

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on	13/9/2019
Pronounced on	19/12/2019

C O R A M

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.6893 of 2010

Mr.C.Munisamy

...

Petitioner

Vs

1. The Principal Chief Conservator of Forests
Panagal Maaligai
No.1 Jeenis Salai
Saidapet
Chennai 15.

2. Mr.M.Muthupandi
3. Mr.N.Muthaiya
4. Mr.Nagaiya
5. Mr.A.Sreenivasan
6. Mr.S.Balasubramanian

....

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records relating to the order passed by the first respondent in his Proceedings No.B1/34535/09 dated 23/12/2009 and quash the same as arbitrary and against law and direct the first respondent to consider the petitioner for empanelment and promotion to the post of Ranger ahead of respondent Nos.2 to 6.

For petitioner ... Mr.S.Mani
For respondents ... Ms.Thangavadhana Balakrishnan
Additional Government
Pleader(F)
for R.1.

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O R D E R

Instant writ petition has been filed, to quash the order passed by the Principal Chief Conservator of Forests/first respondent, in his Proceedings No.B1/34535/09, dated 23/12/2009, and consequently, direct the first respondent, to consider the name of the petitioner, for empanelment and promotion, to the post of Ranger ahead of respondent Nos.2 to 6.

2. The petitioner joined as a Forest Guard, on 16/10/1980 and was later promoted, as Forester, on 16/3/1995. The next avenue of promotion in the Department is to the post of Ranger, on 23/12/2009, for the year 2009 - 2010. The crucial date being 15/8/2009. Petitioner's name was not found in the panel. Petitioner found that persons who had become Foresters, later than the petitioner have been included in the panel, but the name of the petitioner has been rejected. The petitioner gave a representation, to the first respondent, on 26/12/2009, wherein, the petitioner states that there was no reason to exclude the name of the petitioner in the panel. Petitioner further states that he has a right to be considered, for promotion, in accordance with the Rules, and this right has been wrongfully denied to the petitioner.

3. The Principal Chief Conservator of Forests, Chennai, first respondent has filed its counter affidavit. In the counter affidavit, it is stated that the first respondent called for the list of Foresters, fit for promotion, as Forest Range Officer, for the year 2009 - 10. The crucial date for the above said panel was 15/8/2009. The promotion for the post of Foresters, from the category of Forest Guards was done, as per the combined seniority list of Forest Guards appointed upto 31/12/1980 and the petitioner's name for the post of Forester was included under seniority Sl.No.380 drawn in first respondent's Pro.No.B1/5530/93, dated 8/9/1994. The above list of seniority was sent to all the individuals concerned, including the petitioner.

4. It is further stated that the petitioner's name was not included in the panel for the year 2009 - 10, since his name did not reach the zone of consideration, for promotion, as Forest Range Officer. It is stated that the names of the individuals fit for promotion as Forest Range Officer were considered upto the Seniority No.293, i.e., upto the name of of the sixth respondent viz., Thiru.S.Balasubramanian.

5. Heard Mr.S.Mani, learned counsel for the petitioner and Ms.Thangavadhana Balakrishnan, learned Additional Government Pleader for the first respondent.

6. Tamil Nadu Forest Subordinate Service, prescribes the method of appointment to Ranger, Forester and Forest Guard and the same reads as under:-

CLASS	CATEGORY	METHOD
I	Ranger	1. Appointment of Forest Apprentices in the manner prescribed in Rule 9 (direct recruitment) (or) 2. Omitted (Trained Foresters 10% (G.O.Ms.No.145, Environment and Forests, dated 10/5/1995) 3. Promotion from among the category of those who have completed the Foresters course of training in the Tamil Nadu Forestry College (or) 4. Appointment by transfer from among the members of the Tamil Nadu Ministerial Service in the Forest Department in the manner prescribed in Rule 10. Provided that 45% of the vacancy arising in the category of Rangers shall be filled by direct recruitment. 54% by promotion among the Foresters who have completed the Foresters Course of training and 1% by transfer from among the members of the Tamil Nadu Ministerial Service in Forest Department (G.O.Ms.No.145, Environment and Forests, dated 10/5/1995 (B2/40434/90)

CLASS	CATEGORY	METHOD
	Forester	1. Direct Recruitment: Nil 2. Promotion from among the holders of the post of Forest Guards (95%) 3. Promotion from among the holders of the post of Assistant Draughts-man, as per G.O.Ms.No.1118, Environment and Forests Department dated 30/8/1980 and amended in G.O.Ms.No.112, Environment and Forests (FR-II) Department dated 6/6/2002, AB1/85241/2000 (and) Recruitment by transfer from the members of the Tamil Nadu Ministerial Service in the Forest Department (G.O.Ms.No.145 Environment and Forests Department, dated 10/5/1995) Provided that if the unit of selection for appointment for the purpose of this rule be twenty, 19 shall be reserved for promotion and 1 shall be reserved for appointment by recruitment by transfer. Selection for appointment under this rule shall be made in the order of rotation specified below:- 100 vacancies of Forests posts will be divided into 5 cycles with a number of 20 in each cycle. Every 13th vacancy in the cycle of 1 to 4 (i.e., 13,33,53 and 73) shall be filled up from the members of the Tamil Nadu Ministerial Service and the 13th vacancy in the 5th cycle (i.e., 93) shall be filled up from Assistant Draughtsman. If qualified and suitable members of the Tamil Nadu Ministerial Service in the Forest Department are not available for appointment in the turn allotted for it in the cycle, the turn shall lapse and the vacancy shall be filled by the appointment of direct recruitment. If a qualified and suitable Forest Guard is not available for promotion as Forester in the turn allotted for the Forest Guards in the cycle, the turn shall lapse and the vacancy shall be filled by the appointment of direct recruitment (G.O.Ms.No.204 Environment and Forests (FR-II), dated 23/8/1994 and amendment issued in G.O.Ms.No.112 Environment and Forests (FR-II) Department, dated 6/6/2002).

