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W.P.No.24964 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.24964 of 2011

S.Rajendran

....Petitioner

Vs

1. The Principal Chief Conservator of Forests
& Head of Forest Force,
Panagal Buildings, Saidapet, Chennai -15.

2. The District Forest Officer,
Athur Division, Athur, Salem District.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorari to call for the records on the file of the first Respondent in Pro.Na.Ka.No.AB2/58367/2010 dated 12.05.2011 and that the second Respondent in Aa.Thi.Mu.No.8474/05/U2 dated 10.11.2005 and quash the same and consequently direct the first respondents herein to include the name of the petitioner in the appropriate place of the panel for promotion as Forest Guards for the year 2004-2005 and to promote him.

For Petitioner : Mr.R.Srihari

For Respondents : Mr.G.Krishnaraja



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ORDER

The Writ Petition has been filed to call for the records on the file of the first Respondent in Pro.Na.Ka.No.AB2/58367/2010 dated 12.05.2011 and that the second Respondent in Aa.Thi.Mu.No.8474/05/U2 dated 10.11.2005 and quash the same and consequently direct the first respondents herein to include the name of the petitioner in the appropriate place of the panel for promotion as Forest Guards for the year 2004-2005 and to promote him.

2. It is the submission of the learned counsel for the petitioner that, petitioner was appointed as Forest Plot Watcher on 28.09.1991 and allowed to stagnate in the said post even serving 20 years in the Forest Department. The only promotion post where he can be accommodated is the post of Forest Guard. He filed Writ Petition in W.P.No.27996 of 2006 seeking direction to quash the order of the District Forest Officer, Athur Division, Athur in proceedings Aa.Thi.Mu.No.8474/05/Pa.2 dated 10.11.2005 and for consequential direction to promote him as a Forest Guard with all consequential benefits. This Court was pleased to direct the petitioner to make a representation to the first respondent and first respondent was directed to consider and dispose the Writ Petition within a period of 12



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weeks from the date of personal hearing. Petitioner submitted his representation and he was personally heard on 29.04.2011. However, his representation and personal submissions were not properly considered and by an order dated 12.05.2011, his representation was rejected. The reason for rejecting is that, petitioner has not completed 10th standard and he has been imposed with various punishment and therefore his promotion cannot be considered. In the said circumstances, this Writ Petition is filed challenging the validity of the order passed by 1st respondent in Na.Ka.No.AB2/58367/2010 dated 12.05.2011.

3. In response, the learned counsel for the respondent submitted that, petitioner behaviour was erratic and unbecoming of a Government Servant from the year 1998 to 2003. He faced six disciplinary proceedings and he was imposed six punishments ranging from withholding of increment for one year to five years. Since, he was undergoing punishment from 1998 to 2014, he could not be promoted. That apart, petitioner had challenged only the proceedings of Principal Chief Conservator of Forests in Na.Ka.No.AB2/58367/2010 dated 12.05.2011. At the time of passing the order ie., on 12.05.2011, there were currency of punishment and the punishment got over only on 04.01.2015. In the said circumstances,



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petitioner's prayer for promotion was not considered.

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4. Considered the rival submissions and perused the records. It is seen from the submissions of the learned counsel appearing for the parties that, petitioner submitted his representation on 16.10.2005 stating that punishment imposed against him got over in the year 2004 and therefore, he has to be promoted as Forest Guard. While considering his representation, first respondent passed an order in Na.Ka.No.AB2/58367/2010 dated 12.05.2011 stating that petitioner has not completed 10th standard and that the punishment imposed against him from 01.07.1998 would get over only on 04.01.2015 and therefore his prayer seeking promotion cannot be considered. It is seen from the counter affidavit filed by the respondent that, petitioner faced six departmental proceedings resulting in imposition of punishments and the same is detailed here under:

<i>Sl.No</i>	<i>No. and Date of Charge Sheet</i>	<i>Under Rule 17(a) or (b)</i>	<i>Nature of Charges</i>	<i>Nature of Punishment</i>	<i>Effect of Punishment</i>
1.	DFO, Attur	17(a)	Neglect of duty by	Next increment	01.07.1998



