



W.P.No.18663 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18663 of 2018

P.C.Gokulakrishnan

...Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department,
Secretariat,
Chennai – 600 009.
- 2.The Principal Chief Conservator of Forests/
Head of Forest Force, Panagal Maaligai,
Saidapet,
Chennai – 600 015.
- 3.The Soil Conservation Officer,
Mettur Soil Conservation Scheme,
Salem – 636 007.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the Second Respondent relating to the order in Pro.Ref.No.ABI / 24783 / 16 dated 23.10.2017 to quash the same and to issue consequential directions to the 2nd Respondent to give notional



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effect in the promotion of the petitioner as Forester by recruitment or by transfer with effect from October 2007 and to consequently grant attendant benefits including promotion as Forest Ranger by including his name in the panel of forester fit for promotion as Forest Ranger for the year 2014-15 in the appropriate place therein for promotion as Forest Ranger and promote the petitioner as such with retrospective effect from the date of promotion of his immediate junior and to grant him all consequential benefits.

For Petitioner : Mr.I.Kasiram for
M/s.M.Ravi

For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

The order of rejection rejecting the claim of the writ petitioner for retrospective notional promotion to the post of Forester is under challenge in the present writ petition.

2.The petitioner was appointed as Junior Assistant-cum-Typist on compassionate ground due to the death of his father who served as Forest Ranger. The petitioner states that he is fully qualified for promotion to the post of Forester and despite the fact that he is eligible and qualified, his name was not considered to



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the promotion for the post of Forester by the respondents. Earlier, the petitioner filed W.P.No.23514 of 2016 and this Court passed an order, directing the authorities to consider the representation submitted by the writ petitioner on 05.01.2016 and pass appropriate orders on merits and in accordance with law. Pursuant to the directions issued by this Court, the case of the writ petitioner was considered based on the Service Records. The services of the writ petitioner was regularized in the post of Junior Assistant-cum-Typist w.e.f. 01.10.1999. He completed his probation on 25.03.2003. His name was considered in the panel for the year 2011-12 for appointment as Forester by recruitment, by transfer in proceedings dated 31.12.2012. The petitioner has informed that he has completed B.Sc., (Mathematics) Degree through University of Madras in April 2007. Based on the said degree, the petitioner made a request to consider his name in the panel of the year 2007-08 for promotion to the post of Forester.

3. Mere eligibility or acquiring qualification would not be a ground to seek promotion. Promotion *per se* cannot be claimed as an absolute right. Consideration for promotion is a fundamental right of an employee. Thus, in the event of taking an administrative decision to fill up the promotion post, the names of all the eligible



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persons who all are aspiring to secure promotion are to be considered in accordance with rules and in the order of seniority.

4. For seeking the relief of retrospective promotion, an employee must establish that his right of consideration or promotion was denied in violation of Rules or any of his juniors were promoted overlooking the seniority. In the absence of any one of this ground, Court would not consider for grant of retrospective promotion in a particular post or cadre. In the present case, the petitioner was already promoted as Forester in the year 2012. He seeks retrospective promotion from the panel of the year 2007-08. The reason stated by the petitioner is that he acquired the qualification of B.Sc., Degree in Mathematics and therefore, he should be considered for promotion to the post of Forester. The respondents have clearly stated that in respect of the panel of the year 2007-08, none of the juniors to the petitioner was promoted to the post of Forester and therefore, his case cannot be considered for retrospective promotion with reference to the panel of the year 2007-08. Thus, the very relief sought for is misconceived, since none of the junior to the petitioner was promoted with reference to the panel of the year 2007-08 and mere acquiring the qualification would not be a ground to seek retrospective promotion.



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That apart, the writ petitioner suffered two punishments and currency of punishment or pendency of charges are also bar for grant of promotion. However, the case of the writ petitioner cannot be denied based on the check period of five years which was already set aside by the Full Bench of this Court. But, the currency of punishment is a bar for promotion.

5.Thus, the writ petitioner has not made out any ground for the purpose of considering the relief and accordingly, this writ petition stands dismissed. No Costs.

20.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr

To

1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department,
Secretariat,
Chennai – 600 009.



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S.M.SUBRAMANIAM, J.

SSR

2.The Principal Chief Conservator of Forests/
Head of Forest Force, Panagal Maaligai,
Saidapet,
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3.The Soil Conservation Officer,
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