



W.P.(MD) No.15011 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.15011 of 2020

and

W.M.P.(MD) No.12650 of 2020

John Joseph

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Forest Department,
Secretariat, Chennai.

2.The Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet, Chennai – 15.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Proc.No.AB1/32897/2015, dated 12.10.2020 of the second respondent in so far as the petitioner is concerned and quash the same as illegal and direct the second respondent to include the petitioner's name in the temporary Forester promotion panel list for the year 2016-2017, dated 12.10.2020 within a time frame fixed by this Court.



W.P.(MD) No.15011 of 2020

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For Petitioner : Mr.M.Venkatesan

For Respondents : Mr.D.Sasi Kumar
Additional Government Pleader

ORDER

Challenging the impugned order 12.10.2020 issued by the second respondent enclosing the temporary panel list for the promotion to the post of Forester for the year 2016-2017 and praying to include the petitioner's name in said panel, this Writ Petition has been filed.

2. The petitioner was originally appointed as Social Forest Worker through Proceedings C.No.396/8a dated 04.02.1983 on temporary basis. Thereafter, his service was regularized as Forest Watcher with effect from 21.05.2008.

3. The petitioner along with certain others filed W.P.(MD) No.302 of 2012 batch, for regularization of his service as Forest Watcher in the year 1995 and grant of notional promotion to the post of Forest Guard and for re-fixation of pay. The said Writ Petition was disposed of by this Court by an order dated 04.06.2012 directing the respondents to consider



W.P.(MD) No.15011 of 2020

the case of the petitioner and others. Thereafter, the second respondent issued Letter bearing reference No.LL2/3832/2016 dated 16.11.2013 with direction for implementation of the order passed by this Court in W.P. (MD) No.302 of 2012 batch. Consequently, the petitioner was appointed as Forest Watcher on notional basis with effect from 24.01.1995.

4. However, the claim of the petitioner for promotion to the post of Forest Guard was not considered. He was promoted as Forest Guard only with effect from 13.02.2014. According to him, the petitioner along with others once again approached this Court by filing W.P.(MD) Nos.31192 & 31330 of 2019. The said Writ Petition was disposed by this Court once again directing the respondents to consider the petitioner and others for notional promotion to the post of Forest Guard. The request of the petitioner was considered by the respondents and the second respondent herein through Proceedings No.11678/2020/E3 dated 28.11.2022 promoted the petitioner as Forest Guard notionally with effect from 17.06.2004 and re-fixed his pay for the said post notionally. While promoting the petitioner to the post of Forest Watcher as well as Forest Guard, the promotion of the petitioner's junior namely, Venkatachalam was taken into consideration and the said promotion has become final.



W.P.(MD) No.15011 of 2020

5. The grievance of the petitioner in the present Writ Petition is that the respondents while preparing temporary panel in the year 2020 for promotion to the post of Forester for the year 2016-2017, the name of the petitioner was not included in the said panel. Therefore, the petitioner approached this Court by filing the present Writ Petition seeking direction to include his name in the temporary panel prepared in the year 2020 for promotion to the post of Forester, for the panel year 2016-2017.

6. The second respondent had filed a detailed counter affidavit contending that there is a serious dispute about filling up the post of Forest Guard by promotion and by direct recruitment. The persons who were appointed by direct recruitment approached the Principal Seat of this Court at Madras and this Court by filing batch of Writ Petitions in W.P.Nos.22331 of 2009, 24275 of 2010 and 19697 of 2009 and in W.P. (MD) No.13015 of 2016 which were dismissed. The unsuccessful persons preferred Writ Appeals in W.A.Nos.811, 812 and 877 of 2011 and W.A.(MD) No.1151 of 2017. The Hon'ble Division Bench by an order dated 17.04.2018, having found fault with the various promotions that were affected from the post of Forest Watcher and Forest Guard ignoring the rota-quota rule, disposed of the Writ Appeals with certain



W.P.(MD) No.15011 of 2020

directions to the respondents to review the entire promotions that were affected without applying rota-quota rule and re-fix the seniority among the Forest Guards recruited from the different sources.

