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W.P.No.20479 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.20479 of 2012
and M.P.No.1 of 2012

1.K.Senthilkumar
2.A.Samson
3.J.Dinesh
4.S.Karthik

... Petitioners

-Vs-

1. The State of Tamil Nadu.
Represented by its Principal Secretary to Government,
Forest and Environment Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2. The Principal Chief Conservator of Forest,
Panagal Building,
No.1, Jeenis Road,
Saidapet, Chennai – 15.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India praying for the issuance of Writ of Declaration, declaring the amendment to Rule 5(1)(a) of Tamil Nadu Forest Subordinate Service Rules for inclusion of B.Sc.,Forestry in the said rules is illegal and unconstitutional and discriminately. Consequently, directing the respondents to restore the original position in 5(1)(a) of Tamil Nadu Forest Subordinate Service Rules with inclusion of P.G.Degree in Wild life biology along with B.Sc.Forestry in the



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said rules.

(Prayer amended as per order dated 01.04.2013 in M.P.No.2 of 2012 in W.P.No.20479 of 2012)

For Petitioners : Mr.M.R.Jothimanian
For Respondents : Mr.V.Veluchamy
Additional Government Pleader

ORDER

This writ petition has been filed for declaration declaring the amendment to Rule 5(1)(a) of Tamil Nadu Forest Subordinate Service Rules for inclusion of B.Sc.,Forestry in the said rules is illegal and unconstitutional and discriminately with consequential direction to restore the original position in 5(1)(a) of Tamil Nadu Forest Subordinate Service Rules with inclusion of P.G.Degree in Wild life biology along with B.Sc. Forestry.

2. Heard the learned counsel for the petitioners and the learned Additional Government Pleader for the respondents.

3. The petitioners, after completion of their degree, got Post Graduate Degree in M.Sc.,Wild Life Biology, which is specialized subject in the forestry and animal studies. The wild life Biology is a specialized subject which only two colleges in Tamil Nadu have. The core subject to this degree consists of subjects viz., 1.Ichthyology and Herpetology 2. Ornithology 3. Mammalogy 4.



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Wildlife Ecology 5. Forestry and Sylviculture 6. Physiology and Health Care of Wildlife 7. Forestry and entomology 8. Biometry and computer application. 9. Wildlife Management Technique. 10. Management of Zoos, Sanctuary and National park 11. Research methodology.

4. As per G.O.Ms.No.171 Environment and Forest Department dated 29.04.1992, the specialized degree in M.Sc.Wildlife Biology and Forestry have included as preferential subject to the post of forest apprentice and other posts in the Forest department. Therefore, the petitioners are qualified to the post of Forest apprentice. Accordingly, the petitioners, who have completed Post Graduate degree in Wildlife Biology and Forestry, applied to the post of forest apprentice, which leads to that of forest ranger. However, for the post of Forest Ranger, there was no recruitment made by the Department and thereafter, in the month of December 2009, the Government of Tamil Nadu issued a notification inviting applications to fill up 79 vacancies for the post of apprentice by direct recruitment as per the service rules.

5. Accordingly, the Tamil Nadu Forest Subordinate Service Rules provided that 45% of the Forest Ranger filled up by the direct recruitment and 54% by promotion and 1% for ministerial service as per the Rules. However,



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the said notification was cancelled by the Service Commission and fresh notification was issued by the Tamil Nadu Public Service Commission, in the month of November, 2010 for the said vacancies. While being so, the Government had deleted two specialized degrees of Forestry and Wildlife Biology from the Tamil Nadu Forest Subordinate Service Rules in Rule 5(a) as preferential to the post of Forest Ranger. However, by G.O.Ms.No.118 dated 20.08.2010, the Government had amended Rule 5(a), thereby included subject of Forestry along and failed to include the degree in the subject of Wildlife Biology as preferential to the said post.

6. The writ petition was originally filed by the petitioners for Writ of Mandamus, directing the respondents to include the Post Graduate degree in M.Sc.Wildlife Biology as preferential subject in Rule 5 (a) of the Tamil Nadu Forest Subordinate Service Rules along with the subject of Forestry. Therefore, the respondents filed counter without challenging the Rules. Pending writ petition, the petitioners amended the prayer and challenged the Rules. Subsequent to the said amendment, the respondent did not file any counter. It was further revealed that there is no preference to Post Graduate in the recruitment of Assistant Conservator of Forest.



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7. As per the service Rules, the Tamil Nadu Public Service Commission had issued Advertisement No.254 and there were huge number of students applied for the examination and 1200 candidates have been tested on their Physical qualification and walking test of 25 Kms for Men and 16Kms for women. Final list is to be published after completion of oral tests.

8. A perusal of the G.O.Ms.No.118 dated 20.08.2010, it is seen the subject of wildlife biology alone is left out. Therefore, it is nothing but the discrimination in the specialized subject of Forestry and Wild life Biology. The educational qualification as given preference to the persons who have a bachelor degree in Forestry along with other degree as provided under Rule 5, that if the Forestry degree candidates are not available to the said post, other candidates including M.Sc.Wildlife Biology will be considered in the said post. However, M.Sc.Wildlife Biology has been omitted, though it has included B.Sc.Forestry.

