



W.A.No.2149 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2024

CORAM

**THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ**

W.A.No.2149 of 2022

M.Parthiban

.. Appellant

Vs.

1.The Government of Tamil Nadu
Rep. by its Principal Secretary to Government
Environment and Forests Department
Secretariat, Chennai-9

2.The Principal Chief Conservator of Forests
Panagal Building, Saidapet
Chennai-15

3.The Chairman
Departmental Selection Board and
Chief Conservator of Forests (P&V)
O/o.The Principal Chief Conservator of Forests
Panagal Buildings, Saidapet
Chennai-15

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 13.12.2021 passed by the learned Judge in W.P.No.24155 of 2010.



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For Appellant : Mr.M.C.Swamy
For Respondents : Mr.S.Silambanan
Additional Advocate General
Assisted by Mrs.S.Anitha
Special Government Pleader

JUDGMENT

(Judgment of the court was delivered by R. MAHADEVAN, J.)

Assailing the order dated 13.12.2021 passed by the learned Judge in W.P.No.24155 of 2010, the writ petitioner has preferred this writ appeal.

2. It is the case of the appellant that he was initially appointed as Typist on 16.06.1990 in the Tamil Nadu Ministerial Service and thereafter, promoted as Assistant on 30.06.1994. In the year 1996, he applied for appointment to the post of Forest Ranger under the quota allotted for recruitment by transfer from the members of the Tamil Nadu Ministerial Service. He participated in the qualifying examination for deputation to the Forest Ranger's course, as per the special rule outlined in the Tamil Nadu Forest Subordinate Service Rules. The appellant secured 368 marks as against the minimum total of 210 marks as per G.O.(Ms) No.1054, Forests & Fisheries Department, dated 03.09.1983. In the selection process for nine vacancies, only five candidates were selected and



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deputed to the Forest Ranger's course and that, four other fully qualified candidates including the appellant were left out. Feeling aggrieved, the appellant along with others, preferred Original Application No.6928/1996 which was disposed of by the Tamil Nadu Administrative Tribunal, by directing the authorities to consider the applications of the applicants for deputation for the Rangers course. Pursuant to the same, the files of the appellant and others were circulated to the Government. Though several queries were raised and all were answered, no orders have been passed by the Government. While so, the second respondent issued a notification dated 11.02.2010, calling for applications from the members of the Tamil Nadu Ministerial Service for deputation to the Forest Ranger's Course. Feeling aggrieved, the appellant filed W.P.No.24155 of 2010 to quash the said notification dated 11.02.2010 and for consequential relief. After hearing both sides, the learned Judge dismissed the said writ petition, by order dated 13.12.2021, the relevant portion of which is quoted below for ready reference:

"2. Learned Government Advocate appearing for the Respondents, on instructions, states that the Petitioner belongs to BC category and he had to obtain 35% of marks in each subject, but he had secured only 24%, 34% and 30% marks in English, Maths-I and Maths-II subjects respectively, which led to his non-selection for the Rangers Course. Further, the age limit for BC category to which the Petitioner belongs is 35 years, but on 01.04.2010, the age of the Petitioner was 46 years. In such circumstances, he was not entitled for the selection of Rangers Course. However, it has been pointed out that the Petitioner, who was initially appointed as Forester in the Tamil Nadu Ministerial Service was transferred to the Tamil Nadu Forest Subordinate



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Service as Forester on 02.07.1999 and by virtue of his seniority position in the cadre of Forester, he was promoted to the post of Forest Range Officer and has joined duty in that post on 09.02.2011 and he has been subsequently granted further promotion to the post of Assistant Conservator of Forests on 14.07.2017 in the Tamil Nadu State Forest Service and he is still working in Forest Department.

3. *In view of the aforesaid submissions made, which deserve acceptance, no further orders are required in this Writ Petition, except to make it clear that if the Petitioner has any other grievance to be redressed in the matter, he is not precluded from working out his rights before the proper forum in the manner recognized by law.*

In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected miscellaneous petition is closed. No costs."

Aggrieved by the aforesaid order of the learned Judge, the writ petitioner is before this Court with the present appeal.

