



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition No.12840 of 2017

(Through Video Conferencing)

- 1.P.Rameshkumari
- 2.M.Rani
- 3.P.Kalyanikutti
- 4.S.Jeyasiri
- 5.T.Thirunavukkarasu
- 6.M.Elumalai
- 7.R.Perumal
- 8.S,Shanmugam
- 9.M.Mahaligam
- 10.A.Sherif
- 11.M.Chandran
- 12.Arumugam
- 13.K.Sivakumar
- 14.A.Babu
- 15.P.Govindaraju
- 16.G.Elumalai
- 17.S.Boopalan
- 18.R.Jayachandran
- 19.O.Selvaraj
- 20.V.Perumal
- 21.M.Ramadoss
- 22.P.Sankaranarayanan

..Petitioners

/versus/

1. Government of Tamil Nadu,  
Rep.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

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, direct the respondents to include the names of the petitioners in the panel drawn for promotion to the post of Forester for the year 2011-2012, to give 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 with all consequential service and monetary benefits.

For Petitioners : M/s.S.Mani

For Respondents : Mr.LSM.Hasan Fizal  
Government Advocate.

#### O R D E R

The writ petition has been filed to direct the respondents to include the names of the petitioners in the panel drawn for promotion to the post of Forester for the year 2011-2012 and to give promotion to the petitioners to the post of Forester on par with their juniors (i.e.) 18.04.2013 without 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 with all consequential service and monetary benefits."

2. Both the counsel for the petitioners and the respondents agree the issue is no longer res-integra and is also covered by a decision of this Court in W.P.No.40881/2016 dated 22.11.2016.

3. It is noticed that an identical prayer relief was granted in W.P.No.32611 of 2019 today, wherein an earlier decision of this Court in K.Anbalagan and 30 Others vs. Government of Tamil Nadu, rep.by its Secretary, Environment and Forest Department, Fort St.George, Chennai 600 009 and another, W.P.No.40881 of 2016 was followed. In para Nos.5& 6, this Court held as follows:-

5.As rightly contended by the learned counsel for the petitioners,a Government employee cannot be denied promotion on the ground that he did not possess the service qualification, which is not at his hands. The issue is squarely covered by the decision of this Court made in W.P.No.26784 of 2013 dated 03.12.2013 (S.Premathi and 3 others vs. The Additional Chief Secretary/Commissioner of Revenue and 2 others), wherein, this Court, relying on two other decisions of this Court, has allowed the writ petition. Paragraph Nos.5 and 6 of the said order read as follows:-

"5.The learned counsel for the petitioners heavily relied on the decision dated 12.10.2011 in S.Sasisivanandam v. District Collector, Thoothukudi District, Thoothukudi





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6. It is the case of the petitioners that they have not been deputed to Vaigai Dam Training for a long time. If the department fails to post them at a particular place for the training, the employee could not be blamed for the same, as rightly observed by this Court in the aforesaid decision."

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<br>Category<br>1 | Method<br>2      | Qualifications<br>3                                                                                                                                                   |
|------------------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Class-1<br>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.<br>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



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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 TamilNadu Forest Subordinate Service Rules.

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.

Sd/-  
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

kkd



To

1. The Secretary,  
Environment and Forest Department,  
Fort St.George, Chennai 600 009.

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

+10cc to M/s.S.Mani, Advocate, S.R.No.37814/21

+1cc to the Special Government Pleader, S.R.No.31243/21

W.P. No.12840 of 2017

SMI (CO)  
RGA(24/08/2021)