IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.11950 of 2015

Santhammal ...Petitioner

vs.

1.The Government of Tamil Nadu,
Represented by its Secretary
Forest and Environment 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
Gudalur, Nilgiris District.

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's husband from 01.11.1982 to 02.01.2007 on daily wage basis along with his regular service from 03.01.2007 to 14.11.2013, the date prior to his death on 15.11.2013, so as to enable the petitioner to get family pension and consequently direct the respondents 1 to 3 to send revised pensionary proposals to the fourth respondent, direct the fourth respondent to pay family pension to the petitioner with all consequential benefits within a specified period.

For Petitioner : Mr.S.Mani

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

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O R D E R

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

2. The petitioner's husband was appointed as Plot Watcher on daily wage basis in the Forest Department on 01.11.1982 and he was brought into regular time scale of pay as Forest Watcher on 22.12.2006 after a period of 24 years of long service and his services were regularised vide order dated 30.08.2007 with effect from 03.01.2007. 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 her husband as Plot Watcher on daily wage basis from 01.11.1982 till 02.01.2007 along with his regular service as Forest Watcher from 03.01.2007 to 14.11.2013 till the date prior to his death on 15.11.2013 as qualifying service and to send the revised proposal to the fourth respondent and grant family pension to the petitioner.

3. According to the petitioner, she was not paid family pension, since, her husband 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 her husband as Plot Watcher on daily wage basis was not taken into account along with his regular service as Forest Watcher from 03.01.2007 till the date of his death 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].

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6. I am of the view that the said judgment is directly on this issue. Non-regularisation of the husband 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's husband as Plot Watcher on daily wage basis along with his regular service rendered as Forest Watcher as qualifying service for the purpose of family pension. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

mrp/rg

To

1.The Secretary
Government of Tamilnadu
Forest and Environment 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
Gudalur, Nilgiris District.

4.The Accountant General of Tamil Nadu
Office at D.M.S.Compound
Teynampet
Chennai-600 018

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

Writ Petition No.11950 of 2015

TEJ (CO)
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