



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.21574 of 2021
(Through Video Conferencing)

B.Mohanraj

... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai - 9.

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

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent in Ref.No.LL2/8356/2018 dated 03.07.2018, quash the same and consequently direct the respondents to appoint and fix the pay notionally in the post of Forest Watcher taking into account of petitioner seniority on par with petitioner juniors with effect from 24.01.1995 in the light of the proceedings in Ref.No.LL2/54670/2011 dated 28.09.2013.

For Petitioner : Ms.K.Jenitha

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

ORDER

This is the second round of litigation by the petitioner.

2. Earlier the petitioner along with 23 other persons had filed W.P.No.4027 of 2018 which came to be disposed by an order dated 02.03.2018. The operative portion of the order reads as under:-



WEB COPY

"7. In the present case also, since the petitioners were not considered, when their juniors as mentioned above were given the benefit of regularisation, this Court finds no impediment for the respondents to regularise the petitioners service, in the light of the order passed by this Court in W.P.No.30 of 2016. The said exercise shall be done within a period of four weeks from the date of receipt of a copy of this order."

3. The aforesaid writ petition was disposed in the light of the order passed by this Court in W.P.No.30 of 2016 by an order dated 05.01.2016. Paragraphs 4 & 5 of the said order reads as under:-

"4. Considering the fact that the petitioner's Juniors were already regularised even before the petitioner could get regularised as per the decision referred to above [W.P.No.15561 of 2006 dated 10.03.2008], it is appropriate to direct the respondents to regularise the service of the petitioners on par with their juniors as Forest Watchers within a period of twelve weeks from the date of receipt of a copy of this order. The petitioners are entitled to only regularisation from the date of which the juniors were regularised and they are not entitled to any monetary benefits from that date.

5. With the above direction, the writ petition is disposed of. No costs."

4. Pursuant to the aforesaid direction/order of this Court in W.P.No.4027 of 2018 dated 02.03.2018, the second respondent has passed an order dated 03.07.2018. As per the said order, none of the petitioner's Juniors were conferred with any benefits and therefore the request of the petitioner cannot be considered.

5. Paragraph 5 of the impugned order reads as under:-

"5. Since no junior to the petitioner had been promoted ahead of him, the contention of the petitioner to confer upon him benefits on par with his junior in the cadre of Forest Watcher warrants no merit in accordance with the rules in force. Therefore, the request of the petitioner Vide reference 3rd cited cannot be complied with."



WEB COPY

6. After the impugned order came to be passed on 03.07.2018, the petitioner sent a representation dated 09.08.2019 to the second respondent to reconsider the decision in the said order dated 03.07.2019. However, the aforesaid representation of the petitioner has not evoked any positive response from the second respondent.

7. Appearing on behalf of the petitioner, the learned counsel has drawn attention to the Intra-departmental Communication exchanged between the second respondent and the first respondent on 28.09.2013 bearing Ref.No.LL2/54670/2011.

8. The learned counsel for the petitioner has also drawn attention to certain names of the persons given in the tabulation in the aforesaid Intra-departmental Communication wherein, names of several persons who were appointed subsequently have conferred with the benefits.

9. Prima facie, the petitioner appears to have made out a case for a relief that has been sought for in this writ petition. However, that exercise will have to be first carried by the respondents in the light of the representation of the petitioner dated 09.08.2019. Therefore, the impugned order dated 03.07.2018 of the second respondent is quashed.

10. Under these circumstances, the second respondent is directed to reconsider the representation dated 09.08.2019 of the petitioner in the light of the order dated 02.03.2018 in W.P.No.4027 of 2018 and dispose the same within a period of twelve weeks from the date of receipt of a copy of this order considering the fact that the petitioner is reached the age of superannuation in few years time.

11. While disposing the representation of the petitioner, the second respondent shall also consider the Intra-departmental communication of the second respondent dated 28.09.2013 bearing Ref.No.LL2/54670/2011.

12. This Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



arb

To

1.The Secretary,
Government of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai - 9.

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

+1cc to Special Government Pleader Sr No.52519

W.P.No.21574 of 2021

VGII (CO)
PR (02/11/2021)