IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.11962 of 2015

G.Shanmugam ...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,
Coimbatore.

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 08.11.1982 till 02.03.2007 along with the regular service rendered by him as Forest Watcher from 03.03.2007 till the date of his retirement namely 31.05.2014 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)

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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.

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2. The petitioner was appointed as Plot Watcher on daily wage basis in the Forest Department on 08.11.1982. His services were regularized and he was brought into regular time scale of pay as Forest Watcher on 03.03.2007 after a period of 25 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 08.11.1982 till 02.03.2007 along with the regular service rendered by him as Forest Watcher from 03.03.2007 till the date of his retirement namely 31.05.2014 as qualifying service, send the revised proposal to the fourth respondent, 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 Forest Watcher from 03.03.2007 till the date of his retirement on 31.05.2014 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 Vs. 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.

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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 Forest Watcher as qualifying service for the purpose of pension. No costs.

gya/rg

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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,
Coimbatore.

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 23552

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 22607

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