



W.P.(MD)No.29190 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.01.2025

CORAM:

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.29190 of 2024

S.Logasundaranathan

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Environment, Climate Change and Forests Department,
Secretariat,
Chennai.

2. The Principle Chief Conservator of Forest,
Head of Forest Force,
Guindy,
Chennai – 32.

3. The Principal Chief Conservator of Forest,
Forest Administration,
Guindy,
Chennai – 32.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent in his proceedings in Letter efile No.992/FR.1/2024-2, dated 07.10.2024 and quash the same and direct the respondents to promote the petitioner as Assistant Conservator of Forest from the date on which the petitioner junior was given promotion as per the panel 2016-2017 with all consequential and other attended benefits.



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For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a Forest Ranger, seeking to quash the order passed by the 1st respondent herein on 07.10.2024, wherein the request of the petitioner for granting retrospective promotion on par with his juniors as an Assistant Conservator of Forest has been rejected.

2. A perusal of the impugned order reveals that the request of the petitioner has been rejected on the following grounds:-

- a) As on today, enquiry proceedings are pending as against the petitioner in the Tribunal for disciplinary proceedings in T.D.P.No.3 of 2023;
- b) The petitioner has been imposed with punishment on various dates prior to the crucial date. The petitioner having not completed 5 years of check period, is not eligible to get himself included in the panel for the year 2016-2017.



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3. A perusal of the records reveals that the petitioner was anticipating that his name would be included in the panel for the post of Assistant Conservator of Forest for the year 2016-2017.

4. The crucial date for inclusion of the name of the petitioner in the said panel is 15.08.2015. Though his name was included it was later deferred for the following reasons:-

- a) The petitioner was issued with a show cause notice under Rule 17(a) of Tamil Nadu Civil Service (Discipline and Appeal Rules) on 14.02.2014 and an order of punishment was imposed upon him on 23.01.2015, wherein he was imposed with punishment of two years increment cut. When the petitioner filed an appeal, the appeal was allowed by the appellate authority on 28.08.2017;
- b) The petitioner was issued with another show cause notice under Rule 17(a) of Tamil Nadu Civil Service (Discipline and Appeal Rules) on 23.01.2015 and he was imposed with a punishment of one year increment cut. However, on appeal, the said punishment was cancelled on 16.02.2018;



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c) The petitioner was issued with a charge memo under Rule 17(b) of Tamil Nadu Civil Service (Discipline and Appeal Rules) on 21.04.2016. Final orders were passed on 06.07.2018, imposing a punishment of postponement increment for a period of two years with cumulative effect. However, on appeal, the punishment was set aside by the appellate authority on 12.05.2023.

5. In view of the above said fact, it is the contention of the petitioner that when all the punishments imposed upon the writ petitioner having been set aside by the appellate authority, the authorities ought to have restored his seniority and granted promotion to the petitioner by including his name in the final panel 2016-2017.

6. It is the contention of the respondents that the petitioner has been issued with another show cause notice under Rule 17(a) of Tamil Nadu Civil Service (Discipline and Appeal Rules) on 21.04.2022. After enquiry, recovery to an extent of 1,29,327 has been imposed. Further the petitioner has been imposed with punishment of postponement of increment for a period of 3 months without cumulative effect. It is the further contention



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of the learned Additional Government Pleader that the proceedings are pending as against the writ petitioner before the Tribunal in T.D.P.No.3 of 2023.

7. The punishment imposed on the show cause notice dated 21.04.2022 has not expired and TDP proceedings are pending as against the writ petitioner, a question of promoting the writ petitioner with effect from 2016-2017 does not arise.

8. I have carefully considered the submissions made on either side and perused the materials available on records.

9. The name of the petitioner was initially included in the panel for the year 2016-2017 for being promoted from the post of Forest Ranger to the Assistant Conservator of Forest based upon the crucial date viz., 15.08.2015. However, in view of punishment suffered by the writ petitioner under Rule 17(a) of Tamil Nadu Civil Service (Discipline and Appeal Rules) and 17(b) of Tamil Nadu Civil Service (Discipline and Appeal Rules) his name was deferred. It can be seen from the records that



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the petitioner has been exonerated from all these three proceedings by the appellate authority. Therefore, it is clear that the seniority of the writ petitioner has to be restored and the name of the petitioner has to be included in the panel for the year 2016-2017. The only legal impediment that is pointed by the respondent authorities is that as on today the petitioner is facing TDP proceedings and the check period arising out of show cause notice dated 21.04.2022 has not yet been completed.

10. This Court in **W.P.(MD)No.18344 of 2021** dated **13.12.2023** between **K.Sivanandam** and **The State of Tamil Nadu, Rep. by its Secretary to Government Rural Development and Panchayat Raj Department, Secretariat, Chennai** and **Others**, has held in paragraph No.13 as follows:-

“13. In view of the judgments of the Hon'ble Supreme Court and our High Court, it is clear that once the charges are dropped, an employee would get back his lost opportunity of promotion on par with his juniors. Just because a second charge memo has been issued, that would not be a legal impediment for considering the name of the petitioner for promotion for a particular panel year. In the present case, after the charges were dropped on 06.01.2007, the name of the petitioner ought to have been included in the panel for the year 2005-2006. The crucial date for inclusion of his name in the panel for the year 2005-2006 is 01.04.2006.



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The second charge memo has been issued only on 23.08.2007. Therefore, the second charge memo cannot be cited as an impediment for not including the name of the petitioner in the panel for the year 2005-2006.”

11. The said order was challenged by the respondents in writ appeal in W.A.(MD)No.1094 of 2024. The Hon'ble Division Bench by its order dated 12.07.2024 have dismissed the writ appeal. The order of the Hon'ble Division Bench was put to challenge before the Hon'ble Supreme Court in S.L.P.No.24754 of 2024 and the Hon'ble Division Bench was pleased to dismissed the SLP.

12. In view of the said categorical legal position, it is clear that once a government employee is cleared of all the charges which were cited as legal impediment for inclusion in the panel, the government employee is entitled to get restored, his seniority and retrospective promotion from the date on par with his juniors. Mere pendency of charges on a date later than the crucial date cannot be taken into consideration.



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13. In view of the above said deliberations, the order impugned in the writ petition is set aside and the 1st respondent is directed to include the name of the petitioner in the panel 2016-2017 for promotion to the post of Assistant Conservator of Forest and promote him with effect from the date on which his immediate junior was promoted. This exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

14. The writ petition stands allowed with the above observations and directions. No costs.

29.01.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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To

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R.VIJAYAKUMAR, J.

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