



W.P.No.24859 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

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

W.P.No.24859 of 2014

V.Gajapathy

... Petitioner

-Vs-

1. The Principal Chief Conservator of Forest,
Office at Panagal Maaligai,
Saidapet, Chennai-600 015.
2. The District Forest Officer,
Attur Forest Division,
Salem Circle,
Salem District.

3. A.N.Sivakumar

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to give notional promotion to the petitioner in the cadre of Forest Guard on par with his juniors with effect from 02.05.2001 by placing the petitioner appropriately in such seniority list so as to enable the petitioner to get promotion to the post of Forester on the basis of his representation dated 30.12.2013.

For Petitioner : Mr.S.Mani

For Respondents

R1 and R2 : Mr.M.P.Murugan Raja
Government Advocate



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ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to give notional promotion to the petitioner in the cadre of Forest Guard on par with his juniors with effect from 02.05.2001 by placing the petitioner appropriately in such seniority list so as to enable the petitioner to get promotion to the post of Forester on the basis of his representation dated 30.12.2013.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2 and perused the materials available on record.

3. The Petitioner had joined as Plot Watcher in the Forest Department on daily wage basis on 01.07.1980. He was brought into regular time scale of pay as Forest Watcher on 23.07.1992 on the basis of G.O.Ms.No.90, Environment and Forest Department dated 27.04.2002, notionally. His service was regularized with effect from 23.07.1992 and his probation was declared with effect from 23.07.1993 notionally by an order dated 20.11.2002. Thereafter, he was promoted to the post of Forest Guard. The respondents had drawn the seniority list during the year 2010, among the Forest Guards working upto 01.01.2009. However, the petitioner was not served with any seniority list and



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he came to know about the drawal of the seniority list only in the year 2013.

As per the seniority list, his juniors were placed above the petitioner in the seniority list. As per the Rule for the purpose of promoting to higher post of an individual, seniority will be reckoned from the date of declaration of his/her probation. As far as the petitioner is concerned, by an order dated 20.11.2002, the petitioner's probation was notionally declared with effect from 23.07.1993. Therefore, his promotion or seniority must be reckoned from the date of the declaration of his probation namely 23.07.1993. Accordingly, he is entitled for re-fixation of his seniority.

4. A perusal of the counter filed by the respondents 1 and 2 revealed that the Government of Tamil Nadu had issued G.O.Ms.No.64 E and F (F2) dated 08.03.1999 by virtue of the order the Government had repealed its earlier order in G.O.Ms.No.332 of 1994 and directed to prepare the consolidated state-wide seniority list containing of Plot Watchers and Social Forest Workers who were working on daily wages basis under the same category. Further, the persons who have been appointed by virtue of G.O.Ms.No.332 of 1994, they have been allowed to continue as Forest Watchers and they have been given with next level promotion as Forest Guard and temporary promotion as Forester and only thereafter the seniority list of Forest Guard has been prepared



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for the whole State.

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5. It was further stated in the counter that the petitioner was brought into regular time scale of pay as Forest Watcher on 23.07.1992 and he was regularized and his probation was declared on 23.07.1993. Thereafter, he was promoted to the post of Forest Guard on 27.04.2003. Thereafter, he was served with the seniority list on 09.04.2003 and even then, the petitioner did not raise any objections. After lapse of ten years, the petitioner had filed this writ petition.

6. Admittedly, the petitioner's post to the cadre of Forest Watcher was regularized with effect from 23.07.1992 and his probation was declared on 23.07.1993. The seniority list was published in the year 2010 among the Forest Guards working upto 01.01.2009. However, the petitioner was placed below his juniors, considering his date of declaration of his probation. Though his probation was notionally declared by an order dated 20.11.2002, it was with effect from 23.07.1993. Therefore, there is no fault on the petitioner. His probation was declared only on 20.11.2002. Therefore, he is also entitled to be placed before his juniors. Now, the petitioner had attained the age of superannuation in the month of July, 2018.



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7. Therefore, the respondents 1 and 2 are directed to promote the petitioner notionally in the cadre of Forest Guard on par with his juniors with effect from 02.05.2001 by placing him appropriately in the seniority list and disburse all the monetary benefits, within a period of twelve weeks from the date of receipt of a copy of this order.

8. In view of above, this writ petition stands allowed. There shall be no order as to costs.

27.07.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

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Office at Panagal Maaligai,
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