

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6559 of 2021

M. Mani

... Petitioner

-vs-

1. Government of Tamil Nadu
Rep. by its Secretary,
Environment and Forest Department
Fort St.George, Chennai 600 00.
2. The Principal Chief Conservator of Forests,
Panagal Maaligai, Jeenis Road,
Saidapet, Chennai 600 015. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the respondents to consider the notional promotion to the petitioner as Forest Guard on par with Juniors by including their name in the panel drawn for the year 2003-2004 with effect from 31.05.2004 in the light of order passed in W.P.No.35281 of 2019 dated 20.12.2019 and in the light of proceedings of 2nd respondent dated 10.10.2014 by considering the representation made by the petitioner dated 05.07.2019.

For Petitioners : Mr.T.Sellapandian

For Respondents : Mr.S.Prabhu
Additional Govt.Pleader

O R D E R

This writ petition has been filed, seeking a direction to the respondents to consider the notional promotion to the petitioner as Forest Guard on par with Juniors by including the petitioner's name in the panel drawn for the year 2003-2004 with effect from 31.05.2004 in the light of order passed in W.P.No.35281 of 2019 dated 20.12.2019 and in the light of proceedings of 2nd respondent dated 10.10.2014 by considering the petitioner's representation dated 05.07.2019.

2. According to the petitioner, his service was regularised with effect from 24.01.1995 in the cadre of Forest Watcher and his seniority was also re-fixed placing him over and above his juniors and he is entitled to next promotion to the post of Forest Guard on par with their juniors. However, the respondents failed to confer notional promotion to the post of Forest Guard from 31.05.2004, the date on which his juniors were given notional promotion as Forest Guard including his name in the panel for the year 2003-2004. In respect of his grievance, petitioner submitted a representation dated 05.07.2019 to the respondents. As no orders are passed on such representation, petitioner is before this Court with the above writ petition.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation dated 05.07.2019 is already pending with the 2nd respondent and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 2nd respondent herein to consider the representation dated 05.07.2019 made by the petitioner and prepare a proposal strictly in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and submit the same to the 1st respondent, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. On receipt of the same, the 1st respondent shall take a decision thereon within a period of six weeks, thereafter.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission along with fresh representation, if so desired, a copy of the earlier representation dated 05.07.2019, a copy of this order and all other relevant materials, within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 05.07.2019 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

dpq

To:

1. The Secretary,
Environment and Forest Department
Fort St.George, Chennai 600 00.
2. The Principal Chief Conservator of Forests,
Panagal Maaligai, Jeenai Road,
Saidapet, Chennai 600 015.

+1cc to Mr.S.Mani, Advocate SR.No.17165

+1cc to Special Government Pleader SR.No.18102

W.P.No.6559 of 2021

KV(CO)
GMY(13/07/2021)