

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 11.01.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.18786 of 2017
and
WPMP No.20312 of 2017

V.Subramanian,
Forester,
Hogenakkal Forest Range,
Dharmapuri Forest Division,
Dharmapuri District. ... Petitioner

Vs.

1. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Genies Road,
Panagal Malligai,
Saidapet, Chennai-15.
- 2.The Conservator of Forests,
Dharmapuri Forest Region,
Dharmapuri District.
- 3.The District Forest Officer,
Dharmapuri Forest Division,
Dharmapuri-5. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the respondents to promote the petitioner as Forest Range Officer on par with his juniors in the panel year 2016-17 forthwith based on recommendation of the third respondent dated 10.04.2017 vide in Na.Ka.No.335/2017/Pa.1 and provide all service and monitory benefits.

For Petitioner : Mr.R.Jothimanian

For Respondents : Ms.M.Lalitha
Government Advocate

O R D E R

The petitioner seeks for a mandamus directing the respondents to promote the petitioner as Forest Range Officer on par with his juniors in the panel year 2016-17 based on recommendation of the third respondent dated 10.04.2017 and provide all service and monetary benefits.

2. The case of the petitioner is as follows:-

While the petitioner was working as Special Forester, a charge memo under Rule 17(b) of Tamilnadu Civil Services (Discipline and Appeal) Rules dated 14.02.2014 was served on him. He submitted his explanation. However, a final order was passed on 06.08.2014 by imposing punishment of postponement of increment for a period of one year with cumulative effect, which shall affect the pension. The petitioner filed a writ petition in W.P.No.31403 of 2016, challenging the order of punishment. This Court, by order dated 08.12.2016, modified the punishment as postponement of increment for a period of one year without cumulative effect, also by observing that such punishment shall not have effect on the pensionary benefits. Therefore, the punishment is minor and also the period of punishment was over on 30.06.2016. The crucial date for promotion to the post of Forest Range Officer was 15.08.2016. Therefore, the petitioner should have been included in the panel of the year 2016-17. The petitioner made a representation on 05.04.2017 to the third respondent for inclusion of his name in the panel. The same was considered and recommended by the third respondent on 10.04.2017 to the second respondent. As the other persons including his juniors were promoted on 20.06.2016, without promoting the petitioner, the present writ petition is filed with the relief as stated supra.

3. A counter affidavit is filed by the first respondent, wherein it is stated that the name of the writ petitioner has been considered by the first respondent based on the service details furnished by the third respondent in the panel of Foresters fit for promotion to the post of Forest Range Officers for the year 2016-17 and that the Departmental Promotion Committee has examined the service details of the petitioner along with others and found that the petitioner was awarded with a punishment of next increment postponed for one year with cumulative effect awarded by Conservator of Forests, Dharmapuri in Proc.No.5804/2014/G2 dated 06.08.2014. Therefore, it is stated that the Departmental Promotion Committee has not recommended his name for promotion as Forester Range Officer.

4. Mr.M.R.Jothimanian, learned counsel for the petitioner submitted that when the punishment period was over on 30.06.2016

and when there is no impediment for the authorities to consider the petitioner for promotion as on 15.08.2016, being the crucial date, not considering the petitioner for promotion that too based on the punishment imposed by the original authority, as if such punishment was in force with cumulative effect, is illegal. Therefore, he contended that the denial of promotion without reference to the order passed by this Court, modifying the punishment, in W.P.No.31403 of 2016 caused great injustice to the petitioner.

5. On the other hand, Ms.M.Lalitha, learned Government Advocate appearing for the respondents submitted that since the Departmental Promotion Committee found that an order of punishment was imposed on the petitioner, his promotion was not considered.

