



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

**W.P. (MD) No. 16675 of 2019 and
W.M.P. (MD) Nos. 13291 to 13293 of 2019**

D.Illayaraja ... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Forest Department,
Fort St.George,
Chennai.
2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Building,
Saidapet,
Chennai - 600 015.
3. The Tamil Nadu Forest Uniformed Services
Recruitment Committee,
Represented by its Member Secretary,
8th Down Floor,
No.01, Jeenis Road,
Panagal Building,
Saidapet,
Chennai - 600 015.
4. The Chief Wild Life Warden,
Panagal Building,
Saidapet,
Chennai - 600 015.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned Advertisement No.1/2019 dated 07.03.2019 / Notification No.1 on the file of the respondent No.3 and quash the same as illegal and consequently for a direction directing the respondents not to fill up the 564 number of posts of the Forest Watcher without regularizing the petitioner services as Forest Watcher.



For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.P.Thilak Kumar
Government Pleader
Assisted by Mr.M.Ramesh
Government Advocate

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O R D E R

The notification issued for recruitment to the post of Forest Watcher on 07.03.2019 is under challenge in the present Writ Petition.

2. Further direction is sought for to direct the respondents not to fill up 564 number of posts of Forest Watcher without regularizing the services of the petitioner as Forest Watcher. The petitioner is working as Anti Poaching Watcher from the year 2002 in the Forest Department. Admittedly, he is a temporary employee working on consolidated pay.

3. The learned Government Pleader has stated that the petitioner was not appointed in accordance with the recruitment rules and he is engaged temporarily as Watcher.

4. The learned counsel appearing for the petitioner made a submission that the Hon'ble Division Bench of this Court made an observation in Writ Appeal Nos. 354 and 355 of 2016 dated 05.04.2018 stating that as far as Anti Poaching Watchers are concerned, the decision has been taken to accommodate 451 persons and also there is an undertaking by the learned Special Government Pleader that the case of the writ petitioner and also some other persons, who have not come before this Court, but completed either the 10 years of continuous service or if excluding the break-in-service, on completion of 10 years of service, would be considered in the course of time at regular intervals.

5. Relying on the said observations, the learned counsel appearing for the petitioner made a submission that the case of the writ petitioner is to be considered for grant of regularization as per the said observation.

6. No doubt, the observations are made based on certain factual aspects during relevant point of time but the principles to be followed for grant of regularization. The grant of regularization or permanent absorption is also to be followed scrupulously by the Competent Authority with reference to the legal principles settled by the Constitutional Bench of the Hon'ble Supreme Court of India in the case of **State of Karnataka Vs. Umadevi and others** reported in **(2006) 4 SCC 1**.

7. Pertinently, the Constitutional Bench of the Supreme Court



of India in the case of Umadevi in unequivocal terms held in paragraph 54 is extracted hereunder:

"54. It is also clarified that those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents."

8. Therefore, any other judgments or observations running counter to the principles laid down by the Constitutional Bench cannot be a precedent for the purpose of grant of regularization or permanent absorption. However, each case is to be decided on its own merits and in accordance with the rules in force. If at all the petitioner is otherwise qualified and his appointments are not illegal, then the Authorities may take a decision with reference to the principles laid down by the Constitutional Bench and in consonance with the policy of the Government and the rules in force for permanent absorption. However, the respondents cannot act in a manner which is running counter to the legal principles settled by the Constitutional Bench of the Supreme Court of India and the recruitment rules in force.

9. All appointments are to be made strictly in accordance with the recruitment rules in force. The petitioner has challenged the recruitment notification and now the cause did not exist as the recruitment would have been completed. However, the learned counsel appearing for the petitioner contended that the case of the petitioner is to be considered based on the observations. Under these circumstances, the respondents have to look into these aspects and the service rules in force and the legal precedent in this matter and accordingly, may take a decision with reference to the claim of the writ petitioner. However, the petitioner is not entitled for the relief as sought for in the present Writ Petition.

10. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

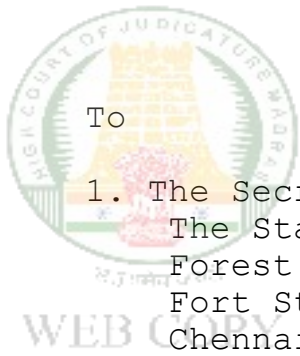
Assistant Registrar (CRL)

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Sub Assistant Registrar (CS)

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To

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The State of Tamil Nadu,
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+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-6982[F] dated 18/02/2022)

+1 CC to M/s.SPL GP (SR-7416[F] dated 21/02/2022)

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