



Writ Petition No.36904 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 24.06.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

Writ Petition No.36904 of 2005

- 1.P.Ethiraj (Deceased)
 - 2.Kalavathi
 - 3.E.Vijayakumar
 - 4.E.Sridhar
 - 5.E.Sarathy
- (P2 to P5 are substituted as Lrs of the deceased)

...Petitioners

Vs

1.The Secretary,
Department of Environment and Forest,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai – 600 015.

3.The District Forest Officer,
Erode Forest Division,
Erode.

(R3 impleaed vide order dated 15.03.2021 made in
WMP.No.3001 of 2021 in W.P.No.36904 of 2005)

... Respondents



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PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records relating to proceedings in RC.No.71879/2003 dated 23.12.2003 on the file of the second respondent herein and to quash the same and directing the respondents to consider the name of the petitioner for promotion to the post of Ranger with retrospective effect from 01.01.1996 with all the benefits within a time frame.

For Petitioners : Ms.Elizabeth Ravi
For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

This writ petition has been filed seeking to issue a writ of Certiorarified Mandamus to call for the records relating to the proceedings in RC.No.71879/2003 dated 23.12.2003 on the file of the second respondent and for a consequential direction to the respondent to consider the name of the petitioner for promotion to the post of Ranger with retrospective effect from 01.01.1996 along with all the consequential benefits. During the pendency of this writ petition, the sole petitioner passed away, and accordingly, the petitioners 2 to 5 are brought on record as legal representatives of the deceased petitioner.



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2. The brief facts that are relevant for the disposal of this Writ

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While the petitioner was working as Forester in the Forest Department, Government of Tamil Nadu, he was placed under suspension by order dated 09.10.1993 on charges of illegal felling of trees. Subsequently, a charge memo dated 10.12.1994 was issued. During the pendency of the said disciplinary proceedings, the case of the petitioner had come up for consideration for promotion to the post of Ranger as on 01.01.1996. However, the case of the petitioner was not considered for promotion on the ground that the disciplinary proceedings initiated by virtue of charge memo dated 10.12.1994 were pending. The said disciplinary proceedings concluded on 30.05.1997 with the imposition of a punishment of stoppage of the next two increments with cumulative effect. The said punishment remained in force until the year 1999. Thereafter, the case of the petitioner was not considered for promotion to the post of Ranger, on the ground that the check period was five years was in operation in accordance with Part-A, Schedule XI of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which reads as follows:



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“(11) Any punishment (other than 'Censure') imposed on a member of service within a period of five years prior to the crucial date and a punishment of 'Censure' imposed within a period of one year prior to the crucial date shall be held against the member of service and his name shall not be considered for inclusion in the approved list. Any punishment, including 'Censure' imposed on a member of service after the crucial date, but before actual promotion or appointment shall be held against the member of service and he shall not be given promotion or appointment.”

3. It is not in dispute that a similar provision under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 providing for a check period, as is also found in the Tamil Nadu State and Subordinate Service Rules which were in force prior to coming into force of Act, 2016. Schedule XI. It is for this reason the claim of the petitioner for promotion to the post of Ranger was not considered until the year 2002. Though the case of the petitioner came up for consideration in the year 2003, it was rejected on the ground that he was involved in a criminal case, which was then pending. The said criminal case ultimately ended in conviction and the said conviction was also confirmed by this Court. The matter is now stated



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to be pending before the Hon'ble Apex Court. The petitioner herein is no more. The conviction that was imposed on him continues to remain in force and it is now brought to the notice of this Court that certain other persons who were similarly placed and suffered convictions, were nevertheless promoted to the post of Ranger during the year 2006, and hence, the petitioner seeks parity based on those proceedings dated 05.05.2006. However, as seen from the counter affidavits, the said individuals who were promoted despite their convictions were subsequently removed from service following the confirmation of their conviction. The conviction suffered by petitioner continued to operate against him as well.

4. The reason assigned in the impugned order dated 23.12.2003 is the pendency of disciplinary proceedings initiated against the petitioner. The issuance of the charge memo dated 10.12.1994 is not denied. The disciplinary proceedings culminated in the imposition of a punishment, which remained in operation from 1997 to 1999. Therefore, the Government considering the claim of the petitioner for promotion did not arise at that stage. Further, from 1997 to 2002 i.e., for a period of five years, the check period was in operation and therefore, the case of the



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petitioner was rightly not considered by the respondents during that period.

Admittedly, by the year 2003, the petitioner was involved in a criminal case, which ultimately ended in conviction. Therefore, the case of the petitioner for promotion in the year 2003 also did not arise.

5. In such circumstances, taking into consideration the facts of the case, particularly the fact that the petitioner was convicted and the said conviction continue to remain in operation, this Court is of the considered view that this is not a fit case to exercise its jurisdiction under Article 226 of Constitution of India that too for considering for promotion to the post of Ranger.

6. Accordingly, this writ petition is dismissed. No costs.

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Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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MUMMINENI SUDHEER KUMAR, J.

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