



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2020

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.13046 of 2020

1) R.Guganesh,
Assistant Conservator of Forest,
Forest Department,
Megamalai Wild Life Sanctuary,
Theni District.

2) S.Shahnavas Khan,
Forest Range Officer,
Assistant Conservator of Forest,
Kanyakumari Division.

... Petitioners

-Vs-

1. The Government of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Environment and Forests Department,
Secretariat, Chennai 600 009

2. The Principal Chief Conservator of Forests,
(Head of Forest Department),
Panagal Building, Saidapet,
Chennai 600 015

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the first Respondent to extend the benefits of the judgment dated 25.02.2015 rendered in W.P.(MD) Nos.20468 and 20469 of 2014 and confirmed in Judgment dated 15.06.2017 in W.A.(MD) Nos.721 and 722 of 2017 and implemented by the Department and to consequently include the name of the Petitioners in the appropriate place in the 2014-15 panel for promotion as Assistant Conservator of Forests issued in G.O.(2D) No.97 Environment and Forests (FR1) Department, dated 04.12.2014 and to grant all consequential service and monetary benefits on par with their juniors included therein within a limited time frame as deemed fit by this Court.



For Petitioner : Mr.M.Ravi
For Respondents : Mr.M.Jeyakumar
Additional Government Advocate

O R D E R

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The prayer sought for in this writ petition is for a Writ of Mandamus, to direct the 1st respondent to extend the benefits of the judgment, dated 25.02.2015 rendered in W.P.(MD) Nos.20468 and 20469 of 2014 and confirmed in Judgment dated 15.06.2017 in W.A.(MD)Nos.721 and 722 of 2017, implemented by the Department and to consequently include the name of the petitioners in the appropriate place in the 2014-15 panel, for promotion as "Assistant Conservator of Forests" issued in G.O.(2D) No.97 Environment and Forests (FR1) Department, dated 04.12.2014 and to grant all consequential service and monetary benefits on par with their juniors included therein.

2. The first petitioner is working as Assistant Conservator of Forests and the second petitioner is working as Forest Ranger.

3. For the post of Assistant Conservator of Forests, the Forest Ranger is the feeder category and as per the Rule, which is in vogue, especially Rule 4(2) of the Special Rules for Tamil Nadu Forest Services, a minimum of eight years of service in the post of Forest Range officers and also, the completion of the Departmental Test, in this regard, is a must. However, subsequently, eight years of minimum service in the feeder category has been relaxed to four years of service. Therefore, the present position is that, those who have completed four years of successful service in the feeder category and also have completed the department tests, would be eligible to be considered, as per seniority, for the promotion to the posts of Assistant Conservator of Forests.

4. In this context, it is the case of the petitioners that, the crucial date is 15.08.2014, which was directed to be fixed by an order of this Court in W.P.(MD) No.20468 and 20469 of 2014 filed by two similarly placed persons, it was directed to be taken into account by the orders of this Court dated 25.02.2015. Accordingly, in those writ petitions, the petitioners therein, were directed to be included in the panel for the year 2014-2015 by taking into account the crucial date as 15.08.2014. The said order of the Writ Court since was appealed in W.A.(MD) Nos.721 & 722 of 2017, the Division Bench of this Court by order, dated 15.06.2017 while confirming the order of the learned Judge of the Writ Court, dismissed the Writ Appeal filed by the Department, where the Division Bench has held as follows:

"5. The learned Special Government Pleader for the appellants submitted that in terms of the rule 4(2) of



Tamil nadu Forests Conservant Service Rules, no person shall be eligible for appointment by direct recruitment by transfer as Assistant Conservator of Forests, unless he has passed Account Test for Executive Officers and Departmental tests in Forest revenue and has completed 8 years of service. However, this issue was never raised before the writ Court. Therefore such contention cannot be allowed to be raised in this appeal for the first time.

6. All that the Writ Court considered was what would be the crucial date to be fixed and that was answered in favour of the respondents/writ petitioners.

