



W.A. No.596 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 29.11.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN  
AND  
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.A. No.596 of 2023  
and  
C.M.P. No.5796 of 2023**

The Principal Chief Conservator of Forests  
Panagal Maaligai,  
No. 1, Jeenis Salai,  
Saidapet, Chennai.

... Appellant

Vs.

1. Mr.C. Munisamy,
2. Mr.M.Muthupandi,  
Forester, Kodaikanal Division,  
Dindigul, Dindigul District.
3. Mr.N.Muthaiya,  
Forest Range Officer,  
Social Forest Range,  
Coimbatore-2.
4. Mr.Nagaiya,  
Forest Range Officer,  
Kodaikanal Division,  
Dindigul district.



W.A. No.596 of 2023

WEB COPY

5. Mr.A.Sreenivasan,  
Forest Range Officer,  
Coimbatore Circle Office,  
Coimbatore-2.

6. Mr.S,Balasubramanian,  
Forest Range Officer,  
O/o, the Principal Chief Conservator of Forests,  
Panagal Maaligai,  
No.1.Jeenis Salai,  
Saidapet, Chennai – 15.

... Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order of this Court in W.P.No.6893 of 2010 dated 19.12.2019.

For Appellant : Mr.Silambanan, AAG  
assisted by Dr.T.Seenivasan, SGP

For Respondents : Mr.M.R.Jothiraman -R1  
No appearance - R6

### **JUDGMENT**

*(Judgment of the Court was made by Mohammed Shaffiq, J.)*

The present intra Court appeal is filed challenging the order of the learned Judge dated 19.12.2019 whereby the order dated 23.12.2009 drawing the panel of Foresters fit for promotion to the post of Forest Rangers for the year 2009-10 was quashed by the learned Judge primarily



W.A. No.596 of 2023

on the premise that the order had been passed by overlooking and in gross disregard to Rule 36 (b)(1) of the Tamil Nadu Forest Subordinate Service Rules.

## 2. Brief facts:

2.1. The 1st Respondent herein joined as Forest Guard on 16.10.1980 and promoted as Forester on 16.03.1995. The next avenue of promotion is to the post of Ranger. The appellant herein had drawn up a panel of Foresters fit for promotion as Rangers for the year 2009-10. The crucial date was taken to be 15.08.2009. The 1st Respondent's name was left out in the said panel. Hence, he submitted a representation to the appellant on 26.12.2019 to include his name in the panel.

2.2. As there was no response to the above representation, a writ petition in W.P.No.6893 of 2010 was filed challenging the above proceedings dated 23.12.2009, arraying the following persons as respondents 2 to 6 inasmuch as they were promoted as Rangers ahead of the first respondent herein, though they were juniors to him, in the post of Forester, which is the feeder category to the post of Ranger:



W.A. No.596 of 2023

- (i) Mr.M.Muthupandi
- (ii) Mr.N.Muthaiya
- (iii) Mr.Nagaiya
- (iv) Mr.A.Sreenivasan
- (v) Mr.S.Balasubramian

2.3. A counter affidavit was filed by the appellant in the writ petition, wherein it was stated that promotion to the post of Forester from the category of Forest Guard was done as per the combined Seniority list of Forest Guards appointed upto 31.12.1980. The 1st Respondent's name was found at Sl.No.380 vide proceedings dated 08.09.1994, while the name of the individuals fit for promotion as Forest Range Officer was considered only upto Seniority No.293 in the said list. The 1st Respondent's name was not included in the said panel inasmuch as he had not reached the zone of consideration. In other words, promotion to the post of Ranger was made on the basis of the seniority list of Forest Guards and since the Respondents 2 to 6 were seniors to the 1st Respondent in the combined seniority list of Forest Guards, though Juniors to the 1st Respondent in the post of Forester, their names were included in the panel drawn for promotion to the post of Forest Ranger, *vide* the proceedings dated 23.12.2009 impugned in the writ petition.



W.A. No.596 of 2023

2.4. The above reasoning of the appellant Department was rejected by the learned Judge, while quashing the impugned proceedings dated 23.12.2009, on the premise that the post of Forester is filled up by promotion from the post of Forest Guard and the seniority in the post of Forest Guard loses relevance / significance for the subsequent promotion as Forest Ranger, which ought to be made on the basis of the seniority as a Forester.

3. It is this order which is under challenge in the present Writ Appeal on the premise that the above reasoning is contrary to Rule 36(b)(1) of the Tamil Nadu Forest Subordinate Service Rules.

