under Article 226 of the constitution of India praying for a writ of certioraiied mandamus directing the respondents to notify the panel for promotion to the post of Assistant Conservator of Forests on the basis of seniority by following Rule 4(3) and 11

of the Tamil Nadu Forest Service and also Rule 4 of the Tamil Nadu State and Subordinate Service Rule and G.O.Ms.No.368, dated 18.10.93 as if it is not a selection post.

For petitioners .. Mr.P.Chandrasekaran for Petitioner
in WPs 35593/04,22419/04 in WP No.22887/04 and WP No.22889/04

.. Mr.L.Chandrakumar in
Mr.R.Singaravelan, Senior Counsel
for V.S.Jagadeesan in WP No.22016/04
& WP No.26372/04, WP No.33212/04

For respondents .. Mr.S.V.Vijay Prashanth, A.G.P.
For respondents 1 and 2 in all cases

Mr.C.N.Niraimathi, for TNPSC
Mr.S.Kanmani Annamalai
for R3 to R5 in WP No.22919/04
Mr.N.S.Nandakumar for R6 to R8
in WP No.22419/2000

Mr.K.Sukumaran for R9
in WP No.22419/04

COMMON ORDER

The relief sought for in the present writ petitions is for a direction to direct the respondents to draw panel of persons fit for promotion to the post of Assistant Conservator of Forests from the post of Ranger, as a non selection one after drawing a seniority list of Rangers as per statutory rules and on the basis of W.A.No.1113 of 1985 dated 19.12.1985 and as assigned by the Tamil Nadu Public Service Commission as well as the Rule of Reservation in cadre of Ranger.

2. The very relief sought for in the present writ petitions is general in nature. No doubt, the respondents are bound to follow the Promotion Rules while preparing the panel for promotion to the post of Assistant Surveyor of Forests. The decision to fill up the post by way of promotion must be taken by the competent authorities based on the necessity and as per the vacancy position. However, such a decision to fill up the post is administrative in nature and prerogative of the State. Once a decision is taken to fill up the post by way of promotion, then the authorities are bound to follow the promotion rules as well as rule of seniority.

3. Promotion can never be claimed as a matter of right by an individual. However, consideration for promotion is a fundamental right of an employee. While preparing panel of persons fit for promotion to higher posts, names of all eligible persons are to be considered with reference to their service records and by following the seniority and other rules in force. This being the factum, this court is of the opinion that the very relief sought for in the present writ petition is general in nature and accordingly, the respondents are at liberty to take a decision to fill up the post by way of promotion, and in the event of taking any such decision, the panel is to be prepared by following the rules and consideration of all persons who are eligible to get promotion.

4. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

- 1 THE SECRETARY
ENVIRONMENT & FORESTS DEPT.
FORT ST.GEORGE CHENNAI-9.
- 2 THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
PANAGAL BUILDINGS
SAIDAPET CHENNAI-15
- 3 THE SECRETARY
TAMILNADU PUBLIC SERVICE COMMISSION
GOVERNMENT ESTATE
CHENNAI-2

+3ccs to Mr.V.S.Jagadeesan, Advocate SR.No.4093,4094,4095

+1cc to Special Government Pleader (Forest), Chennai-104
SR.No.3884

W.P. Nos.35593 OF 2004, 22016/2004,
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22889/2004, 26372/2004, 33212/2004

PPA (CO)
GMY (12/03/2019)



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