

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.34922 and 34923 of 2016

S.Annamalai .. Petitioner in W.P.No.34922 of 2016

M.Selvam .. Petitioner in W.P.No.34923 of 2016

Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Forest and Environment Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Building, Saidapet,
Chennai-600 015.
3. District Forest Officer,
Hosur Division, Hosur,
Krishnagiri District. .. Respondents in W.P.No.34922 of 2016

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Forest and Environment Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Principal Chief Conservator of Forest,
Panagal Building, Saidapet,
Chennai-600 015.
3. District Forest Officer,
Dharmapuri,
Dharmapuri District. .. Respondents in W.P.No.34923 of 2016

Writ Petition No.34922 of 2016 filed under Article 226 of the
Constitution of India praying for issuance of a Writ of

Certiorarified Mandamus to call for the records of the second respondent in proceedings No.Ref.No.LL1/28436/2015, dated 20.01.2016 and quash the same and consequently direct the respondents to include the name of the petitioner in the State-wide seniority list as per G.O.Ms.No.64, Forest Department, dated 08.03.1999, so as to enable the petitioner to get his service regularised in a regular time scale of appointment as Plot Watcher (supernumerary post) as per the order passed in G.O.Ms.No.95, Forest Department, dated 07.08.2009 within a stipulated time that may be fixed by this Court.

Writ Petition No.34923 of 2016 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to include the name of the petitioner in the State-wide seniority list as per G.O.Ms.No.64, Forest Department, dated 08.03.1999 so as to enable the petitioner to get his service regularised in a regular time scale of appointment as Plot Watcher (supernumerary post) as per the order passed in G.O.Ms.No.95, Forest Department, dated 07.08.2009 by considering his representation dated 15.05.2015 within a stipulated time that may be fixed by this Court.

For Petitioners : Mr.P.Rajesh
For Respondents : Mr.N.Inbanathan, Govt. Advocate

ORDER

Writ Petition No.34922 of 2016 is filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in proceedings No.Ref.No.LL1/28436/2015, dated 20.01.2016 and quash the same and consequently direct the respondents to include the name of the petitioner in the State-wide seniority list as per G.O.Ms.No.64, Forest Department, dated 08.03.1999, so as to enable the petitioner to get his service regularised in a regular time scale of appointment as Plot Watcher (supernumerary post), as per the order passed in G.O.Ms.No.95, Forest Department, dated 07.08.2009, within a stipulated time that may be fixed by this Court.

2. W.P.No.34923 of 2016 has been filed by the petitioner praying for issuance of a Writ of Mandamus to direct the respondents to include the name of the petitioner in the State-wide seniority list as per G.O.Ms.No.64, Forest Department, dated 08.03.1999, so as to enable the petitioner to get his service regularised in a regular time scale of appointment as Plot Watcher (supernumerary post) as per the order passed in G.O.Ms.No.95, Forest Department, dated 07.08.2009, by considering his representation dated 15.05.2015 within a stipulated time by this Court.

3. The petitioner in W.P.No.34922 of 2016 joined in the Forest Department in Kelamangalam Range (MSCS) in the year 1980 as Plot Watcher and was allowed to work on daily wage basis from 01.01.1983,

worked in Meattur Soil Conservation upto 2008 under District Forest Office in Dharmapuri and Krishnagiri Districts. The Principal Conservator of Forest, in his proceedings in No.Na.Ka.No.S2/30572/06, dated 26.06.2009, invited applications for regularisation and bringing in the special time scale of pay, for those who have completed ten years as on 01.01.2006 and they may be Social Forestry Worker, Plot Watcher (except who were in the list of State-wide seniority list and temporary Drivers). In the said list, the petitioner's name was not included. It is his further case that from 2008 to 2012, he worked in the Forest Department as Forest Watcher and subsequently, he was allowed to work as Fire Watcher in Dharkkam (Dharmapuri District) Forest Area and he was also allowed to work as Anti-Poach Watcher from 2011 till date, but he has not been paid salary for the work.

