

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.11947 of 2015

A.Kaliyan

...Petitioner

vs.

- 1.The Government of Tamil Nadu,
Represented by its Secretary,
Environment and Forest Department,
Secretariat,
Chennai-600 009
 - 2.The Principal Chief Conservator of Forest,
Having Office at Panagal Maaligai,
Saidapet,
Chennai-600 015
 - 3.The District Forest Officer,
Thiruvannamalai North,
Polur.
 - 4.The Accountant General of Tamil Nadu,
Office at D.M.S.Compound,
Teynampet,
Chennai-600 018
- ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, directing the respondents 1 to 3 to count half of the service rendered by the petitioner as Plot Watcher on daily wage basis from 01.11.1981 till 06.08.2009 along with the regular service rendered by him as Plot Watcher(Supernumerary Post) from 07.08.2009 till the date of the petitioner's retirement namely 31.03.2012 as qualifying service, send the revised proposal to the fourth respondent, grant pension to the petitioner with all consequential monetary benefits.

For Petitioner : Mr.S.Mani

For Respondents : Mr.N.Inbanathan,
Government Advocate (Forest)

O R D E R

With the consent of both sides, the Writ Petition itself is taken up for final disposal.

2. The petitioner was appointed as Plot Watcher on daily wage basis in the Forest Department on 01.11.1981. His services were regularized vide order dated 31.08.2009 and was brought into regular time scale of pay as Plot Watcher(Supernumerary Post) on 07.08.2009 after a period of 28 years of long service. The petitioner has come up with this writ petition seeking for a direction to the respondents 1 to 3 to count half of the service rendered by him as Plot Watcher on daily wage basis from 01.11.1981 till 06.08.2009 along with his regular service as Plot Watcher(Supernumerary Post) from 07.08.2009 till the date of his retirement on 31.03.2012 as qualifying service and to send the revised proposal to the fourth respondent and grant pension to him.

3. According to the petitioner, he was not paid pension, since, he did not render 10 years of regular service in the respondent Department. Further, the grievance of the petitioner is that half of the service rendered by him as Plot Watcher on daily wage basis was not taken into account along with his regular service as Plot Watcher(Supernumerary Post) from 07.08.2009 till the date of his retirement on 31.03.2012 as qualifying service.

4. As per Rule 11(2) of the Tamil Nadu Pension Rules, 1978, 50% of the contingency services will be taken into account for the purpose of pension, if the employee is subsequently absorbed in regular service. This Court had passed various orders on the above lines, and one such order was made in W.P.No.33732 of 2014 dated 19.12.2014 [R.Yuvaraj v. Government of Tamil Nadu, Rep. by Secretary to Government], wherein, this Court directed the respondents therein to count half of the service of the petitioner therein as Casual Labourer along with regular service for the purpose of pension. The order dated 19.12.2014 in the said W.P.No.33732 of 2014 is implemented by the Tamil Nadu Veterinary and Animal Sciences University by order dated 24.02.2015.

5. The learned counsel for the petitioner relied on a decision of this Court in W.P.No.8205 of 2011 dated 19.04.2011 [M.Gopal Vs. Government of Tamil Nadu, Rep. by Secretary to Government], which decision was confirmed by a Division Bench of this Court in W.A.No.27 and 28 of 2012 dated 13.02.2012 [Government of Tamil Nadu, Rep. By its Secretary to Govt., Vs. M.Gopal].

6. I am of the view that the said judgment is directly on this issue. Non-regularisation of the petitioner for the decades together is not on his default.

7. In these circumstances, the writ petition is disposed of, directing the respondents 1 to 3 to count half of the service of the petitioner as Plot Watcher on daily wage basis along with his regular service rendered as Plot Watcher (Supernumerary Post) as qualifying service for the purpose of pension. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

mrp/rg

To

- 1.The Secretary
Environment and Forest Department
Secretariat, Chennai-600 009
- 2.The Principal Chief Conservator of Forest
Having Office at Panagal Maaligai
Saidapet, Chennai-600 015
- 3.The District Forest Officer,
Thiruvannamalai North ,
Polur.
- 4.The Accountant General of Tamil Nadu
Office at D.M.S.Compound
Teynampet
Chennai-600 018

1 cc to Mr.S. Mani, Advocate, sr. 23551
1 cc to Spl.Government Pleader, (Forest), Sr. 22608

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TEJ (CO)
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