

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.11624 and 16753 of 2014

And

MP Nos. 1 and 1 of 2014

T.Captain Napoleon

.. Petitioner in both WPs

vs.

Principal Chief Conservator of Forests,
Panagal Buildings,
Jennis Road,
Saidapet,
Chennai - 15.

.. Respondent in both WPs

WP 11624 of 2014 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus to direct the respondent to include the petitioner's name in the ensuing panel of Foresters fit for promotion to the post of Forest Ranger for the year 2012-2013 and promote him to the post of Forest Ranger.

Prayer in W.P.No.16753 of 2014 : Writ of Certiorarified Mandamus to call for the records on the file of the respondent made in Proc.No.AB1/54000/2006 dated 18.07.2007 and quash in so far as it denies the petitioner retrospective promotion for the year 2004-2005 and consequently direct the respondent to promote him to the post of Forester for the year 2004-05 by giving retrospective effect and further to include his name in the panel for the post of Forest Ranger for the year 2013-14 and promote him as a Forest Ranger for the year 2013-2014.

For Petitioner : Ms.Selvi George
in Both in WP's

For Respondent : Ms.S.Anitha,
in Both in WP's Special Government Pleader.

C O M M O N O R D E R

The order dated 18.07.2007 the communication of non-selection of the writ petitioner for promotion to the post of Foresters, is under challenge in WP No.16753 of 2014. The petitioner filed another writ petition in WP No.11624 of 2014 to direct the respondents to include the name of the writ petitioner in the ensuing panel of Foresters fit for promotion to the post post of Forest Rangers for the year 2012-2013.

2. At the outset, the promotion post of Forester and Forest Ranger were denied to the writ petitioner. The writ petitioner was appointed as Forest Guard in the year 1990. He was due for promotion to the post of Forester in the panel of the year 2004-2005. But the name of the writ petitioner was passed over on account of the pendency of the departmental disciplinary proceedings. However, the respondents state that the petitioner's name was considered for promotion to the post of Forester for the panel of the year 2006-2007 and the crucial date was 15.08.2006.

3. The writ petition has been filed seeking retrospective promotion for promotion to the post of Forester in the panel of the year 2004-2005 and consequently promote the writ petitioner to the post of Forest Ranger for the year 2013-2014.

4. The learned counsel for the petitioner made a submission that certain charges were issued against the writ petitioner and the writ petitioner submitted his explanation and defending the departmental disciplinary proceedings.

5. The Principal Chief Conservator of Forests in proceedings dated 09.05.2005 published the panel of Forest Guards fit for promotion to the post of Foresters for the year 2004-2005. The persons qualified on the crucial date on 15.08.2013 were published. During the relevant point of time, the petitioner was undergoing the punishment of recovery awarded by the District Forest Officer, Kodaikkanal in proceedings dated 29.04.2003 and the Chief Conservator of Forests, Dindigul in his proceedings dated 31.03.2004. Thus the name of the writ petitioner was not included based on the Government Order issued in G.O.Ms.No.368, Environment and Forests Department, dated 18.10.1993. After the expiry of the currency of punishment, the name of the writ petitioner was considered for promotion to the post of Forester in the panel of the year 2006-2007 and accordingly, he was promoted. Thus, there is no infirmity as such in respect of non-inclusion of the name of the writ petitioner for promotion to the post of Forester during the year

2004-2005 and further he was granted promotion in the panel of the year 2006-2007.

6. In view of the fact that the petitioner was promoted to the post of Forester in the panel of the year 2006-2007, his name was not considered for further promotion to the post of Forest Ranger in the panel of the year 2012-2013.

7. The petitioner, as of now, reached the age of superannuation and under these circumstances, he is not entitled for retrospective promotion in the post of Forester from the panel of the year 2004-2005. It is made clear by the respondents that during the relevant point of time, the petitioner was suffering currency of punishment and after expiry of currency, his name was considered for and he was promoted to the post of Forester in the panel of the year 2006-2007 and thus he could not secure promotion to the post of Forest Ranger on par with his juniors in the panel of the year 2012-2013.

8. This being the factum established, there is no infirmity as such in respect of the denial of the promotion to the petitioner with retrospective effect.

9. Accordingly, both the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

Svn

To

Principal Chief Conservator of Forests,
Panagal Buildings,
Jennis Road, Saidapet,
Chennai - 15.

+1cc to Mrs.Selvi George, Advocate SR.No.38876
+1cc to Special Government Pleader (Forest)SR.No.38915, 38913
+1cc to Government Pleader SR.No.39643

WPs 11624 and 16753 of 2014

PMK(CO)
GMY(12/07/2022)