



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.134 of 2014

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

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

... Appellants/Respondents

Vs.

T.Jayakody

... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 16.07.2010 made in W.P(MD)No.2026 of 2009.

Prayer in WP(MD). 2026/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in connection with the impugned order passed by him in his proceedings in Ref.No.LL/57237/2008, dated 31.12.2008 and quash the same as illegal and consequently direct the respondents to consider the case of the petitioner for promotion to the post of Forester by relaxing the relevant rules in the Tamil Nadu Forest Subordinate Service Rules, within the time limit.

For Appellants : Mr.M.Murugan,
Government Advocate

For Respondent : Mr.K.Prabhu

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The writ appeal is directed against the order dated 16.07.2010 made in W.P(MD)No.2026 of 2009.



2. The learned single Judge in the order dated 16.07.2010 made in W.P(MD)No.2026 of 2009, has observed as follows:

"5. At this juncture, it would be worthwhile to refer to a judgment of the Hon'ble Apex Court in CSIR v. K.G.S Bhatt reported 1989 (4) SCC 635, wherein in paragraph No.14, it has been held as follows:

"14.In the instance case as already noticed that Respondent 1 has suffered and stagnated for about twenty years in the same scale from inception due to defective promotional policy. Therefore, we decline to interfere with the relief granted by the Tribunal although we do not agree with the views expressed on the scope of bye-law 71 (b) (ii)."

6.As per the above said judgment, even though in the relevant statutory Rules there is no provision to give promotion to the petitioner therein, basing on the above aspects, promotion was granted. Under such circumstances, if there is no possibility of promoting the petitioner as a Forester, as per the Judgments, referred to above, certainly, the drivers are also entitled for promotion.

7. Keeping the above judgements of the Hon'ble Apex Court in mind, the respondents are directed to re-consider the representation submitted by the petitioner dated 01.01.2008 and pass orders opening avenue of promotion to the post of Driver within a period of four weeks from the date of receipt of a copy of this order."

3. Aggrieved by the same, the appellants had preferred the above writ appeal.

4. The learned Government Advocate appearing for the appellants contended that the drivers are vested with the duties of only driving and maintaining the vehicle as per the instructions from the Officers concerned, whereas the Forest Guards with driving licence and Foresters are the Posts, which are technical in nature Protection/Conservation/development of Forest and Wildlife. Therefore, promotional avenues are not possible and the drivers cannot seek for promotion as a matter of right.



5. The learned Government Advocate also produced the letter No.14545/FR.2/2013-13 dated 14.10.2016 of Environment and Forest Department, which states as follows:

".....the Drivers are drawing more pay than the feeder category posts for Forester due to the introduction of Tamil Nadu Revised Scales of Pay Rules 2009. At present no other departments in Tamil Nadu State have provided promotional avenues to the post of driver. Further, by allowing promotional avenues and fixation of pay of Drivers in one department would have a cascading effect and lead to confusion among the Government departments.

2.In view of the above, I am to inform you that the proposal for amending the Rules 2,3,4,5 and 8 of the (Tamil Nadu Forest Sub-Ordinate Service in Forest Department cannot be complied with."

6. The learned Government Advocate appearing for the appellants would further point out that the respondent herein retired as a Driver on 31.05.2015 and he has taken all the pensionary benefits without any prejudice.

7. In the light of the above, as already the respondent's request as directed by the learned Single Judge has been considered and orders have been passed, there is nothing further to adjudicate in this writ appeal and the writ appeal is disposed of in terms of the above communication. No Costs.

Sd/-

Assistant Registrar ()

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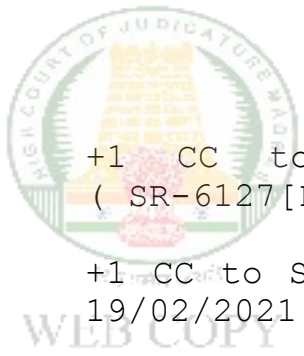
/ /2021

Sub Assistant Registrar(CS)

pm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



+1 CC to MR.K.PRABHU, Advocate
(SR-6127[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6219[F] dated
19/02/2021)

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