3. The learned counsel appearing for the appellant submitted that as per the promotion policy, the backlog vacancies reserved as per the statutory rule for appointment to the post of Forest Ranger by transfer from the Tamil Nadu Ministerial Service for the years 1993-1996 were nine and therefore, when the selection process commenced in the year 1996, the name of the appellant should have been included in the list of candidates eligible to attend the training course and on completion of the same, he should have been appointed as a Forest Ranger. That apart, at the time of selection process in the year 1996, the appellant was 32 years and 4 months and he belongs to Backward



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Community category and that, he had secured 368 marks as against the minimum total marks of 210, in terms of G.O.Ms.No.1054, Forest and Fisheries Department, dated 03.09.1983 and therefore, he was fully eligible and qualified to be sent to the training course and thereafter, appointed to the post of Forest Ranger. However, the respondent authorities failed to select the appellant on the premise that the candidates belonging to BC category should obtain 35% marks in each subject, whereas the appellant had secured only 17% in Maths-I; and that, he was over aged as on 01.04.2010. Without properly appreciating the facts and circumstances of the case, the learned Judge also erred in dismissing the writ petition, merely relying on the representation so made by the learned Government Advocate appearing for the respondent authorities, by the order impugned herein. According to the learned counsel, since the respondent authorities have not done the exercise of selection process for 14 years, the appellant cannot be deprived of his chance of promotion. Hence, the learned counsel prayed to set aside the order of the learned Judge and thereby allow this writ appeal.

4. Per contra, the learned Additional Advocate General appearing for the respondents submitted that during the year 1996, the second respondent constituted a Board for selection of departmental candidates for deputation to



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the Ranger's course from among the members of Tamil Nadu Ministerial

Service in the Forest Department. The Board issued a notice dated 06.09.1996 inviting applications from the eligible candidates, in which, it was clearly mentioned that a candidate must obtain 40% of marks (35% in the case of candidates belonging to SC/ST/BC) in each subject in the written examination for qualifying for admission to the oral test. Accordingly, 12 candidates including the appellant herein, were found to be eligible for appearing in the oral test. Out of 12, 6 candidates have obtained pass marks in the qualifying examinations and the remaining 6 candidates, including the appellant herein, have not obtained pass marks i.e., the required qualifying marks in each subject. Therefore, the 6 candidates, who obtained the qualifying marks were selected and sent for training course. According to the learned Additional Advocate General, since the appellant belongs to BC category, he was expected to obtain 35% marks in each subject. But, he obtained only 17% of marks in Maths-I. Therefore, he was not selected for the Ranger's course training. That apart, pursuant to the order of the Tribunal, the representation of the appellant along with others, was considered and was ultimately, rejected, by the Government in Letter No.14533/FR/97-5 dated 06.07.1998 and the said rejection order was not challenged by the appellant. It is also submitted that the appellant has no right to challenge the notification dated 11.02.2010 as he had



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not participated in the selection process. Even otherwise, the age limit for BC candidates is 35 years, whereas the age of the appellant was 45 years as on 01.04.2010 and hence, he was not entitled for selection. Taking note of all these facts through the learned Government Advocate appearing for the authorities, the learned Judge dismissed the writ petition, by the order impugned herein, which does not require any interference by this court. The learned Additional Advocate General also submitted that the appellant was promoted to the post of Superintendent and joined duty on 29.06.2011 and subsequently, granted further promotion to the post of Personal Assistant on 22.02.2021 and is working in the Forest Department.

5. Heard the rival submissions and perused the materials available on record.

6. Before the writ court, the appellant prayed for the following relief:

"to issue a writ of Certiorarified Mandamus, calling for the records of the third respondent in connection with the notification in Ref. No.B2/33489/2009 dated 11.02.2010 and quash the same and issue consequential direction to the respondents to depute him to the Ranger's course in Forest College and to recruit him as Forest Ranger with retrospective effect from the date on which 1996 selectees' have been appointed as Forest Ranger with all consequential benefits, within a limited time frame."



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7. Indisputably, by the order impugned herein, the learned Judge without going into the merits of the case, rejected the prayer made by the appellant, on the basis of the statements made by the learned Government Advocate appearing for the respondent authorities. The said order of the learned Judge is questioned by the appellant in this writ appeal.

8. At the outset, this court is of the view that the first limb of the prayer made in the writ petition viz., to quash the notification dated 11.02.2010, cannot be maintainable, having regard to the admitted fact that the appellant did not participate in the selection process pursuant to the said notification, due to his over age. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the Authority / Court, that he falls within the category of aggrieved persons. Only a person who has suffered or suffers from legal injury can challenge the act/ action/ order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a



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public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. Infact, the existence of such right is the foundation of the exercise of the said jurisdiction by the court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [*Vide: State of Orissa v. Madan Gopal Rungta, AIR 1952 SC 12; Saghir Ahmad and another v. State of U.P, AIR 1954 SC 728; Calcutta Gas Company (Proprietary) Ltd v. State of West Bengal and Others, AIR 1962 SC 1044; Rajendra Singh v. State of Madhya Pradesh, AIR 1996 SC 2736 and Tamilnad Mercantile Bank Shareholders Welfare Association v. S.C. Sekar and others (2009) 2 SCC 784*]. In the instant case, having not participated in the selection process, no individual legal right of the appellant has been breached by the respondent authorities. Therefore, the appellant has no *locus standi* to question the 2010 selection process.