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SL.No	No. and Date of Charge Sheet	Under Rule 17(a) or (b)	Nature of Charges	Nature of Punishment	Effect of Punishment
	C.No.3172/90 D2 dated 19.08.1997		failure to protect the unreserved compensation land S.No.597/2 and 598/1 of Chinna – Kalrayan Theerkunadu Village by allowing for-ming road during 1995 without Government Order	postponed for five years without cumulative effect vide SFO, Attur proceedings No.3172/90 D2 dated 07.10.1997	to 30.06.2003
2.	DFO Attur C.No.6422/97 D1 dated: 03.10.1997	17(a)	Allowing private tractors through the RF on 13.08.1997 during the field Inspection of CF, Salem.	Next increment postponed for two years without cumulative effect vide DFO, Attur proceedings No.6422/98 D1 dated 03.10.1997	01.07.2003 to 30.06.2005
3.	DFO, Attur C.No.2204/98 E2 dated:22.04.98	17(a)	Deliberately Absent from duty on 05.08.98	Next increment postponed for two years without cumulative effect vide DFO, Attur proceedings No.2204/98 E2 dated: 10.05.1998	01.07.2005 to 30.06.2007
4.	DFO, Attur C.No.2380/98 E2 dated 22.04.93\8	17(a)	Behaving indifferently with Kalrayan Range staff by abusing them by using unparliamentary words while on duty on 26.03.1998 to 09.00 PM	Next increment postponed for five years without cumulative effect vide DFO, Attur proceedings No.2380/98 E2 dated 18.05.1998	01.07.2007 to 30.06.2012
5.	DFO Attur, C.No.1638/01 E2 dated 16.04.2001	17(b)	1. Unauthorized absence from duty on 21.01.2001 2. Not obeying the	Next increment postponed for one year without cumulative effect	01.07.2012 to 30.06.2013



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<i>SL.No</i>	<i>No. and Date of Charge Sheet</i>	<i>Under Rule 17(a) or (b)</i>	<i>Nature of Charges</i>	<i>Nature of Punishment</i>	<i>Effect of Punishment</i>
			orders of superiors 3.Preventing the Officials from performing their Government duty. 4.On 21.01.2001 intoxicated and scolded the officials and public with unparliamentary words in Karumanthurai Bus Stand.	vide DFO, Attur proceedings No.1638/01 E2 dated 28.02.2002	
6.	DFO, Attur C.No.2350/03 E2 dated 22.04.2003	17(a)	Negligence of duty by absenting himself from 03.04.2003 without submitting any application for leave	Next increment postponed for one years without cumulative effect vide DFO, Attur proceedings No.2350/03 E2 dated 15.05.2003	01.07.2013 to 30.06.2014

With regard to the qualification of a pass in 10th Standard, the learned counsel for the petitioner submitted that, Rule 5 of the Special Rules for Tamil Nadu Forest Subordinate Service Rules Proviso [iii], it is stated that, “provided that this qualification shall not be applicable to the Forest Watchers and Malis who were appointed from the category of Social Forestry Workers and Malis who were appointed from the category of Social Forestry Workers and Plot Watchers”. Assuming as per this rule, petitioner is not required to have a pass in 10th Standard, from the counter



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affidavit, it is clear that, petitioner had suffered six punishments. He has not challenged any of these punishments. Even after the punishment imposed in the year 2005, he faced four more departmental enquiries and suffered four punishments from 2005 to 2014. From the year 1998 to 2014, he was facing one or other departmental enquiries resulting in imposition of punishments. Since, he has not challenged any of these punishments, it is not open to him to say that he was victimized by his superiors. When he submitted his representation, there was punishment in force. Subsequent punishments were also continuously in force till 2014. In the said circumstances, his representation seeking promotion was rightly rejected by the 1st respondent. Thus, this Court finds no merits in this petition.

5. Accordingly, this Writ Petition is dismissed. No costs.

06.03.2024

Index :Yes/No
Internet:Yes/No
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G.CHANDRASEKHARAN, J

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To

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& Head of Forest Force,
Panagal Buildings, Saidapet, Chennai -15.
2. The District Forest Officer,
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