

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.38670 of 2016

V.Kalimuthu

... Petitioner

Vs

1. The State of Tamil Nadu
Rep by its Secretary to Government
Environment and Forest Department
Fort St. George Chennai 9
2. The Deputy Conservator of Forests
State Forestry Research Institute
Kolabakkam Chennai 127
3. The Deputy Director
Aringnar Anna Zoological Park
Vandalur Chennai 48

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus to direct respondents to consider petitioner's representation with regard to rectification of pay anomaly and to revise and re-fix the scale of pay on par with the lowest grade servant as Mali working in the Zoological Park Wing and to regularize the petitioner's service and to step up the pay on par with the junior in the light of G.O.Ms.No.22, Personal and Administrative Reforms Department dated 28.2.2006 within time frame.

For Petitioner : Ms.K.Jenitha

For Respondents : Mr.N.Inbanathan,
Government Advocate (Forest)

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to consider

his representation with regard to rectification of pay anomaly and to revise and re-fix the scale of pay on par with the lowest grade servant as Mali working in the Zoological Park Wing and to regularize his service and to step up the pay on par with the junior in the light of G.O.Ms.No.22, Personal and Administrative Reforms Department dated 28.2.2006 within a time frame.

3. It is the case of the petitioner that initially he was appointed as Plot Watcher on 10.1.1980 in Social Forestry Division. As per G.O.Ms.No.64, his name was included in the State Wide Seniority list in Sl.No.1018. Subsequently, as per seniority, he was appointed as Mali and posted at Forestry Extension Centres, Nanmangalam, on 1.8.2007. However, he was not paid with the scale of Mali and he was compelled to work on temporary basis. Thereafter, based on G.O.Ms.No.22, P & AR Department dated 28.2.2006, the respondents have issued G.O.Ms.No.95, Environment and Forest Department dated 7.8.2009, by which the petitioner's service was brought into regular time scale of pay with effect from 7.8.2009. Subsequently, the temporary workers of the Zoological Park and working in sanctuaries, which comes under the control of Zoo authorities, also sought for their regularization as per G.O.22 and in the light of G.O.95. Hence, the first respondent issued G.O.Ms.No.142, Environment and Forest (F.R.2) Department dated 30.9.2010 for regularization of service of Mali, Gardener, Night Watchman with the scale of pay of Rs.4800-10,000 with grade pay of Rs.1300 and their services have been regularized with effect from the date of completion of ten years. Further, one P.Manikandan, who joined on 30.4.1985 after joining of the petitioner in service i.e., on 10.1.1980, was regularized on 9.10.2010 as per G.O.Ms.No.142, Environment and Forest (F.R.2) Department dated 30.9.2010, which is based on G.O.22. The petitioner came to know about G.O.142 only in the year 2015 and immediately, he sent a representation to the respondents 1 and 2 seeking rectification of anomaly in pay and service. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate (forest), who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the petitioner to send a fresh representation along with a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider

the said representation seeking rectification of pay anomaly and to revise and re-fix the scale of pay on par with the lowest grade servant as Mali working in the Zoological Park Wing and to regularize his service and to step up the pay on par with the junior in the light of G.O.Ms.No.22, Personal and Administrative Reforms Department dated 28.2.2006, and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the claim projected by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Secretary to Government
Environment and Forest Department
Fort St. George Chennai 9.
2. The Deputy Conservator of Forests
State Forestry Research Institute
Kolabakkam Chennai 127.
3. The Deputy Director
Aringnar Anna Zoological Park
Vandalur Chennai 48.

+1cc to Ms.K.Jenitha, Advocate, S.R.No.63152

+1cc to the Special Government Pleader(F), S.R.No.63338

W.P.No.38670 of 2016

SCD(CO)
CA(30/11/2016)