9. Originally, as per the Tamilnadu Forest Subordinate Service Rules the qualifications for Class-I Rule 5 is as follows:-

“1(a) Must hold a degree in Science with any one of the



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following subjects as a major subject under Part-III, Namely Botany, Zoology, Geology, Chemistry, Physics, Mathematics, Statistics, Computer Science and Fisheries Science or must hold a degree in Agriculture or Engineering Technology in Civil, Mechanical, Electrical, Chemical. (G.O.Ms.No.729, F&F, dated 09.07.1979).

P.G.Degree in Wild Life Biology or a degree in Forestry (G.O.Ms.No.282, Environment and Forests, dated 10.05.90 (B2/47800/90) or a degree in Veterinary Science (G.O.Ms.No.48, Environment and Forests (FR-II), Dept. dated 22.02.99).

Provided that other things being equal. Preference shall be given to candidates who possess the postgraduate degree in Wildlife Biology (G.O.Ms.No.340, Environment and Forests Dept. Dated 14.5.90) or a degree in Forestry (G.O.Ms.No.134 Environment and Forests Dept. dated 30.08.01 (PCCF's No.44907/91).

This amendment shall be deemed to have been came into force on 15th July 1989. (G.O.Ms.No.171, Environment and Forests, Department dated 29.4.92) (B2/32491/92).

2. Must be not less than 163 cm in height.

3. Must be not less than 79 cm round the chest on full expiration.

4. Must have a chest expansion of not less than 5 cm on full inspiration.

5. Must pass a Physical test consisting of a walk over 28 kms to be covered in four hours. A certificate to that effect must be produced from a Gazetted Forest Officer nominated by the Principal Chief Conservator of Forests in this behalf."

10. Subsequently, it was deleted and by way of amendment in G.O.Ms.No.118 issued by the first respondent dated 20.08.2010 included the Forestry alone in the preferential class and failed to include the Post Graduate



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degree in Wildlife Biology.

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11. The relevant portion of G.O.Ms.No.118 dated 20.08.2010 reads as follows:-

“In the said Special Rules, in rule 5 in the Table in column (3) against the entry “Forest Apprentices” in column (1) thereof, for item (1) the following item shall be substituted, namely:-

(1) (a) Must possess a Bachelor's degree in Forestry or its equivalent degree of any recognized university.

(or)

(b) Must possess a Bachelor's degree or its equivalent degree of any recognized university in any one of the following subjects:-

(i) Agriculture (ii) Botany (iii) Chemistry (iv) Computer Applications/Computer Science (v) Engineering (Agriculture/Chemical/Civil/Computer/Electrical/Electronics/Mechanical) (vi) Environmental Science (vii) Geology (viii) Horticulture (ix) Mathematics (x) Physics (xi) Statistics (xii) Veterinary Science (xiii) Zoology:

Provided that if candidates with the qualification referred to in item (a) are not available for selection, candidates with qualifications referred to in item (b) will be considered for selection.”

12. So, Clause 1(a) has been given as prime qualification must possess Bachelor degree in Forestry or any equivalent degree of any recognized University. The Proviso says if the candidates with the qualification referred to in item (a) are not available for selection, candidates with qualifications referred to in item (b) will be considered for selection.

13. Therefore, the post graduate degree in M.Sc Wildlife Biology has



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been ignored in the inclusion of preferential in Rule 5(a) of the Tamil Nadu Forest Subordinate Service Rules. It is a clear violation of Article 14 and 16 of Constitution of India, thereby deprived the rights of a person who obtained postgraduate degree in M.Sc. Wild Life Biology. In fact, preference was given to the post of Assistant Conservator of Forest (Group-I) service by the Government who all got the Degree in Forestry and M.Sc. Wildlife Biology and also in the Fisheries Department has given the preference to the post of Inspector of Fisheries in the direct recruitment by the Fishing Department, who obtained Bachelor degree in Fisheries or associate diploma in fisheries or M.Sc in Zoology and Marine Biology.

14. In view of the above, the amendment in Rule 5(1)(a) in Tamil Nadu Forest Subordinate Services Rules is illegal, unconstitutional and discriminatory. The respondents are directed to restore the original position in Rule 5(1)(a) of the Tamil Nadu Forest Subordinate Services Rules with inclusion of postgraduate degree in Wild life Biology along with B.Sc Forestry in the said Rules, within a period of four weeks from the date of receipt of a copy of this order.

15. With the above directions, this writ petition is allowed.



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Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
mn/nsl



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G.K.ILANTHIRAIYAN, J.

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To

1. The Principal Secretary to Government,
The State of Tamil Nadu.
Forest and Environment Department,
Fort St.George, Secretariat,
Chennai – 600 009.
2. The Principal Chief Conservator of Forest,
Panagal Building,
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