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W.P.No.4688 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.4688 of 2022
and W.M.P.No.4808 and 4809 of 2022

1. R.Nehru

2. K.Palaniyappan

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Environment and Forest Department,
Fort. St. George,
Chennai – 9

2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai – 15

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in Proc.No.AB2/18140/2021-1 dated 21.10.2021 of the 2nd respondent and quash the same in so far as it relates to non-selection of us along is concerned with consequential direction to the respondents to declare us as selected and



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further direct the respondents to promote us as Forest Guard on par with juniors in that panel and confer all service and monetary benefits in the light of the order made in W.P.Nos.17369 and 17370 of 2012 and P.O.No.Pa2/19/2013 dated 17.04.2013 within time frame.

For Petitioners : Mr.K.Jenitha
For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

This Writ Petition has been filed for the quashment of the impugned order dated 21.10.2020 passed by the second respondent in Proc.No.AB2/18140/2021-1 and consequently, to direct the respondents to promote the petitioners to the post of Forest Guard on par with their juniors and confer all service and monetary benefits in the light of the order made in W.P.Nos.17369 and 17370 of 2012 and P.O.No.Pa2/19/2013 dated 17.04.2013, within a stipulated time as fixed by this Court.

2. Heard the learned counsel on either side and also perused the materials available on record.



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3. The case of the petitioners is that the petitioners were appointed as Social Forestry Workers on daily wages basis on 06.01.1984 through employment exchange. Thereafter, the petitioners were included in the State wise Seniority List in Serial Nos.3303 and 3459 as per G.O.Ms.No.64 dated 08.03.1999 and subsequently, they were brought under the regular time scale of pay as Supernumerary Plot Watcher with effect from 07.08.2009. In the year 2017, the petitioners were appointed as Mali without consideration of their seniority and the next avenue of promotion is to the post of Forest Guard. The second respondent prepared the panel for the post of Forest Guard in 2020-2021, but the petitioners were not selected for promotion due to their height of only 163 cms. The respondents failed to consider the service rule and the judgment of this Court in W.P.No.27601 of 2004 and W.P.Nos.17369 and 17370 of 2012, filed by similarly placed persons. Hence, this writ petition.

4. The learned counsel appearing for the petitioners submitted that as per the Tamil Nadu Forest Subordinate Service Rules, the post of Mali is included in the feeder category for promotion to the post of Forest Guard and



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it is also exempted from the qualification fixed for the post of Forest Guard.

Hence, he prayed for the petitioners' appointment to the post of Forest Guard.

5. The learned Government Advocate appearing for the respondents has filed counter affidavit and submitted that there is no exemption from the prescribed qualification for the post of Forest Guard among the holders of the post of Mali as claimed by the petitioners. He further submitted that Rule 5 of the Tamil Nadu Forest Subordinate Service Rules among other things, prescribes the physical qualification with respect to the promotion of Forest Guard from the post of Mali. As per G.O.(Ms)No.76, Environment and Forests Department dated 10.07.2014, the prescribed physical qualification for promotion to the post of Forest Guard from the Post of Mali is that “must possess the physical qualifications prescribed for direct recruitment to the category of Forest Watchers”. As per Rule 5 of the Tamil Nadu Forest Subordinate Service Rules, the physical qualifications for direct recruitment to the category of Forest Watchers are extracted hereunder:

- “i. Must be not less than 163 cm height*
- ii. Must be not less than 79 cm round the chest on full expiration*



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iii. Must have a Chest expansion of not less than 5 cm on full inspiration provided that the qualification regarding the height prescribed above shall not be required in respect of candidates belonging to the jungle tribes specified in the Annexure.

6. The learned Government Advocate further submitted that as per the above said rules, the minimum height for the post of Forest Guard from the post of Mali is 163 cm, however, the petitioners possesses a height of 158 cm and 154 cm respectively. Therefore, they are not entitled for promotion in the panel year 2020-2021 to the post of Forest Guard on the crucial date 15.08.2020 as per the service rules and the reliance on the orders of this Court in W.P.No.27601 of 2004 dated 03.02.2012 and W.P.No.17369 and 17370 of 2012 dated 19.07.2012 is not tenable. Hence, he prayed to dismiss the writ petition.

7. In view of the submissions made by the learned counsels on either side and also taking into consideration of the prescribed physical qualification for promotion to the post of Forest Guard from the post of Mali, the petition lacks merit and is liable to be dismissed.



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WEB COPY 8. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petitions stands closed.

05.12.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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