

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2016

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. No.2633 of 2016

Rani

... Petitioner

Vs.

1. Government of Tamilnadu,
Rep.by its Principal Secretary
to Government,
Environment and Forest Department,
Fort St.George, Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Genies Road,
Panagal Maligai,
Saidapet, Chennai - 600 015.
3. The District Forest Officer,
Interfaced Forest Division [IFF],
Krishnagiri, Krishnagiri District.
4. The District Forest Officer,
Harur Forest Division,
Harur, Dharmapuri District.
5. The Accountant General of Tamilnadu,
Office of the Accountant General,
Anna Salai, Teynampet,
Chennai - 600 018.

... Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 to count half of the service rendered by the petitioner's husband viz., P.Govindan as Plot Watcher from 01.01.1981 to till 09.05.2003 along with regular service rendered by him as Forest Watcher and Forest Guard in the regular post from 10.05.2003 to 17.02.2011 as qualifying service for pensionary benefits and send the revised proposal to the fifth respondent for granting family pension with all consequential monetary benefits to her.

For Petitioner : Mr.M.R.Jothimanian
For Respondent : Mr.N.Inbanathan
Nos.1 to 4 Government Advocate [Forests]
For Respondent No.5 : Mr.V.Vijay Shankar

O R D E R

By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioner's husband, namely, late P.Govindan was appointed as Plot Watcher on 01.01.1981 in the Forest Department on daily wage basis and was regularised on 10.05.2003. He died on 17.02.2011, while he was in service.

3.The grievance of the petitioner is that 50% of the services rendered by her husband 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, 1978. She has relied on a decision of the 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 Honourable 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, this Court has also passed an order in detail to count 50% of service rendered before regularisation in the case of P.Chinniyan vs. State of Tamil Nadu [2014 [6] MLJ 316]. In this regard, the petitioner also made a representation dated 27.03.2015 to the respondents 1 and 2.

4.Heard the submissions of Mr.M.R.Jothimanian, learned counsel appearing for the petitioner, Mr.N.Inbanathan, learned Government Advocate [Forests], who accepts notice on behalf of the respondents 1 to 4 and Mr.V.Vijay Shankar, learned Standing Counsel, who accepts notice on behalf of the fifth respondent.

5.This Court, taking into consideration the above facts and circumstances and also considering the submissions of the learned counsel for the petitioner, directs the first respondent to count 50% of service rendered by the petitioner's husband before regularisation along with the service rendered after regularisation for the purpose of family pension and other terminal benefits in the light of Rule 11[2] of the Tamil Nadu Pension Rules,1978 and also the judgments, referred to above and

submit proposal for the terminal benefits for authorisation before the fifth respondent, within a period of twelve weeks from the date of receipt of a copy of this order and the fifth respondent is directed to authorise the same, within a period of two weeks thereafter.

6.The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1. The Principal Secretary to Government,
Government of Tamilnadu,
Environment and Forest Department,
Fort St.George, Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Head of Forest Force,
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4. The District Forest Officer,
Harur Forest Division,
Harur, Dharmapuri District.
5. The Accountant General of Tamilnadu,
Office of the Accountant General,
Anna Salai, Teynampet,
Chennai - 600 018.

+lcc to Mr.M.R.Jothimanian, Advocate, S.R.No.4677
+lcc to the Government Pleader, S.R.No.4793

W.P. No.2633 of 2016

JP(CO)
CA(26/02/2016)