



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5487 of 2015

WEB COPY

G.Konnadian

... Petitioner

vs.

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

2.The Conservator of Forest,
Tirunelveli Circle,
Tirunelveli.

3.The District Forest Officer,
Kanyakumari Division,
Vadasery, Nagercoil-1,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent in Se.Mu.Aa.No.A Aa1/25461/2014, dated 13.12.2014, to quash the same and consequently to direct the respondent to promote the petitioner to the post of Forester from the date his immediate junior was promoted with all monetary and service benefits.

For Petitioner : Mr.P.Saravanakumar
for Mr.P.Kalaiyarasi Bharathi
For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent in Se. Mu. Aa. No. A Aa1/25461/2014, dated 13.12.2014, to quash the same and consequently to direct the respondent to promote the petitioner to the post of Forester from the date his immediate junior was promoted with all monetary and service benefits.

2.The petitioner was appointed as Office Assistant and joined duty on 15.09.1997. The petitioner was promoted and



regularized as Forest Guard by an order of the Conservator of Forests, dated 27.06.2001. Subsequently, the probation was declared and the petitioner was granted Selection Grade in the post of Forest Guard by a proceedings, dated 30.12.2011. The petitioner was called for training to the post of Forester by the proceedings of the third respondent, dated 29.10.2012, for 6 months or a period from 01.11.2012 to 30.04.2013. The petitioner was relieved from the Training College on 30.04.2013. The contention of the petitioner that the first respondent by his proceedings dated 29.05.2014 without preparing any panel list for promotion to the post of Forester has issued temporary promotion list from the Forest Guard list. The petitioner's name ought to have been placed in Serial Number 23 but unfortunately without following any procedure for calling any objections from the eligible persons concerned had straight away promoted the persons who are petitioner's juniors. Therefore, the petitioner has submitted a representation, dated 06.06.2014. Since the respondents have not considered, the petitioner has filed W.P.(MD) No.11617 of 2014. This Court, vide order, dated 17.07.2014 has passed an order directing the first respondent to consider and dispose of the representation, dated 06.06.2014 on merits and as per law.

3. Thereafter, the petitioner filed a Contempt Petition in Cont. P. (MD) No.1349 of 2014 and pending the Contempt Petition, the respondents have passed an order, dated 13.12.2014, stating that the petitioner did not possess the requisite educational qualification. Therefore, the petitioner cannot to be considered for the post of Forester. The petitioner again filed a Writ Petition in W.P.No.12535 of 2007 and this Court has passed the following order:

"12. In the light of the decisions stated supra, this Court is of the considered view that the impugned order is liable to be set aside and accordingly, set aside. Record of proceedings shows that while entertaining the Original Application, the Tamil Nadu Administrative Tribunal, has granted interim stay of the impugned order of reversion. By virtue of the above said interim orders, the petitioners have completed 10 years of service in the post of Forest Guard. In such circumstances, the liberty is given to the first respondent to seek for relaxation of educational qualifications, prescribed for post of Forest Guard and afford an opportunity to the petitioners, before taking any further action."

4. The order, dated 09.04.2011 was passed in W.P.No.12535 of 2007, but, without giving effect to the order, the respondents



have not passed any order granting the petitioner any promotion. Therefore, the petitioner is aggrieved and filed this Writ Petition to quash the order, dated 13.12.2014 and consequently, directed the respondents to promote the petitioner to the post of Forester from the promotion date of his immediate junior and grant all monetary and service benefits.

5.The respondents have not filed any counter affidavit.

6.Heard Mr. P. Saravanakumar, learned Counsel appearing for the petitioner and Mr. N. Ramesh Arumugam, learned Government Advocate appearing for the respondents.

7.On perusing the records, it is seen that the qualification prescribed for the post of Forester is as under:

"Must possess minimum general educational qualification specified in the schedule to the General Rules and must have rendered satisfactory service in the cadre of Forest Guard or Forest Guard with Driving License, as the case may be, for a period of not less than eight years."

The minimum educational qualification is prescribed in the schedule is given under:

"(1) A pass in the Higher Secondary Courses (plus two) with physics, Chemistry, Biology, Zoology or Botany as one of the subjects;"

8.Admittedly, the petitioner has passed only 8th Standard and not the prescribed qualification of pass in Higher Secondary Course. The contention of the petitioner is that the qualification prescribed for the promotion is that the person should have put in service of 8 years. The petitioner is entitled to be promoted, since he is having more than 8 years of service and therefore, the respondents ought to have relaxed the educational qualification and grant him promotion.

9.On perusal of the qualification prescribed, it is seen that the candidate should possess minimum qualification of pass in Higher Secondary Course **"and"** the service to be possessed is 8 years and the rule is not using the word **"or"**. Therefore, any candidate who is seeking promotion to the post of Forester must possess two qualifications, i.e.,

- **educational qualification is pass in plus two and**
- **service qualification is 8 years**

When the rule is clearly stating that educational qualification is



plus two, there is no question of any relaxation. If each and every candidate started asking relaxation for any Rule, there will not be an end for such claim at all. Relaxation of certain rules is granted in selected cases that too in the cases where initial recruitment, there are some procedural irregularities. **In the present case the petitioner seeking promotion by relaxing the educational qualification.** Such claim is totally alien to the service jurisprudence. The claim of the petitioner is beyond the rules and the petitioner is not entitled to promotion.

11. This Court is intending to impose cost on the petitioner, but taking his age into consideration the cost is not imposed. The Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (Crl)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Principal Chief Conservator of Forests,
Panagal Maaligai, Saidapet, Chennai - 600 015.
- 2.The Conservator of Forest,
Tirunelveli Circle, Tirunelveli.
- 3.The District Forest Officer,
Kanyakumari Division,
Vadasery, Nagercoil-1, Kanyakumari District.

+1cc to Special Government Pleader Sr.No.2192

WP (MD) No. 5487 of 2015

Date:21/01/2022

SA(05.03.2022) 4P 5C