



W.P.No.30331 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER

KUMAR

W.P.No.30331 of 2012

P.Chandrasekaran

... Petitioner

-Vs-

1.The Principal Chief Conservator of Forests
Office at Panagal Building,
No.2, Jennis Road,
Saidapet,
Chennai – 600 015.

2.The District Forest Officer,
Tiruvannamalai,
Tiruvannamalai District.

...Respondents

Prayer: Writ Petition filed under Section 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the order in Na.Ka.No.A.Aa.1/3895/2012 dated 27.07.2012 on the file of the first respondent, quash the same and consequently direct the respondents to promote the petitioner notionally to the post of Forest Guard from the year 2000 and further promote him to the post of Forester with effect from 12.10.2010, the date on which Mr.Mani, who entered into service after the petitioner on 22.01.1992, was given such promotion with all consequential benefits and pass further suitable orders that



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may be deemed fit and proper in the circumstance of this case.

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For Petitioner : Mr.S.Mani

For Respondents : Mr.G.Ameedius
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent in Na.Ka.No.A.Aa.1/3895/2012 dated 27.07.2012, rejecting the claim of the petitioner notionally on par with Mr.Mani, who is junior to the petitioner in the cadre of Forest Watcher.

2. The case of the petitioner is that he was initially appointed as a Plot Watcher on 01.06.1980, on a daily wage basis, and on 17.02.1991, he was brought under time scale of pay with effect from the service for regularization in the cadre of Plot Watcher. Thereafter, the petitioner was promoted to the post of Forest Guard on 03.07.2002, and he was due for promotion to the post of Forester as on the date of filing of the writ petition. While so, the petitioner made a claim for promotion to the post of Forester cadre on par with one Mr.Mani, who joined in the service of the Forest Department on 22.01.1992. i.e., subsequent to the date of regularization of the service of the petitioner as Plot Watcher. The said Mani was stated to have been promoted to the post of



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Forest Guard in the year 2000, and subsequently, he was also stated to have been promoted to the post of Forester on 12.08.2010. Thus, it is claimed that the said Mani is junior to the petitioner herein, and as such petitioner is also entitled for promotion on par with the said Mani.

3. The contention of the learned counsel for the petitioner is that in terms of clause (b) of Rule 2(D) of the Tamil Nadu Forest Subordinate Service Rules, One Unit System is required to be followed for promotion to the post of Forest Guards and Foresters with effect from 6.4.92. But in the instant case, the respondents, instead of following the One Unit System, and evaded terms from following the seniority Circle, and thereby the petitioner is deprived of promotion on par with his junior though working in a different Circle than the petitioner.

4. The respondents filed a counter affidavit contending that based on the Circle level vacancies, the posts of Forest Guards were filled up basing on the Circle level seniority by the concerned Conservator of Forests, and the One Unit System was adopted only from the year 2002-2003 and not before. It is also stated that the said Mani, who was promoted as Head of the petitioner herein, was working in Dharmapuri Circle, and whereas the



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petitioner was working in Vellore Circle. The said Mani was selected for the post of Forest Guard based on the Dharmapuri Circle seniority. Thus it is the contention of the learned counsel for the respondents that the petitioner is aspiring for the post of Forest Guard in Vellore Circle when the vacancies were unavailable. It is also further stated that the petitioner was imposed with a punishment or stoppage of one increment which came into effect in the year 1994, and the said punishment was operative during the period from 01.01.1994 to 31.12.1994 and the check period of five years was also operating. Therefore, the case of the petitioner could not be considered for promotion till the year 2000, and immediately thereafter, the case of the petitioner was considered, and he was promoted to the post of Forest Guard in the year 2000.

5. On the other hand, the learned counsel for the petitioner contended that the concept of check period of five years was found to be unconstitutional by a Full Bench of this Court in a decision reported in **2011 (3) CTC 129** in the case of ***The Deputy Inspector General of Police, Thanjavur Range, Thanjavur and another Vs. V.Rani*** and the said decision was also followed by the learned Single Judge in W.P.No.37532 of 2007 and in terms of the same, Schedule VII of the Tamil Nadu Forest Subordinate



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Service Rules, was also amended with effect from the year 1994.

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6. This Court carefully considered the submission made on either side and also perused the material, including the order passed by the learned Single Judge of this Court in W.P.No.37532 of 2007 dated 07.07.2011, and Division Bench reported in 2011 (3) CTC 129.

7. From the said order in W.P.No.37532 of 2007, it is evident that the concept of check period of five years and not considering the claim of the delinquent employee for further promotion for five years was declared unconstitutional and the same has become final. Therefore, the contention of the respondents that the case of the petitioner could not be considered till the year 2000 due to the operation of the check period is unsustainable. Then, as to whether the unit for promotion to the post of Forest Guards and Foresters is the Circle or the State is concerned, the clause (b) of Rule 2(D) of Tamil Nadu Forest Subordinate Service Rules is very clear, which is extracted hereunder:

“(b) One Unit System shall be followed for promotion of Forest Guards and as Foresters (with effect from 06.04.1992) (G.O.Ms.No.172, Environment and Forest Department (FR-II) dt. 08.03.1991 G.O.Ms.No.113, and amendment issued in Environment and Forest (FR-II) department, dt. 06.06.2002, ABI/56021/94).”



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8. Though the respondents contended in the counter affidavit that the Circle is the unit till the year 2002 and it is only from the year 2002, the One Unit System for seniority was adopted, there is no basis for such contention. When the rule governing the circumstances is very specific, it is not open for the respondents to contend otherwise in the counter affidavit stating that One Unit System is applicable only with effect from 2002. The contention of the learned counsel for the respondents that the petitioner was also promoted to the post of Forest Guard in Vellore Circle by considering the seniority in the Vellore Circle is concerned, even assuming that the same is true, the same does not validate the illegal acts of the respondents. Once the rule mandates that One Unit System is required to be followed for the promotion of Forest Guard respondents are bound to comply with the same. But the same is not followed in the instant case. Admittedly, the said Mani who was promoted as Forest Guard in Dharmapuri Circle, a head of the petitioner is junior to the petitioner. Both the grounds on which, the claim of the petitioner for promotion to the post of Forest Guard and further promotion to the post of Forester was denied are now found to be wholly unsustainable, the petitioner is entitled for consideration of his case for promotion on par with his junior,



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notionally to the post of Forest Guard as well as Forester.

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9. In the light of the above, and considering the facts and circumstances of this case, the writ petition is allowed, and the impugned order passed by the first respondent Na.Ka.No.A.Aa.1/3895/2012 dated 27.07.2012 is set aside. The respondents are further directed to give notionally promotion to the petitioner on par with Mr.Mani to the post of Forest Guard as well as to the post of Forester and extend all the other consequential benefits as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. No costs.

15.12.2023

cda

MUMMINENI SUDHEER KUMAR, J.,

cda

To

1. The Principal Chief Conservator of Forests
Office at Panagal Building,
No.2, Jennis Road,



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Saidapet,
Chennai – 600 015.

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2.The District Forest Officer,
Tiruvannamalai,
Tiruvannamalai District.

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