4. It may therefore be relevant to refer to Rule 36(b)(i) of the said Rules, which reads as under:

*“36.(b)(i) Promotions to selection category or grade – Promotion in a service or class to a selection category or to a selection grade shall be made on grounds of merit and ability, seniority, being considered only where merit and ability are approximately equal. The inter-se-seniority among the persons found suitable for such promotion shall be with reference to the inter-se-seniority of such persons in the lower post.”*



W.A. No.596 of 2023

4.1. The appellant relying on the above Rule would submit that the inter-se seniority among the persons found suitable for promotion shall be with reference to inter-se seniority of such persons in the "lower posts". It is further submitted by the appellant that the expression "lower post" is meant to cover/ indicate that of Forest Guard and the seniority in the cadre of Forest Guard, ought to be taken as the basis for promotion to the post of Ranger.

5. The above submission of the appellant is resisted by the 1st Respondent herein on the premise that the post of Forest Guard is a feeder post to Forester and the seniority in the post of Forest Guard is immaterial in determining the promotion to the post of Forest Ranger, since the feeder category for Forest Ranger is that of Forester and thus, seniority in the post / cadre of Forester alone is relevant and not the candidate's seniority as Forest Guard for promotion to the post of Forest Ranger.

6. Heard both sides. Perused the materials on record.



W.A. No.596 of 2023

7. Before we proceed further, it may be relevant to refer to the method of appointment to the post of Ranger, Forester and Forest Guard under the Tamil Nadu Forest Subordinate Service Rules, which is tabulated hereunder:

| CLASS | CATEGORY | METHOD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I     | Ranger   | <p>1. Appointment of Forest Apprentices in the manner prescribed in Rule 9 (direct recruitment) (or)</p> <p>2. Omitted (Trained Foresters 10% (G.O.Ms.No.145, Environment and Forests, dated 10/05/1995)</p> <p>3. Promotion from among the category of those who have completed the Foresters course of training in the Tamil Nadu Forestry College (or)</p> <p>4. Appointment by transfer from among the members of the Tamil Nadu Ministerial Service in the Forest Department in the manner prescribed in Rule 10.</p> <p>Provided that 45% of the vacancy arising in the category of Rangers shall be filled by direct recruitment. 54% by promotion among the Foresters who have completed the Foresters Course of training and 1% by transfer from among the members of the Tamil Nadu Ministerial Service in Forest Department (G.O.Ms.No.145, Environment and Forests, dated 10/5/1995 (B2/40434/90)</p> |
| I     | Forester | <p>1.Direct Recruitment : Nil</p> <p>2. Promotion from among the holders of the post of Forest Guards (95%)</p> <p>3. Promotion from among the holders of the post of Assistant Draughts-man, as per G.O.Ms.No.1118, Environment and Forests Department dated 30/8/1980 and amended in G.O.Ms.No.112, Environment and Forests (FR-II) Department Dated 6/6/2002, AB1/85241/2000 (and) Recruitment by transfer from the members of the Tamil Nadu Ministerial</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



W.A. No.596 of 2023

| CLASS | CATEGORY     | METHOD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       |              | <p>Service in the Forest Department (G.O.Ms.145 Environment and Forests Department, dated 10/5/1995)</p> <p>Provided that if the unit of selection for appointment for the purpose of this rule be twenty, 19 shall be reserved for promotion and 1 shall be reserved for appointment by recruitment by transfer. Selection for appointment under this rule shall be made in the order of rotation specified below:-<br/>100 vacancies of Forests posts will be divided into 5 cycles with a number of 20 in each cycle. Every 13<sup>th</sup> vacancy in the cycle of 1 to 4 (i.e., 13,33,53 and 73) shall be filled up from the members of the Tamil Nadu Ministerial Service and the 13<sup>th</sup> vacancy in the 5<sup>th</sup> cycle (i.e., 93) shall be filled up from Assistant Draughtsman.</p> <p>If qualified and suitable members of the Tamil Nadu Ministerial Service in the Forest Department are not available for appointment in the turn allotted for it in the cycle, the turn shall lapse and the vacancy shall be filled by the appointment of direct recruitment.</p> <p>If a qualified and suitable Forest Guard is not available for promotion as Forester in the turn allotted for the Forest Guards in the cycle, the turn shall lapse and the vacancy shall be filled by the appointment of direct recruitment (G.O.Ms.No.204 Environment and Forests (FR-II), dated 23/8/1994 and amendment issued in G.O.Ms.No.112 Environment and Forests (FR-II) Department, dated 6/6/2002).</p> |
| I     | Forest Guard | <p>1. Direct recruitment</p> <p>2. Promotion from among the holders of the post of Forest Watchers.</p> <p>3. Recruitment by transfer from the members of the Tamil Nadu Ministerial service in the Forest Department provided that 60% of the vacancy shall be filled up by direct recruitment, 35% by promotion and 5% by recruitment by transfer. (G.O.Ms.No.145 Environment and Forests, dt. 10/5/1995 (B2/40434/90).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |



