

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated: 10.07.2019

WEB COPY

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU**and****THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY****W.A.(MD)Nos.480 & 481 of 2019****and****C.M.P.(MD) Nos.4019 & 4020 of 2019**

1) The Additional Chief
Conservator of Forests,
(Forest Administration),
Panagal Building,
Saidapet,
Chennai 600 015

2) Wildlife Warden,
O/o Grizzled Squirrel Wildlife Sanctuary,
Srivilliputhur,
Virudhunagar District.

... Appellants /
Respondents 1 & 2 in
both W.A.'s

vs.

1) S.Palanibalan

... R1 in W.A.(MD) No.
480 of 2019/
Petitioner in W.P.(MD)
No.5448 of 2009

2) M.Moorthy

... R2 in W.A.(MD) No.
480 of 2019 /
R3 in W.P.(MD) No.
5448 of 2009

3) R.Mahendran

... R1 in W.A.(MD) No.
481 of 2019/
Petitioner in W.P.(MD)
No.5545 of 2009

4) P.Senthil Ragavan

... R2 in W.A.(MD) No.
481 of 2019/
R3 in W.P.(MD)
No.5545 of 2009



Patent Act against the orders passed by this Court in W.P.(MD) Nos.5448 & 5545 of 2009 respectively, dated 13.12.2018.

Prayer in WP(MD). 5448/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records to the impugned orders in Pa.Aa.no. 81/2008/Pa dated 30/06/2008 passed by the second respondent and quash the same and consequently direct the respondents to appointment the petitionier in the post of driver .

Prayer in WP(MD). 5545/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the record to the impugned orders in Pa.Aa.no. 82/2008/Pa dated 30/06/2008 passed by the second respondent and quash the same and consequently direct the respondents to appointment the petitioner in the post of driver.

In Both Writ Appeals:

For Appellants : Mr.VR.Shanmuganathan,
Special Government Pleader

For R1 : Mr.C.Mayil Vahana Rajendran

For R2 : No Appearance

C O M M O N J U D G M E N T

(Judgment of this Court was made by **K.RAVICHANDRABAABU, J.**)

Since common issues arise in both the Writ Appeals, this common judgment is pronounced in respect thereof.

2. Both these Writ Appeals were directed against the common order passed by the Writ Court in W.P.(MD) Nos.5448 & 5545 of 2009 respectively, dated 13.12.2018.

3. The respondents 1 & 2 in the writ petitions are the Appellants. The above Writ Petitions were filed by the respective writ petitioners challenging the appointment of the third respondent in each of the writ petition to the post of Forest Guard with driving license. The grievance of the writ petitioners before the Writ Court is that though the writ petitioners possess the requisite qualification for appointment to the post of Forest



Guard with driving license, the authorities erroneously rejected the candidature of the petitioners and selected the third respondent in each of the writ petition to the said post.

4. The Writ Court after hearing both sides and considering the facts and circumstances, allowed the writ petitions by issuing a direction to the second appellant herein to issue orders appointing both the writ petitioners as Forest Guard with driving license. For arriving at such conclusion, the Writ Court found that, in the counter affidavit filed by the respondents therein, though the selection of the third respondent in each of the writ petition is sought to be justified, no reason has been given for non-selection of the writ petitioners. Therefore, the Writ Court after observing that the petitioners having successfully completed and qualified in all the selection tests, ought to have been selected to the said post.

5. The learned Special Government Pleader for the appellants contended that in the selection process only seven candidates, including the writ petitioners and the third respondent in each of the writ petition were finally short-listed and the petitioners however were not selected for the reason that the writ petitioner by name Palanibalan was not possessing the experience certificate as required in the qualification prescribed for the said post, and that the writ petitioner Mahendran is over aged, since for OC category the age limit fixed is 30 years. Therefore, the learned Special Government Pleader contended that since both these writ petitioners were not meeting the requisite qualification criteria, they were not considered.

6. However, it is seen that the counter affidavit filed before the Writ Court does not contain all these material details and on the other hand for the first time before this Court, the appellants have sought to raise these objections. Needless to state that it is for the appellants to raise these objections before the Writ Court so as to enable the Writ Court to come to a just and proper conclusion as to whether the denial of the post to the petitioners is justifiable. Therefore, we are not inclined to go into the merits of the above contentions raised by the appellants in respect of the qualifications of the writ petitioners, as it is for the appellants to satisfy the Writ Court by filing additional counter affidavit.

7. Accordingly, we propose to remit the matter to the Writ Court without expressing any view on the claim made by the writ petitioners only for the purpose of allowing the appellants to file additional counter affidavit and for disposal of the Writ Petitions on merits and in accordance with law afresh thereafter. ~~These Writ Appeals are allowed and the order passed by the Writ Court is set aside without expressing any view on the merits of the contentions made by the respective parties, only for~~



the purpose of filing additional counter affidavit by the appellants.

8. The appellants shall file the additional counter affidavit within a period of two (02) weeks from the date of receipt of a copy of this order. We request the Writ Court to take up the writ petitions and dispose the same on merits in accordance with law after hearing both sides within a period of four (04) weeks thereafter. It is open to the Writ Petitioners to file any rejoinder as against the additional counter affidavit. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

TO

- 1) The Additional Chief
Conservator of Forests,
(Forest Administration),
Panagal Building,
Saidapet,
Chennai 600 015
- 2) Wildlife Warden,
O/o Grizzled Squirrel Wildlife Sanctuary,
Srivilliputhur,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-74901[F] dated 11/07/2019)

+1 CC to M/s.M.SARAVANA KUMAR, Advocate (SR-74973[F] dated 12/07/2019)

STS

Common Judgment made in
W.A. (MD) Nos.480 & 481 of 2019
10.07.2019

KM/ (23.07.2019) 4P 5C