

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.2528 of 2018

N.Srinivasan

..Appellant

Vs.

1. The Government of Tamil Nadu,
rep. by Principal Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai - 600 009.
2. The Principal Chief Conservator of Forests
and Head of Forest Force,
Chennai - 600 015.
3. The Conservator of Forests (Research),
State Forestry Research Institute,
Kolapakkam,
Chennai - 600 048.
4. The Deputy Conservator of Forests,
Forest Genetic Division,
Coimbatore-43.

..Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the common judgment dated 05.10.2017 made in W.P.No.2762 of 2014.

PRAYER IN W.P.No.2762 of 2014: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent herein to consider the claim of the petitioner in the light of the Judgment dated 01.08.2012 in P.Ravikumar Vs. The Government of Tamil Nadu, rendered by Madurai Bench of this Hon'ble High Court and the consequential order of the first respondent issued in implementation of the above Judgment in G.O.(D)No.93, Environment and Forest (FR-2) Department, dated 04.04.2013, issued by the first respondent and to pass appropriate orders by invoking Rule 48 of the General Rules for Tamil Nadu State and Subordinate Service, enabling the regularization of the service of the petitioner in the post of Research Assistant with effect from 28.08.1989 and to grant him all consequential benefits.

For Appellant : Mr.M.Ravi

For Respondent : Mr.S.Prabhu
Addl. Govt. Pleader (Forest)

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

The appeal arises out of an order dated October 5, 2017 passed on the appellant's writ petition complaining of dissimilar and prejudicial treatment by the employer.

2. While dismissing the writ petition, after recording the facts and the applicable law, the Writ Court noticed that in dealing with extraordinary situations, there was an exceptional provision incorporated in Rule 48 of the Tamil Nadu State and Subordinate Service Rules for regularisation. However, the Writ Court was also constrained to record its displeasure in how often the extraordinary power had been exercised by the State to favour some chosen employees.

3. The Writ Court held that a relaxation granted in favour of another candidate would not entitle a subsequent candidate to cite it as a precedent, particularly when the rule was of the exceptional kind as is incorporated in Rule 48 of the said Rules. In a sense, the principle applied by the Writ Court was that Article 14 of the Constitution does not apply in the negative sense. Just because a bad precedent had been set, would not imply that all other similarly situated would enjoy the benefit that they may not be entitled to, but which they seek to be conferred with because of the bad precedent.

4. The appellant has, undoubtedly, continued as a Research Assistant for a long period of time. The appellant may also appear to have been hard done by. However, there was no entrenched legal right that the appellant could assert before the Writ Court and, in such circumstances, the Court was justified in repelling the petition and not permitting the exceptional provision to be resorted to without the circumstances in this case being extraordinary.

The judgment and order dated October 5, 2017 do not call for any interference. As a consequence, W.A.No.2528 of 2018 is dismissed. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Environment and Forest Department,
Secretariat, Chennai - 600 009.
2. The Principal Chief Conservator of Forests
and Head of Forest Force,
Chennai - 600 015.
3. The Conservator of Forests (Research),
State Forestry Research Institute,
Kolapakkam,
Chennai - 600 048.
4. The Deputy Conservator of Forests,
Forest Genetic Division,
Coimbatore-43.

W.A.No.2528 of 2018

SSV(CO)
KKV/03/03/2021

सत्यमेव जयते

WEB COPY