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W.P.No.4338 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

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

W.P.No.4338 of 2024

X.Charles Ravi

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep. By Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai 9
- 2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Building, Saidapet,
Chennai-15
- 3.The Conservator of Forest,
Trichy Circle,
Trichy District
- 4.The District Forest Officer,
O/o District Forest Office,
Court Campus,
Thiruchirapalli Division,
Trichy-01

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus to direct the respondents to regularise the petitioner service in the post of Forest Watcher with effect from the date of petitioner initial appointment and to grant the petitioner all consequential monetary and service benefits.



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For Petitioner : M/s.Selvi George

For Respondents : Dr.T.Seenivasan,
Special Government Pleader

ORDER

This writ petition has been filed for direction to the respondents to regularise the petitioner's service in the post of Forest Watcher with effect from the date of initial appointment and to grant all consequential monetary and service benefits.

2. The petitioner is an Ex-serviceman. Under the said quota, he was selected to the post of Forest Guard (Wireless Technician) by the third respondent by its proceedings dated 25.10.2000 under Rule 10 (a) (1) of the General Rules for Tamilnadu State and Subordinate Services. However, immediately he was terminated from service as per Rule 5 of the Tamilnadu Forest Subordinate Service for joining the service of Forest Guard. Therefore, the petitioner approached the Tamilnadu State Administrative Tribunal in OA.No.2348 of 2001. Subsequently, the said application was transferred before this Court and renumbered as



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WP.No.2301 of 2007. This court allowed the writ petition thereby quashed the order of termination and directed the fourth respondent herein to send necessary proposal seeking relaxation in respective of educational qualification for the post of Forest Guard. Aggrieved by the same, the respondents preferred appeal in WA.No.2442 of 2011. The Hon'ble Division Bench of this Court by the common judgment dated 02.09.2013 in WA.No.2441 to 2443 of 2011 upheld the order passed by the learned Single Bench of this Court and modified the direction alone to the effect that the first respondent shall consider the relaxation request of the petitioner on merits and in accordance with law within a period of twelve weeks. During the enquiry, the petitioner was offered to regularise his service in the post of Forest Guard with prospective effect. Thereafter, by the second respondent's communication dated 05.09.2014, the petitioner was appointed afresh in the post of Forest Watcher.

3. Therefore, the petitioner challenged it by way of writ petition before this Court in WP.No.25179 of 2014. The said writ petition was dismissed by order dated 11.07.2022. Aggrieved by the



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same, the petitioner preferred writ appeal in WA.No.170 of 2023 and the Hon'ble Division Bench of this Court also dismissed the writ appeal and granted liberty to the petitioner to approach the authorities concerned for any other relief. The order passed by the Hon'ble Division Bench of this Court was also confirmed by the Hon'ble Supreme Court of India by an order dated 08.01.2024.

4. In view of the liberty given by the Hon'ble Division Bench of this Court, the petitioner submitted representation to consider his earlier service i.e. from 25.10.2000 and regularise as Forest Watcher. In view of the order of the Hon'ble Division Bench of this Court, the petitioner was appointed on temporary basis in terms of Rule 10 (a) (1) of General Rules for the Tamilnadu State and Subordinate Services and as such, it is open for the respondents to discharge the petitioner from service at any point of time. Therefore, there cannot be any claim for permanency as a matter of right. Further, his initial service as Forest Guard was rejected on the premise that he does not possess the required qualification for the post of Forest Guard . It was also confirmed by the



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Single Bench of this Court and also by the Hon'ble Division Bench of this Court. The Division Bench held that it is trite law that fixation of eligibility / qualification criteria falls within the exclusive prerogative of the employer and that, relaxation cannot be claimed as a matter of right in respect of educational qualification to consider the case of the petitioner as Forest Guard from the date of his appointment.

5. Further, there is no dispute that the petitioner does not possess any necessary qualification in terms of Rule 5 of the Special Rules for the Tamilnadu Forest Subordinate Service Rules, for being appointed as Forest Guard. After dismissal of the writ appeal, the petitioner had a mention and on mentioning, the Hon'ble Division Bench of this Court by order dated 21.06.2023 gave liberty to the petitioner to approach the authority concerned for any other relief. Therefore, the petitioner submitted representation to consider his case from the date of his original appointment i.e. from 25.10.2000 for regularisation in the post of Forest Watcher. The said request is pending on the file of the second respondent.



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6. In view of the above, the second respondent is directed to consider the above representation submitted by the petitioner and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

7. With the above direction, this writ petition is disposed of.
There shall be no order as to costs.

22.02.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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