7. Hence, we are not inclined to interfere with the orders of the writ court and the writ appeals are dismissed. No costs. Connected miscellaneous petitions are closed. "

5. In this context, it is the grievance of the petitioners that, both the petitioners had completed four years of qualifying service in the feeder category and they had also successfully completed the relevant departmental tests. Therefore, as per seniority, they should have been included in the panel for the year 2014-2015, by taking into account the crucial date as 15.08.2014. However, their names have not been included. Therefore, the benefit which was conferred on two of the similarly placed persons in the aforesaid writ proceedings, has to be extended to the present petitioners also. Therefore, in this regard, though the petitioners had already agitated the issue by making requests to the respondents/ Employers, at that time, the request of the petitioners were not considered because of the pendency of the writ petitions initially and subsequently, due to the pendency of the writ appeals.

6. Therefore, after the issue was concluded by the order passed by the Division Bench in the writ appeals referred to above on 15.06.2017, once again the petitioners made requests on 11.10.2019 and 08.10.2019 respectively.

7. In the meanwhile, the first petitioner has subsequently been included in the next panel or subsequent panel as per the seniority and accordingly, the first petitioner was given promotion as Assistant Conservator of Forests and the second petitioner, still has been working as Forest Ranger.

8. Therefore, Mr.M.Ravi, learned counsel appearing for the petitioners would contend that, in the light of the orders passed by the writ court as well as the judgment confirmed by the Division Bench as referred to above, the petitioners are also entitled to be included in the panel for the year 2014-15, by taking into account



the crucial date as 15.08.2014, since both the petitioners have been qualified with necessary experience of four years, as relaxed by the respondents for the said condition imposed in the relevant rules and also that, both the petitioners since have completed the departmental tests successfully, such a benefit is to be extended to the petitioners. Therefore, seeking such a benefit, the petitioners made separate representations on the aforesaid dates respectively. Since those representations were not considered and are still pending, the learned counsel for the petitioners would submit that, if those representations are directed to be considered by the respondents on merits and in accordance with law, of course, as per the law having been declared by this Court in the aforesaid proceedings and an order to that effect is directed to be passed within a time frame that may be stipulated by this Court, both the petitioners would be satisfied.

9. I have heard Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents, who would submit that, the representations submitted separately by both the petitioners seeking promotion to the cadre of Assistant Conservator of Forests with effect from the year 2014-15 by taking into account the judgments referred to above, would be considered on merits and in accordance with law and accordingly, necessary orders to that effect, on these representations of the petitioners would be passed by the respondents within a time frame that may be stipulated by this Court.

10. I have given my consideration to the said submissions made by the learned counsel appearing for the petitioners as well as the respondents and I have gone through the papers placed before this Court.

11. Since the petitioners seek only for a Mandamus to the respondents to consider the representations of the petitioners separately submitted seeking promotion to the post of Assistant Conservator of Forests, for the year 2014-15, taking into account their qualification and eligibility cum seniority on the basis of the law having been declared in this aforesaid proceedings, this Court is inclined to pass the following orders:-

"that the respondents are hereby directed to consider the representations of the petitioners dated 11.10.2019 and 08.10.2019 respectively on merits and in accordance with law, of course by considering the orders passed by the Writ Court as well as the Writ Appellate Court in the proceedings referred to above in W.P.(MD) Nos.20468 and 20469 of 2014 and W.A.(MD) Nos.721 and 722 of 2017 and accordingly pass necessary orders to that effect, within a period of eight weeks from the date of receipt of a copy of this order."



12. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

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Sub Assistant Registrar(CS)

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To:

1. The Principal Secretary to Government,
Environment and Forests Department,
Secretariat, Chennai 600 009
2. The Principal Chief Conservator of Forests,
(Head of Forest Department),
Panagal Building, Saidapet,
Chennai 600 015.

+1 CC to the SPL GP (SR-18693[F] dated 01/10/2020)

Order made in

W.P. (MD) No.13046 of 2020

Dated:

30.09.2020

TP(CO)

CS(18.12.2020) 5P 4C