6. Heard both sides.

7. It is true that the petitioner was imposed with the punishment of postponement of increment for one year with cumulative effect by order dated 06.08.2014. However, when the said order was questioned before this Court in W.P.No.31403 of 2016, this Court, while disposing the said writ petition on 08.12.2016, modified the punishment as the one of postponement of increment for one year "without cumulative effect". Therefore, when the punishment period has ended on 30.06.2016, there is no impediment for the respondents to consider the petitioner for promotion to the post of Forest Range Officer as on 15.08.2016, being the crucial date. Unfortunately, the respondents have taken note of the order passed by the Disciplinary Authority alone, without taking note of the order passed by this Court in the above writ petition, modifying the said order of punishment, as stated supra. Therefore, I find that the reasons stated for not considering the petitioner for promotion cannot be sustained as valid reason and on the other hand, in the absence of any other reason for not considering the petitioner for promotion, the respondents ought to have promoted him to the post of Forest Range Officer for the year 2016-17. Accordingly, this writ petition is allowed and the respondents are directed to consider the petitioner for promotion as Forest Range Officer on par with his juniors in the panel year 2016-17, within a period of eight weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Genies Road,
Panagal Malligai,
Saidapet, Chennai-15.

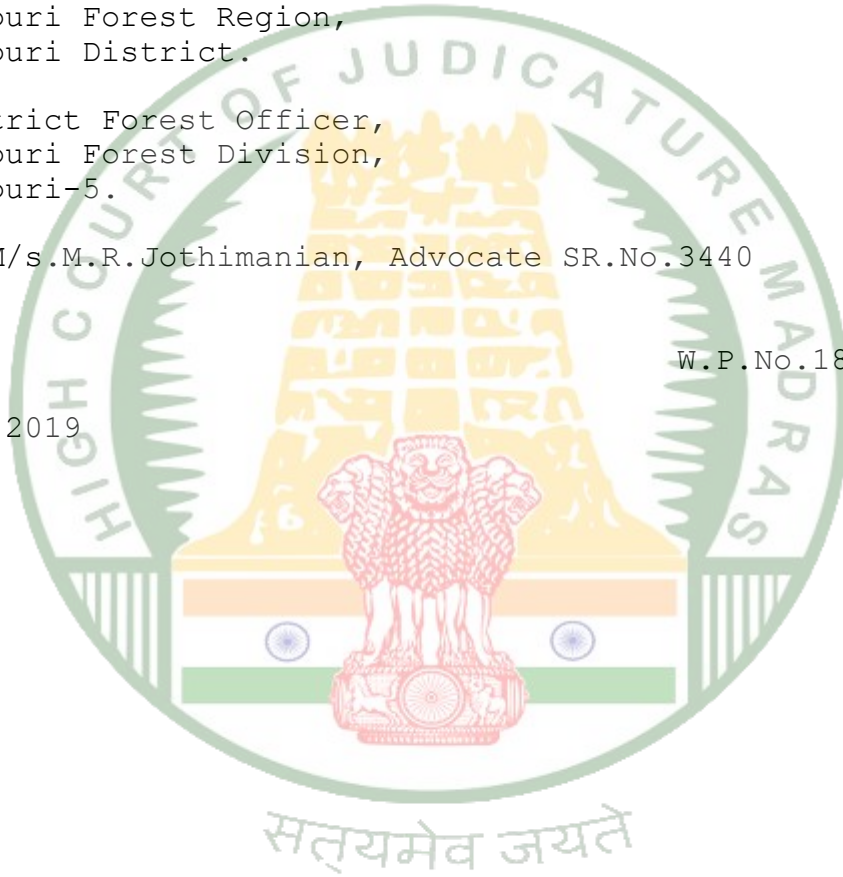
2.The Conservator of Forests,
Dharmapuri Forest Region,
Dharmapuri District.

3.The District Forest Officer,
Dharmapuri Forest Division,
Dharmapuri-5.

+1 cc to M/s.M.R.Jothimanian, Advocate SR.No.3440

W.P.No.18786 of 2017

NRI (CO)
CSL/07.02.2019



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