

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.28310/2015

P.Vijayalakshmi

... Petitioner

Versus

- 1.The Secretary to Government
State of Tamilnadu,
Environment & Forest Department
Fort St George, Chennai-9.
- 2.The Principal Chief Conservator of Forest
& Head of Forest Force, Panagal Building
Saidapet, Chennai-15.
- 3.The Forest Extension Officer
Forest Extension Centre,
Srivilliputhur, Virudhunagar District.
- 4.The Divisional Forest Officer
Social Forestry Division,
Collectorate campus, Virudhunagar District.
- 5.The Principal Accountant General
O/o.the Accountant General
Anna Salai, Teynampet, Chennai-18.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, to direct the respondents to consider the claim of the petitioner with regard to grant regularization of the service of the petitioner's husband Mr.R.Pakkiyanathan, with effect from 01.01.2006 with time scale of pay and to pay family pension by counting 50% of the temporary service from 01.02.1982 to 31.05.2005 along with the regular service from 01.01.2006 till the date of superannuation and also to pay the Employees Provident Fund pending due to the petitioner husband and other consequential benefits within time frame.

For Petitioner : Ms.K.Jenitha
For R1 to R4 : Mr.N.Inbanathan, GA [Forest]
For R5 : Mr.V.Vijayshankar

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that her husband [late] R.Pakkiyanathan, was appointed as a Plot Watcher on daily wage basis from 01.02.1982 in Social Forestry Range, Rajapalayam and his appointment was in terms of Rule 2 of the Forests Act. The nature of the work of the Plot Watcher is to raise various nurseries which is an unskilled work and therefore, according to the petitioner, section 3[1] of the Employment Exchanges [Compulsory Notification of Vacancies] Act, 1959 would have no application to the case of her husband. It is further stated that the Government has issued G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999 for preparation of State-wide seniority list and the petitioner's husband name is shown in Sl.No.1484. It is further stated that the Personnel and Administrative Department of the State of Tamil Nadu has issued G.O.Ms.22, Personnel and Administrative Department, dated 28.02.2006 for regularization of the services of the employees working in Forest Department on daily wages and who had completed 10 years of service as on 01.01.2006 and though the said Government Order was implemented by the other departments, the Forest and Environment Department is yet to implement the said Government Order.

3.The petitioner would further state that the Forest Department has also formulated the Forestry Extension scheme for raising nurseries and for that purpose, created 25 Forestry Extension Centres and in those centres, 263 Plot Watchers / Social Forestry workers, whose height is less than 163cm, were posted as "Malis" and the petitioner's husband was also posted a Mali and after joining the said post, the petitioner's husband came to know that it is not a regular post and it is only a daily wage job. The petitioner's husband while he was alive, has submitted a representation for regularization of services in terms of G.O.Ms.No.22, Personnel and Administrative Department, dated 28.02.2006 and since no orders have been passed, he filed WP.No.7492/2013 and notice was ordered in the said writ petition and during the pendency of the writ petition, the petitioner's husband died on 19.06.2013 leaving the petitioner, 2 sons and a daughter as his legal heirs. The grievance expressed by the petitioner is that in the light of the said Government order, the respondents ought to have taken expeditious steps to regularise the services of the petitioner's husband and since the respondents did not do so, she has submitted a representation on 08.01.2014 to the respondents and since no orders have been passed, she has filed the present writ petition.

4.Heard the submissions of the learned counsel for the petitioner ; Mr.N.Inbanathan, learned Government Advocate [Forests] and notice on behalf of the respondents 1 to 4 and

Mr.V.Vijayshankar, learned counsel who accepts notice on behalf of the 5th respondent.

5.Though the petitioner has prayed for a larger relief, this Court, taking into consideration the above facts and circumstances, permits the petitioner to submit a fresh representation to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order by enclosing a copy of this order as well as his earlier representation dated 08.01.2014 and the 3rd respondent, on receipt of the same, is directed to consider the same and in the event of coming to the positive conclusion, viz., that the services of the petitioner's husband have to be regularised, the 3rd respondent shall sent appropriate proposal to the 2nd respondent within a further period of two weeks thereafter and on receipt of the same, the 2nd respondent is directed to consider the same in accordance with law and pass orders within a further period of four weeks thereafter and communicate the decision taken, to the petitioner herein.

6.The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

09.09.2015

AP

To

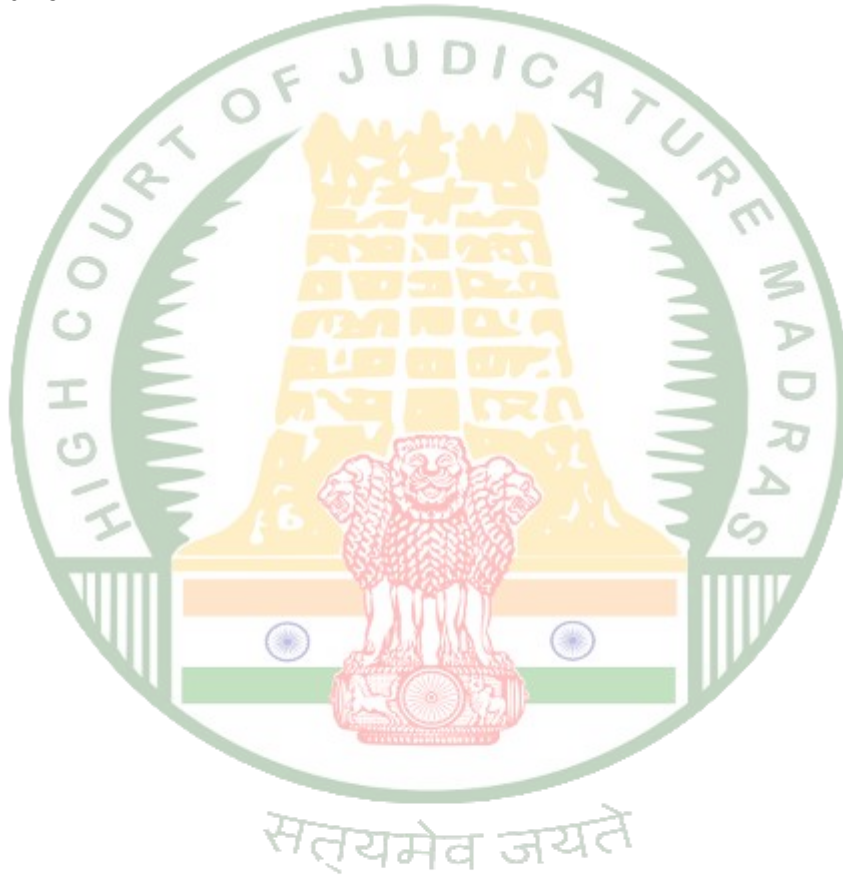
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+1 cc to Mr.K.Jenitha, Advocate (sr.49708)
+1 cc to spl. Government Pleader (sr.49149)

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tej(co)
cp 16/09/2015



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