



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2020

CORAM :

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P.(MD) No.5296 of 2019

WEB COPY

T.Pushparaj

... Petitioner

vs.

1.The Principal Chief Conservator of Forests,
Panagal Maligai, Saidapet,
Chennai.

2.The Chief Conservator of Forests & Field Officer,
Kalakkad Mundanthurai Tiger Reserve,
NGO Colony, Tirunelveli 627 007.

3.The District Forest Officer,
Kanyakumari District,
Nagercoil, Kanyakumari District.

4.The Deputy Director & Wildlife Warden,
Kalakkad Sanctuary,
No.3, Jawahar Street,
Kalakkad 627 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the third respondent dated 23.02.2015 bearing No.Se.Mu.Aanai.No.11671/2014/Pa2 and quash the same in so far as the portion of order fixing the date 02.01.2015 as crucial date for receiving the arrears by the petitioner and consequently direct the respondents to confer notional promotion as Forest Watcher with effect from the year 1995 and consequential promotions and monetary benefits as per the seniority list drawn in the year 1994-1995 on the petitioner.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.M.Jeyakumar

Additional Government Pleader

O R D E R

The grievance of the petitioner is that although he possess the required qualification and he will be entitled to be promoted as Forest Watcher with effect from the year 1995 and also since his juniors, who did not possess the required qualification, were considered by the respondents for regularization as well as promotion, the present impugned order fixing the petitioner's scale of pay with effect from 02.01.2015 has been challenged before this Court.



2.The learned Additional Government Pleader appearing for the respondents would submit that the Rule governing promotion to the Government employees provides for regularization and promotion on the basis of the seniority and qualification. According to the learned Additional Government Pleader, the seniority was drawn as per the Rules, the petitioner's name was put in Sl.No.4868.

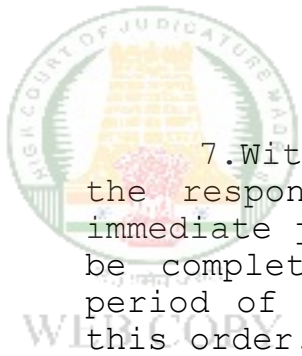
3.It is brought to the notice of this Court that identical batch of writ petitions have already been filed before this Court, in which a Division Bench of this Court has passed orders in W.A.No.607 of 2010 dated 29.03.2010 conferring benefits to the petitioners therein on par with their juniors. Following the decision rendered in the writ appeal, a learned single Judge of this Court in another batch of writ petitions in W.P(MD).No.302 of 2012 etc., allowed the writ petitions on 04.06.2012. The petitioner's grievance is identical to that of the earlier orders of this Court, wherein he seeks regularization of his employment based on G.O.Ms.No.332, Environment of Forest Department, dated 22.12.1994, in which, his claim was already short listed at Sl.No.4868. According to the petitioner, his earlier seniority was fixed at Sl.No.407, wherein the petitioner's name was wrongly shown as T.Pasupathyraj and subsequently, altered to T.Pushparaj.

4.Subsequently, based on the petitioner's uninterrupted service, he was regularized and appointed as a Forest Watcher on 26.12.2014 and his pay scale was fixed on 23.02.2015 with effect from 02.01.2015, where actually, the scale of pay ought to have been fixed with effect from the date of G.O.Ms.No.332, Environment Forest Department dated 22.12.1994. When it is stated that the service of the petitioner's juniors, who either possessed the same qualification or did not possess the required qualification, were regularised, non consideration of the petitioner's candidature from the date of G.O.Ms.No.332, Environment Forest Department dated 22.12.1994 or either from the date of which the petitioner's juniors were regularised, would be discriminatory.

5.In the light of the decision rendered by the Division Bench of this Court as well as the learned Single Judge of this Court in identical cases, as well as on the fact that the petitioner's juniors were considered for regularization and promotion, the petitioner would be entitled for being regularized from the date on which the service of his immediate juniors came to be regularized.

6.In the light of the above observations, the impugned order bearing No.Se.Mu.Aanai.No.11671/2014/Pa2, dated 23.02.2015 insofar as fixing his pay with effect from 02.01.2015, is quashed. Consequently, the petitioner shall be entitled for pay fixation in the post of Forest Watcher from the date on which his immediate juniors were regularised and accordingly, the petitioner's pay shall

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7. With the above observations, there shall be a direction to the respondents to revise the petitioner's pay on par with his immediate juniors in the post of Forest Watcher, which process shall be completed by the second respondent herein at least within a period of fifteen (15) days from the date of receipt of a copy of this order. The time limit of fifteen (15) days is being stipulated by taking into account of the submission of the learned counsel for the petitioner that the petitioner due to retire on 24.01.2020.

8. In view of the above, the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet, Chennai.
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4. The Deputy Director & Wildlife Warden,
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No.3, Jawahar Street, Kalakkad 627 002.

+1 CC to M/s.SPL.GP (SR-2143[F] dated 21/01/2020)

+1 CC to M/s.A.ANANDARAJ, Advocate (SR-2032[F] dated 20/01/2020)

W.P. (MD) No.5296 of 2019

20.01.2020

SMA/28/01/2020/3P/7C