



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.1041 of 2015 and
M.P. No.1 of 2015

1. State of Tamil Nadu
Rep. by its Secretary
Environment & Forest Department
Fort St. George,
Chennai 9

2. The Principal Chief Conservator of Forests
Panagal Building, Saidapet,
Chennai 15

3. The Divisional Forest Officer
Social Forestry Division
JK Nagar, Gajamalai Post
Trichy 23

.. Appellants

Vs.

V.Vasudevan

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.01.2014 made in W.P.No.20172/2010 on the file of this Court.

Prayer in W.P.No.20172/2010:-

Petition has been filed under Article 226 of the Constitution of India to issue and order of writ of certiorarified Mandamus calling for the entire records relating to the order in Na. Ka.No.855/2008/Thi.2 Dated 23.10.2009 which was signed on 27.10.2009 on the file of the 3rd respondent quash the same and consequently direct the respondents to promote the petitioner to the post of Forest Watcher and further promotion as Forest Guard on par with his junior or atleast promote the petitioner as Mali Office Assistant or Watchman on par with his juniors with all consequential service and monetary benefits by considering his appeal Dated 9.11.2009 and pass further orders.



For Appellants : Mr.R.Neelakandan
State Government Counsel

For Respondent : No Appearance

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JUDGMENT

[delivered by PUSHPA SATHYANARAYANA, J.]

This intra-court appeal is preferred by the Government against the order dated 09.01.2014 passed in W.P. No.20172 of 2010 which was filed for a writ of certiorarified mandamus to call for the records relating to the order in Na.Ka. No.855/2008/Thi.2 dated 23.10.2009 and quash the same and consequently, for a direction to the appellants herein to promote the respondent herein to the post of Forest Watcher and further promotion as Forest Guard on par with his junior or at least promote the respondent as Mali, Office Assistant or Watchman on par with his juniors with all consequential service and monetary benefits by considering his appeal dated 9.11.2009 and pass further orders.

2. The learned single Judge, by taking into consideration G.O. (2D) No.56 Environment and Forest Department dated 06.09.2006, directed the appellants herein to consider the case of the respondent/writ petitioner as Plot Watcher, in a time bound manner in the light of the said Government Order.

3. In a similar batch of writ appeals, this Court, by Judgment dated 20.01.2015 in W.A.No.1703 of 2014, had passed the following order:

"There is no dispute that to be a Forest Watcher, one should possess physical requirement of height of 163 cms. and 79 cms. of chest with 5 cms. Expansion. It appears that in the case of the writ petitioner/respondent herein, there is no deficiency in chest measurement. However, there is some deficiency in his height. The appellants have failed to establish as to how the deficiency in his height would substantially affect his performance, especially, when he has been working as Plot Watcher for the last 25 years. The appellants had, indisputably, granted the benefit to other employees. Thus, in the light of the same, we are of the considered view that the order passed by the Writ Court, which is sought to be impugned in the instant appeal, does not warrant interference in the facts of the case. However, we make it clear that the



question of law involved in the case on hand is left open to be decided in the appropriate case."

4. The said decision was based on the decision of the Hon'ble Supreme Court in Ghan Sham Sunder and Others vs. State of Punjab and Others, reported in (2004) 9 SCC 508.

5. Admittedly, the writ petitioner was engaged by the department from the year 1983 and citing the height deficiency, he was not regularised and the same was challenged before the writ court.

6. Considering the length of service rendered by the respondent herein/petitioner he should also be appropriately considered for relaxing the height required for the said post. Accordingly, the benefit of the Judgment in W.A.No.1703 of 2014 is extended to the respondent herein also. In view of the same, the writ appeal preferred by the Government is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

Asr

To

1. State of Tamil Nadu
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+1cc to M/r.S.Mani, Advocate, SR.No.40805

+1cc to Special Government Pleader, SR.No.40991

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LN(CO)
CT (08/09/2021)