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W.P.No.35289 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.35289 of 2016

R.Neethirajan

... Petitioner

Vs.

1. Government of Tamil Nadu
Rep. By its Principal Secretary to Government,
Environment & Forest Department,
Secretariat, Chennai – 600 009.

2. The Principal Chief Conservator of Forests and
Head of Forest Force,
Chennai – 600 15.

3. The Managing Director,
Tamil Nadu Forest Plantation Corporation Ltd.,
Mallachipuram, Tiruchirapalli – 620 101.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, calling for the records of the first respondent relating to the order in Letter No.17810/FR.1/2015-6, Environment & Forest (FR1) Department dated 18.02.2016, to quash the same and to issue consequential directions to the first respondent to advance the panel year from 2008-2009 to 2007-08 and to include the name of the petitioner therein and on that basis fix his seniority.

For petitioner : Mr.M.Ravi

For respondents : Mr.S.Rajesh
Government Advocate



ORDER

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This writ petition is filed seeking to quash the order in Letter No.17810/FR.1/2015-6, Environment & Forest (FR1) Department dated 18.02.2016 and to issue consequential directions to the first respondent to advance the panel year from 2008-2009 to 2007-08 and to include the name of the petitioner therein and on that basis fix his seniority.

2. The facts in brief culled out from the affidavit are as follows:

2.1. The petitioner was directly recruited as a Forest Ranger in the year 1984, through the Tamil Nadu Public Service Commission and was posted as Forest Ranger in Arasu Rubber Corporation, Nagercoil from 28.08.1985. Subsequently, the petitioner served as a Forest Ranger at various Forest Ranges in the State and became fully qualified and eligible for promotion as Assistant Conservator of Forests. The first Respondent / Government released the approved panel of Forest Rangers fit for promotion as Assistant Conservator of Forests for the year 2008-09 in G.O.Ms.No.131, Environment and Forests Department dated 30.09.2009. Though, the petitioner's name was at at SI.No.44 in the Seniority list, his name was not included in the Panel of Forest Rangers fit for appointment by transfer as Assistant Conservator of Forests, on the ground of pendency of charge memo dated 24.07.2009 issued



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under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal)

Rules by the Conservator of Forests, Madurai Circle with regard to certain alleged lapses in TAP Works during 2005-06 while the petitioner was serving as Ranger in Agro-Forestry Research Division, Madurai from 11.06.2005 to 30.06.2006. The validity of the said charge memo was challenged by filing a writ petition and this Court, by order dated 23.12.2009, allowed the said writ petition.

2.2. Pursuant to this, the petitioner made representation dated 25.02.2010 to the first respondent / Government seeking to consider his claim for promotion as Assistant Conservator of Forests with retrospective effect from the date of promotion of his immediate junior with all consequential service and monetary benefits, as no other charge memo was pending as on that date. Since the same did not evoke any response, the petitioner filed W.P.(MD) No.3948 of 2010 and same was allowed by an order dated 21.04.2010 and directions were issued to the respondents to consider and pass appropriate orders on his representation dated 25.02.2010 within 8 weeks.

2.3. The petitioner was informed on 03.09.2010, that in view of the fresh charge memo dated 06.05.2010, issued under Rule 17(b) of the Tamil



Nadu Civil Services (Discipline & Appeal) Rules dated 06.05.2010, his name was not included in the promotion panel for the post of Assistant Conservator for the year 2008-09. Aggrieved by the order in G.O.Ms.No.131, stated *supra*, the petitioner filed another W.P.No.23603/2010 and this Court by order dated 25.07.2011, issued directions to the respondents to include the petitioner's name in the panel for the year 2008-09 and promote him as Assistant Conservator of Forests with retrospective effect from the date of such promotion of his immediate junior and grant him all consequential service and monetary benefits. Subsequently, the petitioner was promoted on 30.09.2009.

2.4. The Government/first Respondent on the basis of proposals submitted by the second Respondent in Lr.NO.AA1/70833/05 dated 22.03.2007, 10.05.2007 and 23.08.2007, issued orders in G.O.Ms.No.7, Environment and Forests Department dated 04.02.2008 for the upgradation of 26 posts of Forest Rangers to that of Assistant Conservator of Forests for being appointed as Forest Extension Officers of various Forest Extension Centres.

2.5. Further, on account of the proposals of the 2nd Respondent for upgradation of Ranger to Assistant Conservator of Forest, the Rangers who have completed more than 20 years of service may get promotion during their



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service however, those Rangers who had completed 20-25 years of service would have reached the scale of pay of Assistant Conservator of Forest by virtue of having obtained Special Grade. The Government orders were issued on 05.02.2008, based on proposals of the 2nd Respondent dated 22.03.2007, 10.05.2007 and 23.08.2007, but those posts were not taken into account for consideration of the panel year 2007-08, which has resulted in affecting the petitioner's promotion opportunities.

