



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19012 of 2021

AND

W.M.P.No.20278 of 2021

(Through Video Conferencing)

1.B.Kandhan

2.N.Sampath

3.R.Kothandaraman

4.A.Anthonysamy

5.K.Samikannu

...Petitioners

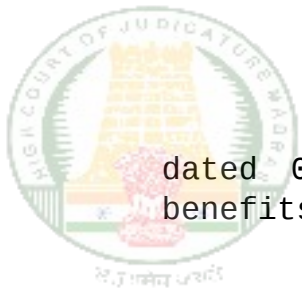
Vs

1.Government of Tamil Nadu,
Represented by its Secretary,
Environment and Forest Department,
Fort St.George, Chennai - 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 600 015.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to include the post of Forester for the year 2011-2012, give notional promotion to the petitioners to the post of Forester on par with their juniors (i.e.,) 18.04.2013 without insisting for completion of Vaigai Dam Training within specified period on 18.04.2013 in the light of the order passed by this Court in W.P.No.1341 of 2015 dated 01.06.2015 and W.P.No.40881 of 2016 dated 22.11.2016 same was affirmed by Division Bench in W.A.No.2682 of 2019 dated 07.07.2021 and W.P.No.12840 of 2017



dated 02.08.2021 with all consequential service and monetary benefits.

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For Petitioners : Mr.S.Mani

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Both the learned counsel for the petitioners and the learned Government Advocate for the respondents submits that the issue is now squarely covered by a series of decisions of this Court including latest decision of this Court dated 02.08.2021 in W.P.No.12840 of 2017, wherein, all the previous Judgments were considered.

2. This Court has allowed the aforesaid writ petition based on the decision of the Division Bench of this Court in W.A.No.2682 of 2019 dated 07.07.2021. The relevant portion of the order is reproduced below:-

"4. The said decision has been affirmed by the Division Bench of this Court recently on 07.07.2021 in W.A.No.2682 of 2019 by a detailed order. Relevant portion of the said order in paragraphs nos.6 to 10 reads as under:-

"6. The learned State Government Counsel appearing for the appellants contended that the learned Single Judge had not considered Rule 5 of the Tamil Nadu Forest Subordinate Service Rules in regard to the other qualification in respect of promotion to the post of Forester. The relevant rule is extracted hereunder:

5. OTHER QUALIFICATION

No person shall be eligible for appointment to the class, category and grade specified in column (1) and by the method specified in column (2) of the table below unless he possess the qualifications specified in the corresponding entry in column (3) thereof.



Class
Category
1

Method
2

Qualifications
3

Class-1

2. Forester

iv) promotion of

(b) Must have successfully completed a course of training in a Tamil Nadu Forestry College, Vaigai Dam if he had not already undergone such training.

Forest Guard

7. No doubt, the above said Rule 5 stipulates other qualification such as Vaigai Dam Training as mandatory. However, unless the appellants depute the respondents for such training at the appropriate time, they could not be expected to complete the same. The respondents, who are the employees, may not compel the appellants to depute them for the training. The alleged non-completion of the training by the writ petitioners/respondents herein within the stipulated period is not their fault and the same cannot be put against them, dis-entitling them from getting their promotion. It is also pointed out that the juniors to the respondents have marched ahead of them by getting a promotion.

Therefore, the contention of the learned State Government Counsel that a person can be promoted based on merit and ability apart from seniority and the departmental promotion committee alone is competent to recommend the person fit for promotion cannot be accepted.

8. The next contention of the learned State Government Counsel is that the juniors to the respondents were promoted only pursuant to the Court order, also is not acceptable. Therefore, the respondents cannot be prejudiced and deprived of their lawful promotion on the ground that they have not completed the training in the Tamil Nadu



Forestry College, Vaigai Dam as prescribed under Rule 5 of the Tamil Nadu Forest Subordinate Service Rules.

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9. In view of the above discussion, we are of the view that the learned Single Judge has rightly directed the appellants to include the names of the writ petitioners/respondents in the panel for the year 2011-2012 and promote them as Foresters from the date on which their juniors were promoted on notional basis. There is no infirmity or illegality in the above order and the same is confirmed.

10. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed."

5. In the light of the above, this writ petition is allowed with the consequential relief to the petitioners. No costs."

3. This Writ Petition stands allowed in the light of the above decisions of this Court. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

// True Copy //

Sub Assistant Registrar

arb

To

1. The Secretary,
Government of Tamil Nadu,
Environment and Forest Department,
Fort St. George,
Chennai - 600 009.



2.The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 600 015.

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+5ccs to M/s.S.Mani, Advocate SR.No.45972

+1cc to the Special Government Pleader SR.No.46229

W.P.No.19012 of 2021
and
W.M.P.No.20278 of 2021

PL(CO)
RVM(05/10/2021)