



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.15391 of 2019

S.Mahalingam

... Petitioner

-Vs-

1.The Principal Chief Conservator of Forest,
Panagal Maaligai, Saidapet,
Chennai-600 015.

2.The Conservator of Forest,
Dindigul Division,
Velu Nachiyar Complex,
Dindigul-4, Dindigul District.

3.The District Forest Officer,
Dindigul Division,
Velu Nachiyar Complex,
Dindigul-4, Dindigul District.

4.The District Forest Officer,
Theni District Forest Road,
T.B.Road, Bungalowmedu,
Theni-625 531, Theni District.

... Respondents

PRAYER: 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 issued by the 3rd respondent herein in Na.Ka.No.pal/690/2016 dated 24.04.2019, quash the same and further direct the respondents herein to promote the petitioner as Forest Guard from 13.05.1994 onwards and Forester from 28.08.2009 on par with petitioner's Junior S.Thavamani and disburse all consequential monetary benefits.

For Petitioner : Mr.E.V.N.Siva
For Respondents : Mr.P.Thilak Kumar,
Government Pleader
assisted by Mr.M.Ramesh,
Government Advocate.

ORDER

The order of rejection dated 24.04.2019, rejecting the claim of the writ petitioner for promotion to the post of Forest Guard with retrospective effect with effect from 13.05.1994 and to the post of Forester from 28.08.2009 on par with the junior of the writ petitioner, namely, S.Thavamani with all consequential monetary



benefits, is under challenge in this Writ Petition.

2.The petitioner joined in the Forest Department as Forest Watcher on 12.10.1983 at Theni. The petitioner states that some of his juniors were promoted as Forest Guard in the year 1994. Though his name was included in the panel for promotion to the post of Forest Guard during the year 1995, promotion was not granted to the petitioner in spite of the request made on several occasions. However, he was promoted as Forest Guard during the year 2002 and thereafter, he completed six months training and passed the departmental test during the year 2007 and eligible to get promotion to the post of Forester.

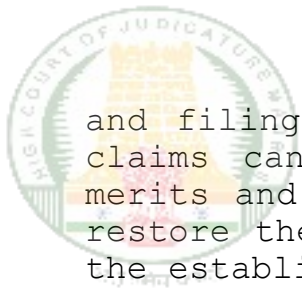
3.The grievance of the writ petitioner is that his junior one S.Thavamani, who was also not qualified during the relevant point of time, was promoted on 13.05.1994 and thereafter, as Forester on 28.08.2009 and therefore, he should also be considered on par with his junior.

4.Admittedly, the petitioner attained the age of superannuation and allowed to retire from service on 30.11.2012. The petitioner had filed a Writ Petition in W.P. (MD)No.7173 of 2018, after the lapse of six years from the date of retirement, wherein this Court has passed an order, directing the respondents to consider the representation submitted by the writ petitioner and pass orders. Based on the said representation, the order impugned dated 24.04.2019 was issued. The order states that the case of the writ petitioner during the relevant point of time in the year 1994 was not considered, as he was not possessing requisite educational qualifications, however, he was not selected to the post of Forester in the year 1996-97.

5.It is contended that the case of the petitioner cannot be considered with retrospective effect as he was not possessing the requisite qualifications during the relevant point of time.

6.This Court is of the considered opinion that admittedly, the writ petitioner retired from service on 30.11.2012 and he was appointed in the year 1983. Presuming that the junior of the writ petitioner was promoted as Forest Guard on 13.05.1994, the petitioner ought to have approached the competent authorities and the Court of law during the relevant point of time. The department says that the petitioner was not possessing requisite educational qualifications during the relevant point of time and his junior was promoted as Forester in the year 2009 and even at that time, the petitioner has not pursued his remedy. Contrarily, the petitioner has filed Writ Petition in the year 2018 only with an idea to restore the lapsed claim, which cannot be appreciated by this Court.

7.The Government Employees are expected to redress their grievances within a reasonable time. By sending mere representation



and filing Writ Petition to consider the representation, the dead claims cannot be restored for the purpose of re-adjudication on merits and if such a practice is allowed, it is an indirect way to restore the cause of action, which is otherwise impermissible under the established principles of law.

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8.By restoring the cause of action after lapse of many years and by virtue of directions issued by this Court to consider the representation, the authorities have considered the case on merits, in view of the directions issued. Therefore, such a re-adjudication done by the authorities, pursuant to the directions issued by this Court cannot cure delay, which was occurred on account of the inaction of the writ petitioner, during the relevant point of time to redress his grievance.

9.The Government Employees, who had slept over their rights, cannot wake up one fine morning and knock the doors of the Court for the purpose of redressal of grievances. Even the present Writ Petition is filed at the age of 64 years and the petitioner is now receiving pension. Under these circumstances, the petitioner is not entitled for the relief and there is no infirmity in respect of the order passed by the third respondent.

10.Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr

To

1.The Principal Chief Conservator of Forest,
Panagal Maaligai, Saidapet,
Chennai-600 015.

2.The Conservator of Forest,
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4.The District Forest Officer,
Theni District Forest Road,
T.B.Road, Bungalowmedu,
Theni-625 531, Theni District.

+1 CC to M/s.SPL GP (SR-7792[F] dated 22/02/2022)

+1 CC to M/s.E.V.N.SIVA, Advocate (SR-8224[F] dated 23/02/2022)

W.P. (MD) No.15391 of 2019
21.02.2022

SAR(CO)
KB(03.03.2022) 4P 7C