



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.2759 of 2016

and

W.M.P. (MD) No.2444 of 2016

WEB COPY

1.R.Saravanan
2.A.David Raja
3.R.Kannan

... Petitioners

-Vs-

1.The Principal Secretary to the Government,
Environment and Forests Department,
St. George Fort, Chennai.

2.The Deputy Secretary to Government,
Environment and Forests Department,
St.George Fort, Chennai.

3.The Principal Chief Conservator of Forests and
Head of Forest Force, Panagal Building,
Saidapet, Chennai-15.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent pertaining to its order in Letter No.6222/FR2/2014-2, dated 20.05.2014 and the consequential order passed by the second respondent in the letter No.8914/FR2/2015-2, dated 28.07.2015 and to quash the same and consequently, direct the respondents to include the name of the petitioners for the post of Forester in the panel of the year 2008-09 and to grant all service and monetary benefits in pursuant to the same.

For Petitioners : Mr.S.C.Herold Singh
For Respondents : Mr.V.R.Shanmuganathan,
Special Government Pleader.

ORDER

The order of the first respondent dated 20.05.2014 and the order of the second respondent dated 28.07.2015 are sought to be quashed in the present Writ Petition. Further direction is sought for to direct the respondents to include the name of the petitioners for the post of Forester in the panel of the year 2008-09 and to grant all service and monetary benefits in pursuant to the same.



2. According to the petitioners, they were appointed as Junior Assistants in Forest Department on compassionate ground. The post of Junior Assistant and Assistant comes under Tamil Nadu Ministerial service and the next avenue of promotion to the petitioners is Assistant. As per Rule 2 of Tamil Nadu Forest Subordinate Service Rules (hereinafter referred to as 'the Rules') a person working in Tamil Nadu Ministerial Service can be transferred and posted to Tamil Nadu Forest Subordinate Service. The person must possess educational qualification of any degree, including Arts (10+2+3) along with other qualification as prescribed. Out of 100 vacancies in the Forest Department, 95 posts will be filled up by promotion from Forest Guards, 4 posts will be filled up by transfer from ministerial service, one post will be filled up by transfer from Assistant Draughtsman. 100 posts divided into 5 cycles and every 13th vacancy in the cycle of 1 to 4 will be filled up from the members of the Tamil Nadu Ministerial Service and 13th vacancy in the 5th cycle will be filled up by transfer from Assistant Draughtsman. During the years 2007-2008, 2008-2009 and 2009-2010, the respondents have promoted 134, 207 and 189 number of Forest Guards as Foresters respectively. None of the persons from ministerial service were transferred and posted as Forester, as per Rules. 6 persons from ministerial service were recommended to be transferred and posted as Forester during the year 2007-2008. The said selection was upheld. Out of 6 persons, 2 persons, namely, B.K.Vasu and M.Sadasivam have filed W.P.Nos.11800 and 11801 of 2009, wherein this Court, by order dated 22.12.2009, has directed the respondents to transfer and post the aforesaid two persons as Foresters. The first respondent, by the order dated 18.01.2011, has instructed to declare the panel of years 2007-2008 to 2009-2010, as nil panel. Subsequently, the petitioners along with 6 persons, were transferred and posted as Forester. Further, the first respondent, by his proceedings dated 25.10.02013, has revoked the nil panel for the years 2007-2008 to 2009-2010 which was originally declared as nil panel, by the order dated 18.01.2011, and included six persons in the panel of the year 2007-2008. The petitioners along with others gave joint representation dated 18.02.2015 to the first respondent to include them in the panel of the year 2008-2009. The first respondent has rejected the said representation on the ground that already the panel of the years 2008-2009 and 2009-2010 declared as nil panel and there is no provision for revoking the nil panel and if it is revoked, it will lead to administrative problem. Challenging the said order, the petitioner has come out with the present Writ Petition.

3. The respondents have filed counter affidavit and after referring various procedures, the learned Government Advocate appearing for the respondents contended that the panel of the years 2008-2009 and 2009-2010 were closed as nil panel and therefore, the same cannot have revoked and the petitioners are not entitled to promotion.



4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and perused the materials available on record carefully.

5. From the materials on record, it is seen that the reason given by the respondents for rejection is that if the said panel is revoked, it will lead to administrative problem. The petitioners have contended that out of 100 vacancies, 4 vacancies must be filled up by transferring the persons from ministerial service. The said contention is not denied by the respondents. The similar contention of the petitioners that in the panel of the years 2007-2008 to 2009-2010, no persons from ministerial service transferred and posted as Forester, is not denied by the respondents. The respondents have not given any reason for not transferring the persons from ministerial service and posting them as Forester. Only as per the order of this Court dated 22.12.2009 made in W.P.Nos.11800 and 11801 of 2009, the respondents transferred and posted six persons as Forester in the year 2011, even though they were eligible for transfer in the year 2007-2008 itself. Subsequently, nil panel of the year 2007-2008 was revoked and those six persons were included in 2007-2008 panel. By the said order, the respondents have revoked the nil panel and gave retrospective promotion to the said six persons. When such is the case, it is not open to contend that if nil panel is revoked, it will lead to administrative problem and the petitioners are not entitled for transfer and posting as Forester. Having failed to consider the petitioners for transfer and including them in the panel of the year 2008-2009 and having failed to give any reason for not including them in the panel, the impugned orders are liable to be set aside, as the reasons given by the respondents 1 and 2 are erroneous.

6. For the above reasons, the impugned orders of the respondents 1 and 2 are set aside. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

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To

1.The Principal Secretary to the Government,
Environment and Forests Department,
St. George Fort, Chennai.

2.The Deputy Secretary to Government,
Environment and Forests Department,
St.George Fort, Chennai.

3.The Principal Chief Conservator of Forests and
Head of Forest Force, Panagal Building,
Saidapet, Chennai-15.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-101340[F] dated
26/11/2019)

+1 CC to M/s.SPL GP (SR-101524[F] dated 26/11/2019)

W.P. (MD) No.2759 of 2016
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