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W.P.No.9030 of 2022, etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.07.2024

Pronounced on : 16.08.2024

CORAM:

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

W.P.Nos.9030, 9036, 9039, 9231, 9237, 9239 of 2022 &
23340 of 2023 and WMP.Nos.8832, 8833, 8835, 8837, 9001, 9002,
8997, 8998, 8991, 8993 of 2022, 22880, 26985 of 2023 & 4886 of 2024

WP.No.9030 of 2022

K.Joseph Arockiaraja

... Petitioner

Vs.

1. Government of Tamilnadu,
represented by Principal Secretary to Government,
Department of Environment, Climate Change and Forests,
2. The Principal Chief Conservator of Forests,
Head of Department,
Panagal Maaligai,
No.1, Jeenis Road,
Saidapet,
Chennai 600 015
3. Tamilnadu Forest Plantation Corporation Ltd.,
(TAFCON)
represented by its Managing Director,
Karur Road,
Mallachipuram,
Kambarasampettai,
Trichy 620 101
4. Board of Directors,
represented by its Chairman,
Tamilnadu Forest Plantation Corporation Ltd.,



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(TAFCON),
Panagal Maaligai,
No.1, Jeenis Road,
Saidapet,
Chennai 600 015

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 3rd respondent herein in Ref.No.3768/2020/E1(i) dated 10.03.2022 and quash the same and to issue appropriate directions to the respondents herein and to issue appropriate orders regularizing the services of the petitioner herein in the post of Forest Range Officer with effect from the date of his initial appointment on temporary promotion i.e. 19.04.2018 and to grant him all consequential benefits.

For Petitioners in
WP.Nos.9030, 9036, 9039,
9231, 9237 & 9239 of 2022 : Mr.M.Ravi

For Petitioners in
WP.No.23340 of 2023 : Mr.M.R.Jothimanian

For Respondents
in all WP's
For R1 & 2 : Mr.K.H.Ravikumar,
Government Advocate

For R3 & 4 : Dr.T.Seenivasan,
Special Government Pleader



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COMMON ORDER

These writ petitions have been filed challenging the order passed by the third respondent dated 10.03.2022 thereby rejected the request made by the petitioners seeking regularisation of temporary promotion in the post of Forest Range Officer and stated that the same will be considered at the time of vacancy arises in the sanctioned strength for promotion from Forester.

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2. The petitioners were selected and appointed by direct recruitment to the post of Forester in the scale of 9300-34800+4200 GP on temporary basis. Thereafter, their probation was declared as successful and their services were regularised. While being so, they were deputed to Forester's Training for a period of six months in Tamilnadu Forestry Training College, Vaigai Dam and they were declared as passed in the Forester's Training and were also issued certificate to that effect. They also completed departmental examination and fully qualified for appointment by promotion to the post of Forest Range Officer. By the



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proceedings dated 19.04.2018, the petitioners were promoted as Forest Range Officer on temporary basis as per Rule 23 (1)(i) of Tamilnadu Forest Plantation Corporation Limited (hereinafter called as TAFCORN) Staff Regulations, 1974. Therefore, they submitted representation to grant regular promotion to the post of Forest Range Officer by showing their entitlement. However, it was not considered and as such, they were constrained to file writ petition before this Court and this Court directed the respondents to consider the representation submitted by the petitioners within the stipulated time. However, the request made by the petitioners was rejected stating that it will be considered at the time of vacancy arises in the sanctioned strength for promotion from Forester.

3. *Mr.M.Ravi*, the learned counsel appearing for the petitioners would submit that it is not disputed that all the petitioners are qualified and eligible for regular promotion as Forest Range Officer even on the date of the their temporary promotion to the post of Forest Range officer. There are different mode of appointment provided in the Staff Regulations in the specific caption of method of appointment, only direct



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recruitment and promotion has been provided for appointment to the post of Forest Range Officer and there is no provision for deputation to the post of Forest Range Officer. All the petitioners had already served as Forest Range Officer for a period of four years. In fact, the respondents had rightly passed order stating that two vacancies will alone be filled up by persons on deputation. Therefore, no impediment for the respondents to appoint the petitioners permanently in the post of Forest Range Officer.

3.1 He further submitted that despite the availability of vacancy, the respondents, without considering the same, mechanically rejected the request made by the petitioners. That apart, the vacancies in which the petitioners were deputed as Forest Range Officer are permanent vacancies and in order to accommodate the deputationists in the said posts, the petitioners' regularisation of service is being denied. Reasonable promotional opportunity shall have to be provided to each and every employee. The petitioners were directly recruited as Forester and avenue of promotion to the post of Forest Range Officer now has



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been deprived by seeking to reserve huge number of posts for deputationists and to restrict the number of vacancies for promotion to the regular staff of Tamilnadu Forest Plantation Corporation Limited and it is violative of the settled legal principles.

