



WP(MD)Nos.11773 & 15613 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.07.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)Nos.11773 & 15613 of 2021

and

W.M.P.(MD)Nos.9250, 9255, 9256, 12563 & 12567 of 2021

I.Senthil Kumar

...Petitioner in both Writ Petitions

/vs./

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Environment and Forest Department,
Secretariat, Chennai.
- 2.The Principal Chief Conservator of Forests,
(Head of Department),
Panagal Maligai,
Saidapet,
Chennai – 15.
- 3.The Additional Principal Chief Conservator of Forest,
O/o. The Additional Chief Conservator of Forest Office,
Madurai District,
Madurai.
- 4.The District Forest Officer,
O/o. The District Forest Officer,
Megamalai Wildlife Sanctuary,
Theni District.



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5.The Wildlife Warden,
O/o. Wildlife Warden Office,
Megamali Wildlife Division,
Theni District.

...Respondents in both Writ Petitions

PRAYER in W.P.(MD)No.11773 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent vide his proceedings in Proc.No.B2/35803/2020 dated 17.06.2021 and quash the same as illegal in so far as the non-selection of the petitioner is concerned and consequentially to direct the second respondent to promote the petitioner as Forest Range Officer by including his name in the panel of Foresters fit for promotion as Forest Range Officers for the years 2020-2021 in terms of Section 7(1) r/w. Schedule XI-Part-A clause II (5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 within the period as may be directed by this Court.

PRAYER in W.P.(MD)No.15613 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent vide his proceedings in Proc.No.B2/35803/2020 dated 13.08.2021 and quash the same as illegal in so far as the non-inclusion of the petitioner is concerned and consequentially to direct the second respondent to promote the petitioner as Forest Range Officer by including his name in the panel of Foresters fit for promotion as Forest Range Officers for the years 2020-2021 in terms of Section



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7(1) r/w. Schedule XI-Part-A clause II (5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, along with the seniority and consequential monetary benefits within the period as may be directed by this Court.

For Petitioner : Mr.Mohamed Imran
for M/s.Ajmal Associates (in both WPs)
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader (in both WPs)

COMMON ORDER

The petitioner's claim for inclusion of his name in the promotional panel for the post of Forest Range Officer from the post of Forester for the year 2020-2021 is now opposed by stating that since there was a case pending against the petitioner herein, under investigation in FIR No.14 of 2018 and in view of G.O.Ms.No.248, Personnel and Administrative Reforms Department, dated 20.10.1997, his name was not included in the promotional panel.

2.Pursuant to the panel drawn for the promotion for the post of Forest Range Officers for the year 2020-2021, the petitioner's juniors' names have been



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included in the panel and accordingly, promoted through the impugned order of promotion.

3.The only impediment pointed out by the respondents for non-inclusion of the petitioner's name, is the pendency of the criminal case against him by the Vigilance and Anti Corruption Department.

4.The issue that arises for consideration in the present writ petition is as to whether the employee's name can be withheld from inclusion in the promotional panel on the mere ground that a criminal case is pending against him on the crucial date of the promotional panel?

5.Under Clause II(5) of the Schedule XI of the TamilNadu Government Servants (Conditions of Service) Act, 2016, mere pendency of a criminal case against an employee would not be an impediment for inclusion of his name in the approved list. As per the aforesaid clause, “Mere filing of cases in Courts by the appropriate Investigating Authority against a member of service, shall not be a bar for inclusion of his name in the approved list. If specific charges are framed or



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charge sheet has been filed in the criminal case, on the crucial date, his name shall not be considered for inclusion in the approved list.”

6.Likewise, the Government Order, referred by the learned Additional Government Pleader appearing for the respondents in G.O.Ms.No.248, Personnel and Administrative Reforms Department, dated 20.10.1997, also prescribes that a preliminary / detailed enquiry undertaken by the Directorate of Vigilance and Anti Corruption, will not be held against an officer for inclusion in the panel.

7.Admittedly, no final report has been filed in the criminal case initiated against the petitioner by Vigilance and Anti Corruption Department. If that be so, non-consideration of the petitioner's name in the promotional panel as on the crucial date ie., on 15.08.2020, when no final report was filed, cannot be sustained, in view of the provisions of the TamilNadu Government Servants (Conditions of Service) Act, 2016, as well as G.O.Ms.No.248, Personnel and Administrative Reforms Department, dated 20.10.1997.



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8. Since the petitioner's juniors have been promoted pursuant to the panel drawn on 17.06.2021 for the post of Forest Range Officers, the petitioner would also be entitled for inclusion of his name in the panel and for consequential direction order.

9. Accordingly, there shall be a direction to the second respondent to forthwith pass orders, by including the name of the petitioner in the promotional panel for the post of Forest Range Officers for the year 2020-2021 and consequently issue orders of promotion for the post of Forest Range Officers and place the petitioner's seniority, on par with his immediate juniors, together with all the service and other monetary benefits. Such orders shall be passed, atleast within a period of eight (8) weeks from the date of receipt of a copy of this order. These Writ Petitions are allowed accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Internet : Yes / No

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O/o. The Additional Chief Conservator of Forest Office,
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M.S.RAMESH, J.

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Common Order made in
W.P.(MD)Nos.11773 & 15613 of 2021

Dated:
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