
(2014) 11 MAD CK 0130

In the Madras High Court

Case No : Writ Appeal No. 1592 of 2012 and M.P. No. 1 of 2012

The State of Tamilnadu

APPELLANT

Vs

S.D. Syed Sherfudeen

RESPONDENT

Date of Decision : 26-11-2014

Acts Referred:

Citation : (2014) 11 MAD CK 0130

Hon'ble Judges : P.R. Shivakumar, J;N. Paul Vasantha Kumar, J

Bench : Division Bench

Judgement

N. Paul Vasantha Kumar, J.—Heard Mr. N. Inbanathan, learned Government Advocate (Forest) appearing for the appellants and Mr. R. Nateshkumar, learned counsel appearing for the respondent.

2. This writ appeal is filed against the order made in W.P.No.31072 of 2004, dated 24.11.2011, wherein the respondent has challenged the order dated 17.10.2000 issued by the 1st appellant/Government rejecting the request of the respondent to award monetary benefits with effect from 01.11.1980 on the ground that the respondent has not discharged the duties in the promoted post. The learned single Judge allowed the writ petition and gave a direction to give monetary benefits from 01.11.1980. The said order is now challenged by the appellants in this writ appeal.

3. The case of the respondent before the learned single Judge was that in O.A.No.1457 of 1989 and O.A.No.666 of 1990, a common order was passed by the Tamil Nadu Administrative Tribunal holding that the respondent should be considered as on the date due with reference to his seniority on conclusion of the proceedings and the respondent was to be given promotion when his immediate junior was promoted and his pay should be fixed, subject to the drawal of the pay of the post from the date on which he acts in the higher post.

4. Pursuant to the said direction issued by the Tamil Nadu Administrative Tribunal, the Government had issued G.O.Ms.No. 492, Environment and Forest

(Forest.2) Department, dated 24.12.1997 by relaxing the rule exercising power under General Rule 48 of the Tamil Nadu State and Subordinate Services Rules and granted promotion to the respondent from 01.11.1980 in the post of Forest Ranger with a condition that the respondent will get monetary benefit only from the date of issuance of the said G.O.Ms.No. 492, dated 24.12.1997. The respondent submitted a representation on 09.11.1998 claiming monetary benefits and the said request was negatived by the 1st respondent, by order dated 17.10.2010.

5. It is not in dispute that the Tamil Nadu Administrative Tribunal has ordered to give promotion to the respondent from the date on which his immediate junior was promoted and denied the monetary benefits to be paid till the date of promotion. Hence, the 1st respondent/Government was justified in passing G.O.Ms.No. 492, dated 24.12.1997 giving promotion to the respondent by relaxing the rule without monetary benefits, however with seniority with the promoted post from 01.11.1980.

6. The respondent served in the post as Forest Ranger only from 24.12.1997. Even though, seniority was restored with effect from 01.11.1980, the respondent having not served in the said promoted post, is not entitled to get the salary for the promoted post, however, he is entitled to get notional benefits from 01.11.1980. Thus, he is entitled to get promotional post salary, as if he was promoted from 01.11.1980 from 24.12.1997.

7. The said aspect having not been considered by the learned single Judge, the order of the learned single Judge is set aside and the writ appeal is disposed of with a direction to the appellants to give notional pay fixation from 01.11.1980 in the cadre of Forest Ranger and pay the benefits from the date of G.O.Ms.No. 492, dated 24.12.1997 and continue to pay the same till his retirement. Based on the notional pay fixation from 01.11.1980 and benefits from 24.12.1997, the respondent is entitled to get monetary benefits, including pensionary benefits and the same should be calculated and paid, within a period of three months from the date of receipt of a copy of this order, if not already paid. No costs. Consequently, M.P.No. 1 of 2012 is closed.