9. As far as the second limb of the prayer made by the appellant in the



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writ petition, relating to selection process conducted in the year 1996 is concerned, it is the main contention of the learned counsel for the appellant that the appellant should have been selected for deputation to the Forest Ranger's course in 1996 against the backlog vacancies reserved for appointment by transfer from the Tamil Nadu Ministerial Service for 1993-1996. It is the further submission of the learned counsel that in the qualifying examination conducted in October 1996, the appellant secured more than the minimum 210 marks as specified in G.O.Ms.No.1054 Forests & Fisheries Department, dated 03.09.1983, however, he was not selected, on the premise that he did not obtain the qualifying marks of 35% in each subject. That apart, even after the order of the Tamil Nadu Administrative Tribunal, the claim of the appellant was not considered by the Government.

10. On the other hand, it is the categorical stand of the respondent authorities that for selection of departmental candidates for deputation to the Ranger's course from among the members of the Tamil Nadu Ministerial Service in Tamil Nadu Forest Department during the year 1996, the second respondent constituted a selection Board, which called for applications from the eligible candidates *vide* notice dated 06.09.1996. While so, it was prescribed that a candidate must obtain 40% of marks (35% in the case of candidates



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belonging to SC/ST/BC) in each subject in the written examination for qualifying for admission to the oral test; and the same was also mentioned in the said notice. Whereas, the appellant did not acquire the requisite minimum qualifying marks of 35% in each subject and he secured only 17% in Maths-I, though his overall score was 368 marks; and hence, he was not selected for Ranger's course training. It is also submitted that pursuant to the order of the Tamil Nadu Administrative Tribunal, the Government considered the claim of the appellant and rejected the same, by order dated 06.07.1998, which was not challenged by the appellant.

11. From the submissions made by the learned counsel on either side, it could be seen that the candidates were selected for Ranger's training for recruitment to the post of Forest Rangers, through the selection Board constituted by the second respondent and the Board prescribed the criteria for such selection, one of which is that the candidates must obtain the minimum qualifying marks of 40% (35% in the case of candidates belonging to SC/ST/BC) in each subject for admission to the next level of selection. Admittedly, the appellant belonging to BC category, did not secure the minimum qualifying marks in Maths-I and he obtained only 17 marks, which led him to the non-selection for the Ranger's course. He made representation



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through the authorities concerned, to consider his candidature for the post in question, in the light of G.O.(Ms)No.1056 dated 03.09.1983, wherein, it was stated that those who have secured 210 marks in total in the qualifying examination are eligible for being deputed to the Forest Rangers course. The Government rejected the said representation, by Letter No.14533/FR2/97-5 dated 06.07.1998, which was not challenged by the appellant and the same attained finality. Thereafter, much water has flown.

12. Normally, the decision of the selection Board cannot be interfered with by the Court, in the absence of any *mala fide* attributed to the members of the same. In the present case, no such allegation was raised by the appellant. It is the grievance of the appellant that as per G.O.Ms.No.1054 dated 03.09.1983, which was in force, during the relevant point of time, the overall marks obtained in the written examination are the eligible criteria for selection to the Rangers course training and not the minimum qualifying marks of 35% in the category of BC, in each subject, as have been prescribed by the selection Board. This court is of the opinion that the appellant, having participated in the written examination without raising any objection, cannot now turn around and contend that the selection process was contrary to the said G.O.Ms.No.1054 dated 03.09.1983. It is also important to point out at this juncture that the claim of the



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appellant based on the said contention, was already rejected by the Government and the rejection order was not challenged by the appellant, before any court of law. Merely because vacancies existed earlier, the appellant had no vested right to be promoted in 1996 itself, disregarding the applicable eligibility norms. Furthermore, the appellant did not meet the eligibility criteria prescribed by the selection Board. Therefore, the relief sought by the appellant to depute him to the Ranger's course and thereafter recruit as Forest Ranger with retrospective effect from the date on which 1996 selectees have been appointed, cannot be considered at this length of time.

13. In overall view of the matter, this court has no hesitation to observe that the order of the learned Judge in dismissing the writ petition, requires no interference. Accordingly, this writ appeal fails and is dismissed. No costs.

[R.M.D,J.] [M.S.Q, J.]
09.01.2024

Internet : Yes
Neutral Citation : Yes/No

gya/rns



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To
WEB COPY

- 1.The Principal Secretary to Government
Environment and Forests Department
Secretariat, Chennai-9

- 2.The Principal Chief Conservator of Forests
Panagal Building, Saidapet
Chennai-15

- 3.The Chairman
Departmental Selection Board and
Chief Conservator of Forests (P&V)
O/o.The Principal Chief Conservator of Forests
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