4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. On perusal of the counters filed by the respondents and on hearing the submissions of the learned counsel appearing on either side, revealed that the Service rules provides for filling up of vacancy arising in the Corporation could be filled by direct recruitment, promotion and deputation from the Government or Organisations owned by Central / State Government. It is relevant to extract the provisions under Regulation 8(1) of Service Rules hereunder:

Appointment may be made to any post in the Corporation by direct recruitment, promotion, deputation from other sources viz., Government and big commercial organisations owned by State and/or Central Government



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Corporations or on contract basis as may be deemed fit by the Management from time to time.

6. The Government passed order in GO.Ms.No.75 Environment and Forests (Fr.4) Department dated 19.03.1999 providing for the ratio for filling up the Forest Range Officer post in Tamilnadu Forest Plantation Corporation Limited as 50:50 i.e. 50% of posts by Corporation employees by way of promotion and remaining 50% posts by way of deputation from the Forest Department. Out of 25 sanctioned strength of Forest Range Officer posts, 13 posts are allocated for Corporation staff that are to be filled up by promotion from Forester post and the remaining 12 posts are allotted to Forest Department. There were 3 vacancies in the Forest Range Officer post allotted for deputation from Forest Department during the month of April 2018. Accordingly, 3 Foresters including the petitioners were promoted to the post of Forest Range Officer purely on temporary basis under Rule 23(1)(i) and (ii) of TAFCON Staff Regulations, 1974. It is relevant to extract the provisions under Rule 23(1)(i) & (ii) and Rule 23(3) of TAFCON Staff Regulations, 1974 hereunder:



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"23(1)(i) - Where it is necessary in the administrative interest to fill emergently a vacancy in a post borne on the cadre of higher category in a service by promotion from a lower category and if the filling of such vacancy in accordance with these regulations is likely to result in undue delay, the appointing authority may promote a person temporarily otherwise than in accordance with these regulation.

23(1)(ii) - No person who does not possess the qualifications, if any, prescribed for the said service, shall ordinarily be promoted under sub-clause (i) Every person who has been or is promoted under sub-clause (ii) shall be replaced as soon as possible by promoting a person possessing such qualifications”

“23(3) - A person promoted under sub-clause (i) of Clause-I whether or not be possess the qualifications prescribed for the service to which he is promoted, shall as soon as possible be replaced by a member of the service who is entitled for promotion under the regulations or orders in force."

6.1 Accordingly, the petitioners were promoted to the post of Forest Range Officer on temporary basis on the following conditions:

(i) They shall be replaced as soon as possible after availability of persons in the similar category.



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(ii) The appointing authority shall have the power to revert them at any time without assigning any reason and without notice

(iii) They shall commence their probation in such category either from the date of his temporary promotion or from such subsequent date as the appointing authority may, in its discretion determine.

(iv) They shall also be eligible to draw increments in the time-scale of pay applicable to them, from the date of commencement of their probation but shall not be entitled to arrears of pay unless otherwise ordered.

(v) They shall be paid to the minimum pay in higher cadre or their pay in the existing cadre whichever is higher.

(vi) Their temporary promotion as Forest Range Officer will be considered for regularization at the time of vacancy arises in the sanctioned strength for promotion from Forester.

7. Accepting those conditions, the petitioners had joined duty as Forest Range Officer on temporary promotion. Further, the order passed by the Government in GO.Ms.No.741 Personnel and Administrative Reforms (Fr.II) Department dated 24.06.1978 related to permanent absorption of Government employees to the rolls of Public Sector Undertakings is not relevant to the relief sought for in these writ



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petitions since the general laws do not prevail over the specific laws.

There is specific order in GO.Ms.No.156 Environment and Forests (Fr.8)

Department dated 20.12.2017 is related to the promotion of Forest Range

Officer to Regional Manager of the Corporation. That apart, the second

respondent issued orders for deputation of 12 Forest Range Officers from

the Forest Department to TAFCORN by its proceedings dated

13.08.2021. From the said date, there are 13 regular and 10 temporary

Forest Range Officers working in TAFCORN. The sanctioned strength of

Forest Range Officer is 13 and deputation from Forest Department is 12,

in total 25. Already 13 regular Forest Range Officers were filled up and

10 temporary Forest Range Officers were filled up. Therefore, there is 10

excess Forest Range Officers on temporary promotion out of 12

deputation Forest Range Officers. Therefore, 10 Forest Range Officers

on temporary promotion have been accommodated in the vacant posts

allotted to deputation from Forest Department. In order to avoid

reversion of 10 temporary Forest Range Officers, the second respondent

requested to restrict the deputation of Forest Range Officers from 12 to 2

so as to fill up the existing two vacant posts in TAFCORN by the



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proceedings dated 16.08.2021.

