

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :03.12.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.24391 of 2014

and

M.P.No.1 of 2014

M.Ramuthai

...Petitioner

- Vs -

1. Government of Tamil Nadu,
Rep .by the Secretary to Government,
Environment and Forest Department,
Secretariat,
Chennai 600 009.
 2. The Principal chief Conservator of Forests,
Head of Forest Force,
Chennai 600 015.
 3. Thiru. M.Manoharan,
Assistant, Anamalai Tiger Reserve,
Pollachi, Coimbatore District.
- ...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the 2nd respondent to consider and pass reflex the seniority of the petitioner in the post of Junior Assistant and Assistant on par with her immediate junior, the 3rd respondent herein and on that basis, to include the Petitioner's name in the ensuing panel for promotion as Superintendent for the year 2014.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.M.Elumalai , AGP

ORDER

This Writ Petition is filed by the petitioner to direct the 2nd respondent to consider and reflex the seniority of the petitioner in the post of Junior Assistant and Assistant on par with her immediate junior, the 3rd respondent herein and on that basis, to include the Petitioner's name in the ensuing panel for promotion as Superintendent for the year 2014.

2.The case of the petitioner is that while the petitioner's father was working as Office Assistant in the Office of the District Forest Officer, Kodaikanal Division, Kodaikanal, he died in harness on 01.11.1990. After the death of the petitioner's father, the petitioner, after obtaining No Objection Certificate from the first wife and children of her father, submitted her representation on 14.05.1991 and 26.10.1993 to the authorities concerned seeking employment on compassionate grounds. On the basis of the eligibility certificate obtained from the Revenue Authorities, she was appointed temporarily as Junior Assistant and she joined duty on 23.02.1996 and had been continuously serving. It is the further case of the petitioner that her services in the post of Junior Assistant was not regularised in time and, therefore, she was constrained to file W.P(MD) No.5562 of 2005 before the Madurai Bench of this Court, and by order dated 27.04.2009, direction was issued to the respondents to regularise her service from the date of her initial appointment. Subsequently her service was regularized with effect from 23.02.1996 and, thereafter, she was promoted as Assistant by including her name in the panel as on 15.03.2012 and approval of the panel, she joined duty on 16.07.2012. The grievance of the petitioner is that due to administrative reasons her regularisation was declared belatedly, and consequently her name was not included in the panel for promotion as Assistant for the year 2005, which was approved by the 2nd respondent on 05.08.2005. In this regard, she had submitted her representation dated 29.05.2013 to the 2nd respondent to refix her seniority in the post of Junior Assistant and Assistant. However no order has been passed thereon till date. In the meanwhile the 2nd respondent herein has called for proposals for inclusion of names in the panel of Assistants fit for promotion as Superintendent for the year 2014 in proceedings dated 26.03.2014. In the list attached to the said reference, the names of 60 Assistants have been mentioned but her name has not been included in the said list. Hence, left with on other alternative, she has filed this petition with the above said prayer.

3.Learned counsel for the petitioner submitted that it would suffice if this Court directs the respondents to consider the petitioner's representation dated 29.05.2013, within a reasonable time as fixed by this Court.

4.Per contra learned Special Government pleader appearing for the respondents submitted that the name of the petitioner was not included in the panel drawn with crucial date of 15.03.2011 as she punishment was suffered by the petitioner, which was in currency then. However, following the declaration of probation of the petitioner in G.O. Ms. No.(3D). 71 E&F (FR-II) Department dated 16.11.2011, her name was included in the panel with crucial date being 15.03.2012 drawn up by the Principal Chief Conservator of Forests vide proceedings dated

12.07.2012 and joined as Assistant on 16.07.2012. It is further submitted that in the panel for promotion to the post of superintendents for the year 2014, as the currency of punishment suffered by the petitioner was in existence and in view of the check period of five years prescribed in G.O.Ms.NO.707, Personnel and Administrative Reforms Department dated 03.07.1981, she was not promoted as superintendent, whereas the 3rd respondent was promoted as Superintendent.

5. Taking into consideration the submissions advanced by the learned counsel on either side, though it is the stand of the respondents that the currency of punishment acted as a deterrent in considering the name of the petitioner for inclusion in the respective panel for promotion, however, in view of the limited request made by the petitioner, without going into the merits of the case, this Court directs the respondent to consider the petitioner's representation dated 29.05.2013 and pass orders thereon in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

6. With the above direction, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

jrs
To

1. The Secretary to Government
Environment and Forest Department,
Secretariat,
Chennai 600 009.
2. The Principal chief Conservator of Forests,
Head of Forest Force,
Chennai 600 015.

+1cc to Special Government Pleader(forest), XXVII, in SR.39117

W.P. NO.24391 of 2014

sv(co)
rv(16.02.2021)