

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2015

CORAM:

THE HON'BLE MR.JUSTICE D. HARIPARANTHAMAN

W.P.No.15753 of 2015

K.Loganathan

... Petitioner

Vs.

1. Government of Tamil Nadu,
represented by Secretary to Government,
Environment and Forest Department,
Secretariat,
Chennai - 600 009.
 2. The Principal Chief Conservator of Forests,
and Head of Forest Force,
Chennai - 600 015.
 3. The District Forest Officer,
Harur Division, Harur,
Dharmapuri District.
 4. The Principal Accountant General (A&E),
Tamil Nadu, Chennai - 600 018. **
- ... Respondents

** R4 impleaded as per order of the Court
dated 11.06.2015 made in M.P.Nos.1 of 2015
in W.P.Nos.18679 of 2014 and 15753 of 2015

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the first respondent to take into account half of the services of the petitioner as Plot Watcher from 01.06.1982 till 31.01.1999 ; 01.04.2000 to 30.04.2000 and from 01.09.2000 to 31.08.2005 along with his service as Forest Watcher and Forest Guard from 01.09.2005 to 31.03.2014 to reckon with the total qualifying service for pension and grant all consequential retirement and pensionary benefits under Tamil Nadu Pension Rules 1978 to the petitioner with 8% interest on the delayed payment in the light of his representation dated 15.07.2014.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.N.Inbanathan,
Government Advocate (Forests)
for RR 1 to 3

Mr.Vijayashankar for R4

O R D E R

Heard both sides.

2. The petitioner was regularised in service as a Forest Watcher by the proceedings dated 31.08.2005 in Pa.Aa.No.P2/182/05, issued by the Office of the District Forest Officer Sathyamangalam Division, Sathyamangalam - II. Thereafter, he was promoted as Forest Guard by the order dated 09.05.2012 issued by the District Forest Officer, Harur Division. He retired from service on 31.03.2014, on reaching the age of superannuation.

3. No service particulars relating to his service before regularization in the year 2005 is given in the typed set of papers, except the above said two proceedings, though it is averred in the affidavit filed in support of the writ petition that he joined as Plot Watcher on 01.06.1982. However, the same cannot be taken as a proof. The respondents also not filed counter-affidavit giving service particulars before regularisation. Further, from the above facts, it is clear that he served on consolidated pay prior to his regularization in the year 2005. The said service has to be taken into account along with regular service for the purpose of pension. If 50% of the consolidated service is counted along with regular service, certainly, the petitioner is entitled to pension, but he is not paid pension, by taking into account the consolidated service at all.

4. The grievance of the petitioner is that 50% of the services rendered by him prior to regularisation is not taken into account for the purpose of pension and other benefits as per Rule 11(2) of the Tamil Nadu Pension Rules. He relied on the decision of the Hon'ble Division Bench of this Court in W.A.Nos.27 and 28 of 2012 dated 13.02.2012 (Government of Tamil Nadu rep. by its Secretary to Government Vs. M.Gopal), which was confirmed by the Hon'ble Apex Court in SLP Nos.14838-14839 of 2012 on 10.05.2012. The Government implemented the same in G.O.Ms.No.183, Environment and Forests (FR-2) Department, dated 18.07.2012. Further, I have also passed an order in detail to

count 50% of service rendered before regularisation along with regular service in the case of P.Chinniyan Vs. State of Tamil Nadu, reported in (2014) 6 MLJ 316.

5. In these circumstances, the writ petition is disposed of directing the first respondent to count 50% of service rendered by the petitioner before regularization along with the regular service rendered after regularization for the purpose of pension and other terminal benefits in the light of Rule 11(2) of the Tamil Nadu Pension Rules and also the judgments referred to above and submit proposal for the terminal benefits for authorization before the fourth respondent, within a period of eight weeks from the date of receipt of a copy of this order and the fourth respondent is directed to authorize the same within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
Forest and Environment Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
and Head of Forest Force,
Chennai - 600 015.
3. The District Forest Officer,
Harur Division, Harur,
Dharmapuri District.
4. The Principal Accountant General (A&E),
Tamil Nadu, Chennai - 600 018.

+1cc to Mr.Vijayashankar, Advocate, S.R.No.29422

+1cc to Mr.M.Ravi, Advocate, S.R.No.28468

+1cc to the Special Government Pleader(Forest), S.R.No.28343

W.P.No.15753 of 2015

TEJ(CO)

CA(12/04/2016)