8. Accordingly, the second respondent passed order for deputation of two Forest Range Officers from Forest Department to TAFCON by its proceedings dated 02.09.2021. Therefore, as per GO.Ms.No.75 Environment and Forests (Fr.4) Department dated 19.03.1999, 13 Forest Range Officer posts are filled up with regular promotion and the remaining 12 posts could not be filled up by regular promotion since the same is allotted for deputation from Forest Department, Hence, the regularisation of temporary promotion to the post of Forest Range Officer could not be done and only when the vacancy arises in the 13 posts of Forest Range Officer, it can be filled up by promotion from the Forester of TAFCON. Therefore, the request made by the petitioners was rightly rejected and this Court finds no infirmity or illegality in the order passed by the third respondent. As such, all the writ petitions are liable to be dismissed.

WP.No.23340 of 2023

9. The writ petition in WP.No.23340 of 2023 has been filed for



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direction to the second and third respondents to appoint the petitioners as Forest Range Officer in the third respondent Corporation on deputation as per the existing ratio fixed by the first respondent in GO.Ms.No.75 Environment and Forests (Fr.4) Department dated 19.03.1999.

10. The case of the petitioners is that the petitioners were appointed as Forest Guard in the third respondent Corporation and promoted as Forester. Subsequently, they were selected for promotion to the post of Forest Range Officer by an order dated 17.02.2023. But they have not been appointed so far for want of vacancy in the Forest Department. According to the petitioners, 22 posts of Forest Range Officer were vacant and 14 were filled up based on the selection of the second respondent dated 17.02.2023. But the petitioners were not appointed for want of vacancy in the Forest Department.

11. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.



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12. On perusal of the counter filed by the second respondent and on hearing the submissions of the learned counsel appearing on either side, revealed that the third respondent was formed by Government of Tamilnadu in the year 1974 and its employees are governed by the Tamilnadu Forest Plantation Corporation Staff Regulations, 1974. As per GO.Ms.No.75 Environment and Forests (Fr.4) Department dated 19.03.1999, the Forest Range Officer posts are filled up adopting the ratio of 50:50, in which 50% Forest Range Officer posts in the third respondent are filled up by personnel working in the Corporation and the remaining 50% are filled up by the personnel deputed from the Forest Department. Out of 25 Forest Range Officer posts in the third respondent, 12 Forest Range Officers are to be filled up through deputation from Forest Department.

13. It is seen that due to shortage of Officers in the Forest Department, they could not be deputed to the third respondent. Further due to large number of Forest Range Officer posts lying vacant in the



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third respondent, 10 eligible Foresters working in the third respondent were temporarily promoted as Forest Range Officer and they were filled up in the vacant posts. At present, out of sanctioned strength of 25 Forest Range Officer, as per 50:50 ratio, 12 posts are deputed from the Forest Departments. Out of 12 deputation posts, only three posts are held by Forest Range Officers deputed from Forest Department and the remaining 9 deputation posts are held by 9 Forest Range Officers of the third respondent who were already temporarily promoted to the said post. Therefore, the petitioners could not be deputed to the third respondent as Forest Range Officers. As such, the direction sought for in the writ petition cannot be considered and the writ petition is liable to be dismissed.

14. In the result, all the writ petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order

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(2/2)



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To

- 1.Principal Secretary to Government,
Government of Tamilnadu,
Department of Environment, Climate Change and Forests,
- 2.The Principal Chief Conservator of Forests,
Head of Department,
Panagal Maaligai,
No.1, Jeenis Road,
Saidapet,
Chennai 600 015
- 3.Managing Director,
Tamilnadu Forest Plantation Corporation Ltd.,
(TAFCORN)
Karur Road,
Mallachipuram,
Kambarasampettai,
Trichy 620 101
- 4.Chairman,
Board of Directors,
Tamilnadu Forest Plantation Corporation Ltd.,
(TAFCORN),
Panagal Maaligai,
No.1, Jeenis Road,
Saidapet,
Chennai 600 015



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G.K.ILANTHIRAIYAN, J.

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