W.A. No.596 of 2023

7.1. On a reading of the above Table, in particular, the portion relating to appointment of Ranger would show that it contemplates 3 modes of appointment viz., a) Direct Recruitment b) Promotion from Foresters and c) Appointment by transfer from the Ministerial Service. It does not indicate that the promotion would be made on the basis of the seniority in the post of Forest Guard. The category of officers of the Forest Department in Class-I is ranked as below:

*Class-I      Category*

- 1. Ranger*
- 2. Forester*
- 3. Forest Guard*
- 4. Forest Watcher*
- 5. Forest Apprentice*
- 6. Mali*

*(G.O.Ms.No.115, Environment and Forest Department,  
dated 19.03.1992, B1/50009/91)*

8. The 1st Respondent being a senior to the Respondents 2 to 6 (in the writ petition) in the cadre of Forester, the promotion to the post of Ranger ought to have been made only on the basis of the combined seniority list in the post of Forester. The submission of the appellant that promotion to the



W.A. No.596 of 2023

post of Ranger shall be determined on the basis of seniority in the category of Forest Guard overlooks the settled position in service jurisprudence that the services rendered in one cadre will not count for seniority in another cadre. Seniority in lower post viz., Forest Guard loses significance on promotion as Forester for consideration of promotion to the post of Ranger. On the other hand, seniority as Forester, which is the feeder post for Ranger alone would be relevant for promotion to the post of Forest Ranger.

9. At this juncture, it may be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of *Prasad Sharma V. State of Mizoram* reported in (1997) 4 SCC 422, wherein while considering the case of promotion to the post of Additional Superintendent of Police from the post of Deputy Superintendent of Police and while dealing with the inter-se seniority of Direct Recruits vis-a-vis promotees, after finding that the promotee was unfit to be promoted during the relevant date, while the direct recruits were found to be fit, it was observed that the petitioner if promoted later to the post of Additional Superintendent of Police, cannot gain seniority over the persons already promoted to the post of Additional



Superintendent of Police. It was held so, in view of the fact that seniority in lower post loses its significance. The relevant portion of the Judgment is extracted here under:

*"4. When the claims for promotion to the post of Additional Superintendent of Police had come up for consideration, in the meeting held by the DPC on 6-10-1988, the petitioner was found to be unfit and contesting respondents were found to be fit as per the proceedings indicated in the judgment of the High Court. As a consequence, the petitioner could not claim right to promotion at that time on the basis of the assessment made by the DPC or to seniority over those promoted as per the recommendation of the DPC. The petitioner may be found fit at a later stage of selection but he cannot get seniority over the persons who were found fit in the meeting held on 6-10-1988 and promoted on 20-10-1988 and have already got promoted to higher post i.e. Additional Superintendent of Police. The seniority in lower post loses its significance."*

*(emphasis supplied)*

9.1. Thus, seniority if any in the post of Forest Guard would lose its relevance on being promoted as Forester, which is the feeder category for appointment as Ranger.

9.2. The appellant has not been able to show any provision, Rule, Regulation or notification to the effect that that promotion to the post of Ranger ought to be made on the basis of seniority as Forest Guard and not



W.A. No.596 of 2023

Forester, which is the feeder category for promotion to the post of Ranger nor is any provision or rule brought to our notice, which provides that on promotion as Forester, the seniority position as Forest Guard would get restored. In the absence of such rule, notification, regulation etc., we find no merit in the submission of the appellant that the promotion to the post of Ranger is to be made on the basis of seniority as Forest guard.

10. For the foregoing reasons, the order of the learned Judge does not require any interference by us. Hence, the Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**[R.M.D., J.] [M.S.Q., J.]**

**29.11.2023**

Index: Yes/No  
Speaking order/ Non speaking order  
Neutral Citation: Yes/No  
Mka

To  
The Principal Chief Conservator of Forests  
Panagal Maaligai, No.1, Jeenis Salai,  
Saidapet, Chennai.



WEB COPY



W.A. No.596 of 2023

**R.MAHADEVAN, J.**  
**and**  
**MOHAMMED SHAFFIQ, J.**

Mka

**W.A. No.596 of 2023**  
**and**  
**C.M.P. No.5796 of 2023**

29.11.2023