CLASS	CATEGORY	METHOD
	Forest Guard	1. Direct recruitment 2. Promotion from among the holders of the post of Forest Watchers 3. Recruitment by transfer from the members of the Tamil Nadu Ministerial Service in the Forest Department provided that 60% of the vacancy shall be filled up by direct recruitment, 35% by promotion and 5% by recruitment by transfer. (G.O.Ms.No.145 Environment and Forests, dt. 10/5/1995 (B2/40434/90)).

7. A perusal of the above mentioned Rule would show that method of appointment of Ranger is by direct recruitment or promotion from among the Foresters, who have completed the Foresters Course of training, and 1% by transfer from among the members of the Tamil Nadu Ministerial Service in the Forest Department. 45% of the vacancies are to be filled up by direct recruitment. 54% by promotion from among the Foresters who have completed the Foresters Course of training and 1% by transfer from among the members of the Tamil Nadu Ministerial Service in the Forest Department. It is not denied by the respondents that the petitioner was appointed as a Forest Guard. Later he was promoted as Forester, on 16/3/1995. He has completed eight years and therefore, eligible to be appointed as Forest Ranger.

8. According to the counter, for the promotion of Forester, a combined seniority list was prepared of Forest Guards appointed upto 31/12/1980 and in the seniority list of Forest Guards, respondent Nos.2 to 6 were senior to the petitioner and therefore, name of the respondents 2 to 6 find their names in the panel. Reason given in the counter for not including the petitioner is that the petitioner is junior in the combined seniority list of Forest Guard to respondent Nos.2 to 6. The Promotion to Forest Guard is amongst the Foresters.

9. Seniority list of Forest Guard, which is the feeder post of Forester would be immaterial. Post of Forester is filled up by promotion from the post of Forest Guard. Once a person is promoted as Forester, then for the subsequent promotion as Forest Ranger, seniority only as a Forester has to be taken into account and not the position as a Forest Guard. Once a person becomes a Forester, then the birth mark as Forest Guard loses its relevance. Admittedly, the petitioner became a Forester earlier, than the five respondents. The Rules do not show that combined seniority list, as Forest Guard, should be the criteria, for preparation of panel for the promotion to Forest

Ranger. Consequently, Proceedings of the first respondent in B1/34535/09 dated 23/12/2009 is quashed and the writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

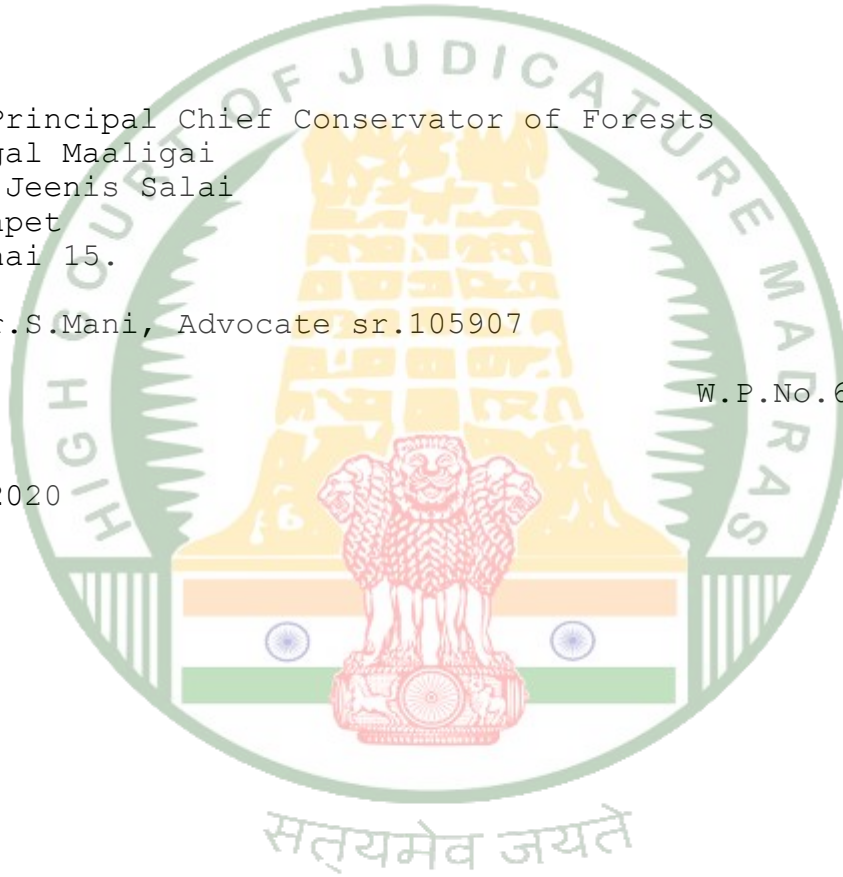
mvs.
To

The Principal Chief Conservator of Forests
Panagal Maaligai
No.1 Jeenis Salai
Saidapet
Chennai 15.

+1cc to Mr.S.Mani, Advocate sr.105907

W.P.No.6893 of 2010

gmr(co)
nr 31/01/2020



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