

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.35976 of 2017

ORDER:

With the consent of both parties, this writ petition is being disposed of at the admission stage.

This writ petition is filed seeking the following relief:

“..to issue a Writ of Mandamus declaring the action of respondents in not considering and promoting the petitioner to the post of Assistant Conservator of Forests in the panel year 2016-2017 as petitioner was in the zone of consideration and fully eligible and qualified for promotion to the post of Assistant Conservator of Forests as the punishment indicated by the second respondent came to an end on completion of two years i.e., on 11.09.2015 as arbitrary, illegal and consequently direct the respondents to consider and promote the petitioner to the post of Assistant Conservator of Forests for the panel year 2016-2017 as the punishment came to an end on completion of two years i.e., 11.09.2015 and pass such other order or orders as this Hon'ble Court may deem fit and proper.”

Heard the learned counsel for the parties.

It has been contended by the petitioner that he is presently working as Forest Range Officer and he is fully eligible and qualified to be promoted as Assistant Conservator of Forests. The petitioner further submits that on certain allegations leveled against him, the disciplinary authority had imposed the punishment of stoppage of two annual grade increments with cumulative effect vide proceedings dated 12.09.2013 and aggrieved thereby, he has preferred appeal. The petitioner also submits that vide orders dated 08.05.2018, the appellate authority was pleased to modify the punishment of stoppage of two annual grade increments with cumulative effect to that of stoppage of one annual grade increment without cumulative effect. It is the further case of the petitioner that he is a

member belonging to Scheduled Tribe and as no candidate was available for promotion to the post of Assistant Conservator of Forests for the panel year 2016-17, the said vacancy was carried forward. It is also stated that since the appellate authority had modified the punishment of stoppage of two annual grade increments with cumulative effect to that of stoppage of one annual grade increment without cumulative effect vide orders dated 08.05.2018 and the petitioner has passed all the departmental tests, in all fairness, the respondents ought to have considered the case of the petitioner for promotion to the post of Assistant Conservator of Forests by convening a review DPC. The grievance of the petitioner is that though he is eligible for promotion to the post of Assistant Conservator of Forest for the panel year 2016-17, the same is not being considered on the ground that he is undergoing currency of punishment.

Learned counsel for the petitioner submits that the currency of punishment imposed against the petitioner had come to an end on 11.09.2015 and in spite of that, the respondents are not considering the case of the petitioner for promotion to the post of Assistant Conservator of Forests. Learned counsel also submits that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for promotion to the post of Assistant Conservator of Forests with all consequential benefits, by duly convening a review DPC.

Learned Government Pleader appearing for the respondents had relied upon the counter filed in the writ petition to the effect that the petitioner has not passed the departmental tests and he was not eligible for promotion at the time when DPC was convened during the panel year 2016-17.

Learned counsel for the petitioner has drawn attention of this Court to the Service Register extract filed as additional material paper evidencing that the petitioner has passed departmental tests way back in the year 2010 itself. Learned counsel for the petitioner also submitted that the appellate authority had modified the punishment imposed by the disciplinary authority making the petitioner eligible for promotion to the post of Assistant Conservator of Forests for the panel year 2016-17.

This Court, having considered the rival submissions made by learned counsel for both parties, is of the considered view that with the modified orders passed by the appellate authority, the petitioner has become eligible for promotion to the post of Assistant Conservator of Forests for the panel year 2016-17. Therefore, the respondents are directed to consider the case of the petitioner for promotion to the post of the Assistant Conservator of Forests for the panel year 2016-17 by convening a review DPC and, upon such consideration, promote the petitioner to the post of Assistant Conservator of Forests for the panel year 2016-17 with all consequential benefits.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

21st June 2019
v v