



W.P.No.34230 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.34230 of 2023

1. P.Velusamy
2. T.Vellaisamy
3. R.M. Koneri

.. Petitioners

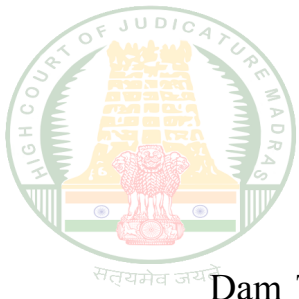
Versus

1. Government of Tamil Nadu
Rep by its Additional Chief Secretary,
Environment and Forest Department,
Fort St.George, Chennai 600 009.

2. The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy,
Chennai – 600 032.

.. Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to include the petitioners name in the post of Forester for the year 2011-2012, give promotion to the petitioners to the post of Forester on par with his juniors (i.e) 18.04.2013 without insisting for completion of Vaigai



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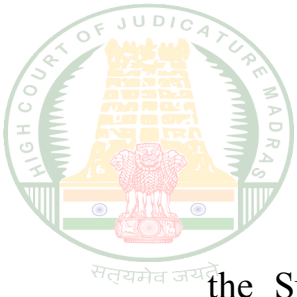
Dam Training within specified period of 15.08.2011 in the light of the order passed by this Hon'ble Court in W.P.No.40881 of 2016 dated 22.11.2016 same was affirmed by Division Bench in W.A.No.2682 of 2019 dated 07.07.2021 and the same was confirmed by the Supreme Court S.L.P.(Civil) Diary No.(S) 27674 of 2022 dated 26.09.2022 and with all consequential service and monetary benefits and pass orders.

For Petitioner : Mr.S.Mani

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

This petition is filed to issue a Writ of Mandamus directing the respondents to include the petitioners name in the post of Forester for the year 2011-2012 give promotion to the petitioners to the post of Forester on par with his juniors (i.e) 18.04.2013 without insisting for completion of Vaigai Dam Training within specified period on 15.08.2011 in the light of the order passed by this Court in W.P.No.40881 of 2016 dated 22.11.2016 and the same was affirmed by Division Bench in W.A.No.2682 of 2019 dated 07.07.2021 and the same was confirmed by



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the Supreme Court S.L.P.(Civil) Diary No.(S) 27674 of 2022 dated 26.09.2022 and with all consequential service and monetary benefits and pass orders.

2.The case of the petitioners is that they were working as Forest Guards in the Forest Department. The sum and substance of the case is that in the panel of forester for the year 2011-2012 the petitioners name does not found place due to the reason that they have not completed vaigai dam training on the crucial date and the writ appeal is pending in W.A.No.811 of 2011. Now the writ appeal was disposed on 17.04.2018. It is pertinent to note that the writ appeal filed by the Government was also dismissed on 07.07.2019 in W.A.No.2682 of 2019. Hence, there is no legal impediment for the respondents to consider the name of the petitioners in the panel of forester for the year 2011-2012. Therefore, the petitioners made representations to the respondents on 12.08.2023 and 01.11.2023. However, the same was not considered, which has given rise to this petition.

3. The learned counsel for the petitioners submitted that the



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respondents are not justified in insisting the petitioners to complete the six months Vaigai Dam Training as one of the condition precedent for promotion to the post of forester at a particular date. He further submitted with regard to training it is not attributable due to the fault of the petitioners, unless the respondents depute them for training, they could not complete it. It is pertinent to note that the juniors to the petitioners were given promotion vide order dated 18.04.2013. He further submitted that now all the petitioners retired on superannuation. Hence prays to allow this petition.

4. The Government Pleader has filed a counter affidavit, wherein, it has been stated that the Government vide G.O.MS.No.64, dated 08.03.1999 ordered to prepare a combined state vide seniority list of Village social Forestry Workers & Plot Watchers who were working temporarily on daily wage basis. Accordingly the state wide seniority list of about 5442 no of Village Social Forestry Workers & Plot Watchers were prepared. It is also stated that the said G.O envisaged the future employment of these temporarily engaged daily wages Village Social Forestry Workers & Plot Watcher as Forest Watcher as and when the vacancies arise in sanctioned strength of Forest Watchers and also



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assured them that till completion of the said list, no person would be directly appointed as Forest Watcher. Hence, prays to dismiss this petition.

5. Heard both sides and perused the materials available on record.

6. Before advertng further it would be relevant to go through the Judgment passed by this Court in W.A.No.2682 of 2019 on 07.07.2021 and the relevant portion is extracted hereunder:

6. The learned State Government counsel appearing for the appellants contended that the learned single Judge had not considered Rule 5 of the Tamil Nadu Forest Subordinate Service Rules in regard to the other qualification in respect of promotion to the post of Forester. The relevant rule is extracted hereunder:

5. Other Qualification

No person shall be eligible for appointment to the class, category and grade specified in column (1) and by the method specified in column (2) of the table below, unless he possess the qualification specified in the corresponding entry in column(3) thereof:

Class/Category	Method	Qualification
Class-1 2.Forester	iv) Promotion of Forest guard	(b) Must have successfully completed a course of training in Tamil Nadu Forestry College, Vaigai Dam if he had not already undergone such training



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7. No doubt the above said Rule 5 stipulates other qualifications such as Vaigai Dam, Training as Mandatory. However, unless the appellants deputy the respondents for such training at the appropriate time, they could not be expected to complete the same. The respondents, who are the employees, may not compel the appellants to depute them for the training, the alleged non-completion of the training by the writ petitioners/respondents herein within the stipulated period is not their fault and the same cannot be put against them, dis-entitling them from getting their promotion. It is also pointed out that the juniors to the respondents have marched ahead of them by getting a promotion. Therefore, the contention of the learned State Government counsel that a person can be promoted based on merit and ability apart from seniority and the departmental promotion committee alone is competent to recommend the person fit for promotion cannot be accepted.

7. On going through the above Judgment, it is made clear that the petitioners herein are entitled for promotion to the post of Forester for the year 2011-2012 without insisting for completion of Vaigai Dam Training. Furthermore, this Court while dealing with the identical facts of the case in W.P.No.40881 of 2016 has disposed of the writ petition vide order dated 22.11.2016 with a direction to include the names of the



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petitioners therein in the panel for the year 2011-2012 and promote them as Forester from the date on which their juniors were promoted, on notional basis within a period of four weeks from the date of receipt of a copy of this Order. Aggrieved over the same the respondents filed W.A.No.2682 of 2019 and the same was dismissed by this Court on 07.07.2021. Challenging the same the respondents filed S.L.P before Supreme Court and the same was dismissed.

8. In view of the above facts, it is made clear that the petitioners have not been deputed to Vaigai Dam Training for a long time. If the Department fails to post them at a particular place for the training, the employee could not be blamed for the same.

9. For the foregoing reasons, the respondents are directed to include the names of the petitioners in the panel for the year 2011-2012 and promote them as foresters from the date on which their juniors were promoted (i.e) 18.04.2013, on a notional basis as all the petitioners have retired on superannuation. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this Order.



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10. With the above observations this writ petition stands allowed.

No order as to costs.

25.02.2025

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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To

1.The Additional Chief Secretary,
Environment and Forest Department,
Fort St.George, Chennai 600 009.

2. The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy,
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