



W.P.(MD).No.1948 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.1948 of 2016

and

W.M.P.(MD).No.1750 of 2016

K.Anandharaj

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Environment and Forest Department,
Chennai – 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai.

3.The District Forest Officer,
Tirunelveli Division,
N.G.O.Colony,
North Main Road,
Tirunelveli – 627 007.

4.The Forest Range Officer,
Forest Station,
Shencottah – 627 809,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in



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Ref.No.S2/33962/2014 dated 17.02.2015 to quash the same as illegal and unconstitutional and consequently direct the second respondent to consider the petitioner's name entered in the seniority list and appoint him in the post of Guard or Driver in the Forest Department.

For Petitioner : Mr.S.Sukumar

For Respondents : Mr.S.Shanmugavel,
Additional Government Pleader.

ORDER

This Writ Petition is filed challenging the impugned order dated 17.02.2005 with a consequential relief to consider the petitioner's name entered in the seniority list and appoint him in the post of Guard or Driver in the Forest Department.

2. The petitioner was engaged in service from 1997 onwards on temporary basis as Wireless Operator in the Forest Range Office, Shencottai Range, Tirunelveli District and he was paid salary on consolidated basis. From April 2003 onwards, Muster Roll was opened and the petitioner's name was entered in the seniority list vide proceedings of the second respondent dated 02.03.2007 and recommended to the fourth respondent vide proceedings dated 13.04.2007. Since the petitioner was served for a longer period, the third



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respondent vide proceedings dated 29.08.2009 recommended the petitioner's name for the post Guard or Driver and also issued conduct certificate. While the petitioner was eagerly waiting for the regularization, but without prior notice, the fourth respondent prevented him from continue in the service as Wireless Operator. Hence the petitioner filed W.P.(MD)No.9676 of 2010. This Court directed the respondents vide order dated 18.07.2013 to consider and pass orders. The petitioner submitted a representation dated 10.09.2013 and the same was rejected vide impugned order dated 17.02.2015. The respondents denied to regularize, since the petitioner has not completed 10 years of service. According to the petitioner, he was working in the respondent Department from 1997 onwards as Wireless Operator. However, the contention of the respondents is that the petitioner was in service from April 2003 onwards. The Muster Roll was opened from 2003 and the petitioner's name was entered in the list and thereafter from 2003 to 2009 onwards, the petitioner has worked in the respondent Department. Since the petitioner has not completed 10 years of service, his name was not considered for regularization.

3. The contention of the petitioner is that he has worked from 1997 onwards. Based on this fact the respondents had prepared a seniority list vide proceedings dated 02.03.2007 in ந.க.எண்.எம்/16331/2006 and recommended the



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name of the petitioner to the fourth respondent vide proceedings dated 13.04.2007. This fact is evident from the letter dated 30.06.2008, wherein it is seen that the petitioner was recommended based on his seniority. When the respondents have considered for regularization and prepared a seniority list, then the respondents are bound to regularize the petitioner.

4. The contention of the respondent is that the petitioner has not served for 10 years. But the contention of the petitioner is that he was engaged in the year 1997 on consolidated wages. Then from 2003 onwards in Daily Wages basis. There was no denial in the counter that the petitioner was engaged from 1997 in consolidated pay. In fact, the impugned order is also silent about the petitioner's claim that he was engaged from 1998 onwards in consolidated pay. In such circumstances, the petitioner has completed 10 years of service from 1997 onwards. The learned Additional Government Pleader submitted that the petitioner has not submitted any representation as per the direction of this Court in W.P.(MD)No.9676 of 2010. On perusal of the impugned order, a reference is cited, the petitioner's application dated Nil received on 13.09.2013 by the District Forest Officer, Tirunelveli. Therefore, the contention of the respondents is that the petitioner has not submitted any representation is incorrect.



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5. Since the petitioner has completed 10 years of service from 1997 onwards, therefore, this Court is of the considered opinion that the petitioner is entitled to be considered for regularization. Hence, the impugned order is quashed. The respondents are directed to take the petitioner's service from 1997 onwards in the light of the seniority list prepared in ந.க.எண்.எழ/16331/2006 dated 02.03.2007 and regularize the service of the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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To
WEB COPY

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S.SRIMATHY, J.

Nsr

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