2.6. The petitioner submitted a representation dated 18.06.2015 to the first Respondent/Government, requesting to advance the panel year of 2008-09 to 2007-08 and to fix his seniority enabling him to get further promotional opportunities. The petitioner filed W.P.No.28099/2015 and this Court, by order dated 07.09.2015, issued directions to the first Respondent to consider and dispose of the petitioner's representation dated 18.6.2015 in accordance with law and pass orders within a period of eight weeks. As there was no response, the petitioner filed a contempt petition and on which the first Respondent has passed orders in Letter No.17810/FR-1/2015-6, Environment & Forest Department, dated 18.02.2016 rejecting his claim of the petitioner stating that the estimate of vacancies for the post of Assistant Conservator of Forests for the year 2007-08 was fixed as '15' and the panel for the year 2007-08 was



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issued based on the seniority list of Forest Range Officers as on 01.01.2005 and no junior to the petitioner was included in that panel. Aggrieved by the same, the petitioner has filed this writ petition.

3. The first and the second respondents have filed a counter affidavit and submitted that the petitioner was initially appointed as Forest Ranger in the year 1984 after being recruited to the post of Forest Apprentice through direct recruitment by the Tamil Nadu Public Service Commission. The petitioner's name was considered for the panel of Forest Range Officers fit for promotion as Assistant Conservator of Forests for the year, 2008-2009. But, during the time of consideration, the following impediments were found in his service records:-

a. A charge memo under Rule 17(b) of the Tamil Nadu Civil Service (Disciplinary & Appeal) Rules, issued in Conservator of Forests, Madurai No. B2/12628/2006, dated 24.07.2009 was pending.

b. Ordered to recover a sum of Rs.43,889/- in 44 installments in Managing Director, Arasu Rubber Corporation Limited letter. No.2/17591/1999, dated 19.04.2002.

c. Ordered to recover a sum of Rs.18,333/- in 37 installments in Conservator of Forests, Virudhunagar No. C/11455/2003, dated 26.12.2003.



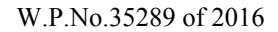
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d. Censure awarded in Conservator of Forests, Virudhunagar

No: C/6962/2004,dated 13.12.2004.

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4. The learned Additional Government Pleader submitted that according to the instructions issued *vide* Government Letter No. 18824/2005-2, Personnel and Administrative Reforms Department, dated 07.10.2005, if charges are framed under rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules and if punishment is awarded before actual promotion, inclusion of employees name has to be deferred until finalization of disciplinary proceedings. In respect of misconduct allegedly committed in Sirumalai Range of Dindigul Forest Division, a charge memo was issued against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules in District Forest Officer, Dindigul No:11385/2009 (1) E2, dated 06.05.2010 which was held against him. Hence, his name was not included in the panel for the year 2008-2009. Therefore, the Departmental Promotion Committee had decided that the petitioner was not fit for inclusion of his name in the panel of Forest Ranger fit for promotion to the post of Assistant Conservator of Forests for the year, 2008-2009 and accordingly his name was not included in the approved panel issued in G.O.Ms.No.131, Environment & Forests (FR.1) Department, dated



5. It is submitted by the learned Additional Government Pleader that on the vacancies available as on the date of preparation of the panel in year 2007-2008 the petitioner was rightly not considered and subsequently on the available vacancies, his name was considered in the panel for the 2008-2009 and he was promoted.

7. On going through the counter affidavit as well as the affidavit of



the petitioner and also the impugned order, it is clear that the preparation of panel for the year 2007-2008 was for the period from 19.10.2007 to 18.01.2008. At the time of preparation of panel for the year 2007-2008, the number of vacancies available and which were likely to be vacant were estimated as 15 and thereby, panel was prepared for 15 vacancies. Since, the petitioner was not one among in the seniority list for the estimated 15 vacancies, his name was not considered for inclusion.

8. However, at the time of preparation of panel in the year 2008-2009 for the period from 19.01.2008 to 18.01.2009, the number of vacancies were calculated considering G.O.Ms.No.7, Environment and Forests Department dated 04.02.2008. As per the Government Order stated *supra*, 26 vacancies were sanctioned. Therefore, while preparing of panel for the year 2008-2009 basing on the seniority list pending as on 01.01.2008, the petitioner came into the zone of consideration and thereby, the petitioner was rightly considered and promoted. Since, as on the date of preparation of panel for the year 2007-2008 there were only 15 vacancies and also basing on the seniority as on 01.01.2007, the petitioner was rightly not considered.

9. In view of above, the petitioner is not entitled to the relief for



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inclusion of his name in the panel for the year 2007-2008 on account of the fact that as per the seniority list he did not come into the zone of consideration as on 01.01.2007.

10. Accordingly, this writ petition is dismissed. Costs made easy.

21.03.2024

vca

Index : Yes/No
Internet : Yes/No
Citation : Yes/No

To

1. The Principal Secretary to Government,
Environment & Forest Department,
Secretariat, Chennai – 600 009.
2. The Principal Chief Conservator of Forests and
Head of Forest Force,
Chennai – 600 15.



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3. The Managing Director,
Tamil Nadu Forest Plantation Corporation Ltd.,
Mallachipuram, Tiruchirapalli – 620 101.

DR.D.NAGARJUN,J.

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28.03.2024