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W.P.No.31116 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.31116 of 2015

and

M.P.No.1 of 2015

P.Venkatachalam

..... Petitioner

-Versus-

- 1.The Government of Tamil Nadu,
Rep. by The Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai 600 009.
- 2.The Principal Chief Conservator of Forests,
Panagal Maaligai,
Saidapet, Chennai 600015.
- 3.The Conservator of Forests,
Salem, Salem District.
- 4.M.Ramesh,
Forest Range Officer,
Kollimalai Range,
Namakkal Division,
Salem Circle.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 2nd respondent in Proc.No.B2/32000/2014 dated 28.05.2015 and to quash the same insofar as the petitioner is concerned and



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direct the respondents to promote the petitioner as Forest Range Officer with effect from the date of promotion of his immediate junior, namely, M.Ramesh-4th respondent herein.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mr.J.C.Durai Raj,
AGP for RR1 to 3

ORDER

The petitioner challenges his non selection as Forest Range Officer by way of promotion.

2. The case of the petitioner is that he joined the services of the Forest Department, Government of Tamil Nadu as Reserve Watcher on 23.06.1981. His educational qualification is only VIII standard whereas necessary educational qualification for appointment as per the recruitment rules is a pass in Secondary School Leaving Certificate (SSLC). He was promoted as a Forest Guard on 07.07.1992. The department had relaxed the educational qualification and granted him such promotion. He was again promoted as Forester on 12.05.2008, in and by way of an order dated 19.11.2009.

3. The Principal Chief Conservator of Forests, Chennai, on 28.10.2014 called for particulars of qualified Foresters to be promoted to the post of Forest Range Officer. This was for the panel to be prepared for the year 2014-15.



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4. The grievance of the petitioner is that he was not called upon to submit his particulars and therefore, he made a representation to the 1st respondent on 04.11.2014 to include his name in the panel of Foresters fit for promotion to the post of Forest Range Officer for the year 2014-15. Since no orders were passed thereon, he filed a writ petition in W.P.No.32873 of 2014 seeking a direction to consider his representation for further promotion.

5. This court, without going into the merits of the case, directed the representation of the petitioner for inclusion of his name in the panel for Forest Range Officer to be disposed of within a period of eight weeks from the date of receipt of a copy of the order.

6. Pursuant to the said directions, the impugned order came to be passed on 28.05.2015 wherein the petitioner's name is found in Sl. No.135 and it was shown as 'Not selected'. The reason for non selection of the petitioner was that he did not possess the minimum educational qualification of SSLC for the purpose of being promoted to the post of Forest Range Officer. Challenging the same, the present writ petition has been filed.

7. Heard both sides.

8. It is pertinent to note that the qualification of the petitioner had been relaxed earlier on 07.07.1992 itself. It is only after such relaxation, he was



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granted promotion from the post of Reserve Watcher to the post of Forest

Guard. The issue whether exemption granted with respect to minimum educational qualification on an earlier occasion will enure for subsequent promotion has been considered by this court in **Tamil Nadu Tourism Development Corporation Limited v. S.Purushothaman and others [W.A.No.1103 & 1104 of 2002 etc. batch cases dated 12.11.2010]**. In the said judgement, a Division Bench of this Court had held as follows:-

“10. In view of the above said consistent view taken by this Court, it has to be necessarily held that when the exemption was granted on an earlier occasion, the same would continue for the benefit of the concerned employee throughout his service career and cannot be held against him at any subsequent stage of promotion. Once it is exempted, at one point of time in service, the said exemption is available to the employee in future for all the promotion posts, which require such qualification.”

The law having been declared by the Division Bench of this Court, I am bound by the same. Copy of the counter affidavit produced by the learned Special Government Pleader today also accepts the fact that the petitioner was granted exemption from educational qualification prior to his promotion as Forest Guard. Therefore, applying the aforesaid principles to the present case, the petitioner would be entitled to be considered for promotion to the post of Forest



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Range Officer for the year 2014-15 and as such the impugned order insofar the petitioner is concerned, is liable to be quashed.

In the result, the Writ Petition is allowed. The impugned order insofar as it relates to the petitioner is quashed. The respondents are directed to consider the petitioner for promotion, notionally, from the date of his junior who was promoted as Forest Range Officer from the Post of Forest Guard. It is made clear that there would be no financial outflow from the Government to the petitioner as the petitioner has not worked as Forest Range Officer. To reiterate, the promotion to the petitioner, if he is otherwise qualified, shall be done only notionally. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected MP is closed.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

- 1.The Secretary to Government, Government of Tamil Nadu,
Environment and Forest Department, Fort St. George, Chennai 600 009.
- 2.The Principal Chief Conservator of Forests,
Panagal Maaligai, Saidapet, Chennai 600015.
- 3.The Conservator of Forests, Salem, Salem District.



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V.LAKSHMINARAYANAN, J.

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