7. Pursuant to the said order passed by the Hon'ble Division Bench, the second respondent is stated to have constituted a committee for preparation of seniority list. The petitioner is stated to have made a representation dated 18.08.2020 to include his name in the panel list for promotion to the post of Forester. However, in the temporary panel published in the year 2020, the petitioner's name was not included.

8. The learned Additional Government Pleader for the respondents produced a copy of the *inter se* seniority list dated 06.12.2018. In the said seniority list, the petitioner herein was shown at Sl.No.1289 and the date of promotion to the post of Forest Watcher and Forest Guard were shown as 22.05.2008 & 13.02.2014 respectively. Thus, the date of notional promotion that was given to the petitioner to the post of Forest Watcher and Forest Guard with effect from 24.01.1995 and 17.06.2004 respectively were not taken into consideration. Though the petitioner claimed to have participated in the process while the committee was



W.P.(MD) No.15011 of 2020

preparing seniority list by submitting representation, the same was not taken into consideration. The fact remains that the notional promotions that were granted in favour of the petitioner to the post of Forest Watcher and Forest Guard with effect from 24.01.1995 and 17.06.2004 respectively remained but the same was not taken into consideration while preparing the seniority list pursuant to the order passed by the Hon'ble Division Bench.

9. The learned counsel for the petitioner also drawn the attention of this Court that the junior of the petitioner namely, Venkatachalam was placed at Sl.No.158 of the seniority list dated 06.12.2018, whereas, the petitioner was placed at Sl.No.1289. He contended that the notional promotion that was granted to the petitioner by the respondents themselves is by comparing the petitioner with his junior Venkatachalam who is now shown at Sl.No.158. Thus, it is contended that he should have been placed along with the said Venkatachalam who is placed at Sl.No. 158 and not at Sl.No.1289. The learned counsel for the petitioner contends that he is entitled to be treated on par with the said Venkatachalam and same has not been done by the respondents.



W.P.(MD) No.15011 of 2020

WEB COPY 10. From the counter affidavit filed by the second respondent, it appears that the petitioner acquired all requisite qualifications for the post of Forester in the year 2016. Therefore, the petitioner is entitled for consideration of his case for promotion to the post of Forester from the year 2016 subject to coming within zone of consideration. As already narrated above, the petitioner was notionally promoted to the post of Forest Watcher and Forest Guard with effect from the years 1995 and 2004 respectively on par with his junior Venkatachalam and that is allowed to stand the petitioner is entitled for consideration of his case on par with his junior Venkatachalam.

11. As narrated above, the notional promotion was granted in favour of the petitioner in the post of Forest Guard through Proceedings dated 28.11.2022 that is much after the preparation of panel for the year 2016-17 for consideration for promotion to the post of Forester during the year 2020. Therefore, this proceedings dated 28.11.2022 is not available as on the date of preparation of the impugned panel in the year 2020 for the post of Forester.



W.P.(MD) No.15011 of 2020

12. In the circumstances, this Court is of the considered view that this is fit case for the second respondent to have a fresh look into the matter by taking into consideration the factual aspects as narrated above and the claim of the petitioner for promotion to the post of Forester on par with his junior Venkatachalam and also taking into consideration of the Judgment of the Hon'ble Division Bench in W.A.Nos.811, 812 and 877 of 2011 and W.A.(MD) No.1151 of 2017 dated 17.04.2018.

13. In the light of the above, the petitioner is permitted to make an appropriate representation before the second respondent agitating his claim for promotion to the post of Forester by narrating all factual aspects within a period of 4 weeks from the date of receipt of a copy of this order, and on submission of such representation by the petitioner, the second respondent shall look into the matter by taking into consideration of the notional promotions that were granted in favour of the petitioner with effect from the years 1995 and 2004 to the post of Forest Watcher and Forest Guard respectively and consider the case of the petitioner for the promotion to the post of Forester and pass appropriate orders within a further period of two months from the date of submission of such representation.



W.P.(MD) No.15011 of 2020

WEB COPY 14. This Writ Petition is disposed of. No cost. Consequently,
connected Miscellaneous Petition is closed.

06.03.2024

(1/2)

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

JEN

To

- 1.The Principal Secretary,
Forest Department,
The Government of Tamil Nadu,
Secretariat, Chennai.
- 2.The Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet, Chennai – 15.



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MUMMINENI SUDHEER KUMAR, J.

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