4. The petitioner in W.P.No.34923 of 2016 joined in the Forest Department as Plot Watcher on 01.04.1984 on daily wage basis and posted in the Forest Range Office, Mettur Soil Conservation Scheme (MSCS), Dharmapuri District, Salem Division, Dharmapuri Forest Range. While he was working as Plot Watcher on daily wage basis, the above said Forest Division was handed over to Rural Development Department on the basis of a policy taken of the Government and accordingly, the petitioner in W.P.No.34923 of 2016 was deputed for work in the Rural Development Department on and from 15.08.1990. However, there was no regular employment in Rural Development Department to be assigned to the petitioner on daily wage basis, and as such, he worked at Palacode (MSCS) Range and was not paid salary till February 2007 for about one year. He was made to work without salary on daily wage basis, and on and from March 2007, he was stopped from being engaged on daily wage work by citing administrative reasons.

5. The Principal Conservator of Forest, in his proceedings in No.Na.Ka.No.S2/30572/06, dated 26.06.2009, invited applications for regularisation and bringing in the special time scale of pay, for those who have completed ten years as on 01.01.2006 and they may be Social Forestry Worker, Plot Watcher (except who were in the list of State-wide seniority list and temporary Drivers). In the said list, the petitioners' names were not included. The petitioners further submit that they should have been given the benefit of time scale of pay by extending the benefit of G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999.

6. The main grievance of the petitioners is that they are entitled for inclusion of their names in the State-wide seniority list for conferment of regularisation of their service in the daily wage basis. The Government issued G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, ordering that those daily wage workers engaged in the Forest Department, who have completed ten years of service on daily wage basis and whose names are included in the State-wide seniority list, shall be brought into a supernumerary post. It is further averred by the petitioners that in G.O.Ms.No.95,

Forest Department, dated 07.08.2009, there was no pre-condition mentioned, except ordering that those daily wage employees whose names are included in the State-wide seniority list, shall be brought into a non-cadre supernumerary post. It is further stated that the impugned order, dated 20.01.2016 has been passed stating that as per G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999, only those daily wage employees who worked on the date of issuance of the said G.O. alone are eligible to be included in the State-wide seniority list prepared by the Forest Department. Since the petitioners have not been included in the State-wide seniority list, which forms the basis for regularisation of their service in the non-cadre post as per G.O.Ms.No.95, Forest Department, dated 07.08.2009, they could not be regularised even in the non-cadre supernumerary post. Hence, the petitioners have filed the Writ Petitions for the reliefs stated supra.

7. Heard the learned counsel appearing for both sides and perused the materials available on record.

8. Learned counsel for the petitioners placed reliance on a judgment of the Division Bench of this Court in W.A.No.887 of 2010 and W.P.No.9750 of 2010, dated 29.04.2011 and prayed for quashing the impugned order and to direct the respondents to consider the claim of the petitioners in the light of the said judgment of the Division Bench of this Court.

9. Though the petitioners have sought for Writs of Certiorarified Mandamus and Mandamus respectively, this Court is not inclined to quash the impugned order or issue mandamus as prayed for, however, considering the facts and circumstances of the case and also taking into consideration the grievance of the petitioners, this Court directs the petitioners to give fresh representation, along with a copy of this order, to the respondents, by ventilating their grievance, within a period of three weeks from the date of receipt of a copy of this order, and on receipt of such representations, the respondents are directed to re-consider the claim of the petitioners in the light of the said judgment of the Division Bench of this Court and after conducting enquiry and after affording an opportunity of hearing to the petitioners and other necessary parties, the respondents shall pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of such representations. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioners and it is for the respondents to decide the same while disposing of such representations.

10. With the above observations and directions, the Writ Petitions are disposed of. No costs.

-sd/-
Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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Copy to

1. The Secretary to Government,
Forest and Environment Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
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3. District Forest Officer,
Hosur Division, Hosur,
Krishnagiri District.
4. District Forest Officer,
Dharmapuri,
Dharmapuri District.

+2 cc to MR.P.RAJESH Advocate SR.NO. 59409

vd[co]
RD 04/11/2016

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