

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.38834 of 2016

AM.Marimuthu

... Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by its Secretary,
Environment and Forest Department,
Fort St. George, Chennai-9.
 2. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai.
 3. The Divisional Forest Officer,
Modern Nursery,
Dharmapuri,
Dharmapuri District.
- ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to regularise the service of the petitioner in the category of Data Entry Operator under the physically Handicapped Category in the light of G.O.Ms.No.84, Environment and Forest (FR.5) Department, dated 09.08.2007, G.O.Ms.No.151, Social Welfare and Nutritious Scheme Department, dated 16.10.2008 as well as G.O.Ms.No.218, Health and Family Welfare Department dated 28.07.2015, within a time limit to be stipulated by this Court.

For Petitioner : Mr.S.Mani

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

ORDER

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

2. The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to regularise the service of the petitioner in the category of Data Entry Operator under the physically Handicapped Category in the light of G.O.Ms.No.84, Environment and Forest (FR.5) Department, dated 09.08.2007, G.O.Ms.No.151, Social Welfare and Nutritious Scheme Department, dated 16.10.2008 as well as G.O.Ms.No.218, Health and Family Welfare Department dated 28.07.2015, within a time limit to be stipulated by this Court.

3. The case of the petitioner is as follows:

(a) The petitioner, who is a physically handicapped person, belongs to Backward Class Community. He passed Higher Secondary and also passed Typewriting both in English and Tamil Higher Grade. He has also undergone 9 months Training Course between June 1998 and March 1999 initiated by the Department of Rural Development, Dharmapuri and obtained a Certificate to that effect from the Project Officer, Dharmapuri District Development Corporation Limited, Dharmapuri. He also registered his name in the Employment Exchange on 22.08.1999.

(b) While so, on 01.12.1999, the petitioner was appointed as a Computer Operator-cum-Typist on daily wage basis. Subsequently from 01.06.2002, he was brought into consolidated pay category as Data Entry Operator and he was paid a sum of Rs.12,000/- as consolidated pay. Till date, he is working as such continuously.

(c) The Government issued G.O.Ms.No.151, Social Welfare and Nutritious Meal Department, dated 16.10.2008, wherein it was ordered that those who are physically handicapped and are holding the post on consolidated pay for more than 2 years shall be brought into regular time scale of pay. Highlighting the same, the petitioner submitted a representation dated 28.01.2009 to the 3rd respondent and requested to regularise his service as he is working on consolidated pay for the past 14 years. The 3rd respondent by his proceedings in Na.Ka.No.15/2008/E dated 02.02.2009 forwarded the same to the 2nd respondent. Since the same has not been considered the petitioner sent another representation dated 15.05.2009 in this regard.

(d) It is pertinent to mention that in similar circumstance, in the Forest Department, there were about 28 persons, who were working on consolidated pay or daily wage basis as Mazdoors, they were brought into time scale of pay after giving relaxation with respect to age and other essential qualification by the Government in G.O.Ms.No.84, Environment and Forest Department, dated 09.08.2007.

(e) By proceedings dated 23.03.2010, the Conservator of Forest, Research Centre, Kolappakkm, Chennai has recommended to the 2nd respondent herein to consider the claim of the petitioner for regularisation of service. Hence, on the basis of this recommendation and the earlier recommendation dated 1.05.2009 of the 3rd respondent, the 2nd respondent has sent a proposal to the Government on 29.12.2010. Thereafter, the Government has sought for certain clarifications from the 2nd respondent, who in turn, sought some clarifications from the 3rd respondent on 02.12.2014. The 3rd respondent immediately sent the required clarification by a communication dated 13.10.2015 to the 2nd respondent. But, the matter is pending without any progress. In the meantime, the Government passed G.O.Ms.No.218, Health and Family Welfare Department, dated 28.07.2015 regularising the services of similarly placed persons like the petitioner, who are also handicapped, by bringing them into regular time scale of pay as Data Entry Operator. But the case of the petitioner was not considered. Hence the present Writ Petition.

4. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (F) who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the matter, this Court is not inclined to issue a positive direction as sought for by the petitioner. However, this Court directs the petitioner to give a detailed fresh representation along with a copy of this Order to the respondents and on receipt of the same, the respondents shall pass appropriate orders on merits and in accordance with law and also in the light of G.O.Ms.No.84, Environment and Forest (FR.5) Department, dated 09.08.2007, G.O.Ms.No.151, Social Welfare and Nutritious Scheme Department, dated 16.10.2008 as well as G.O.Ms.No.218, Health and Family Welfare Department dated 28.07.2015, within a period of six weeks thereafter.

6. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

tsi

To

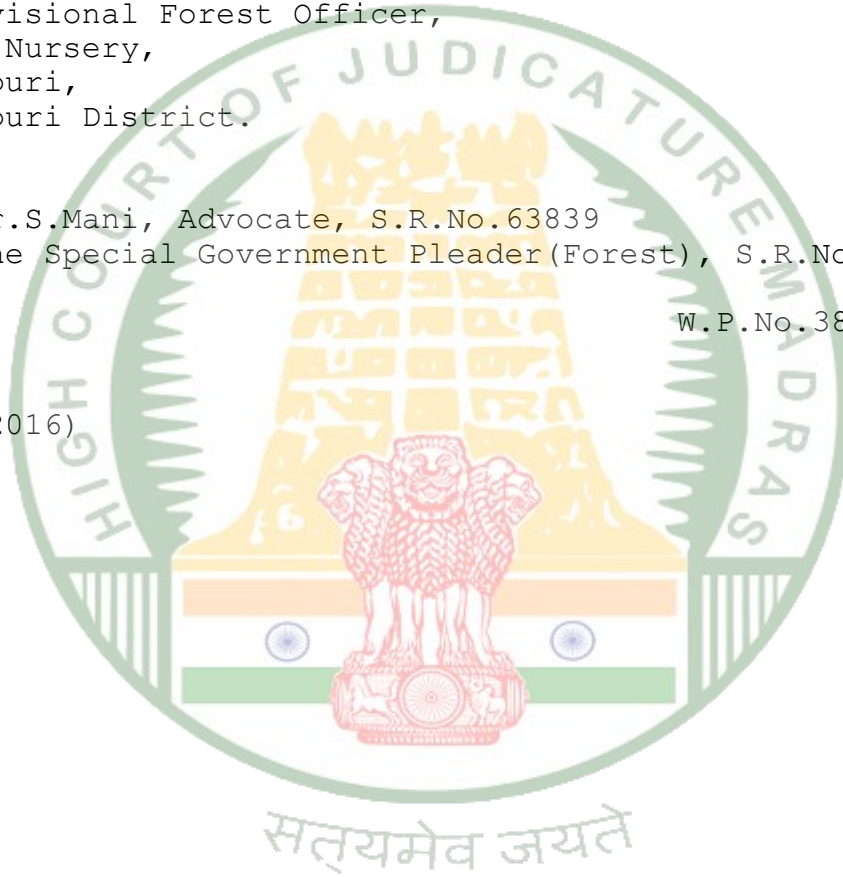
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3. The Divisional Forest Officer,
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+lcc to Mr.S.Mani, Advocate, S.R.No.63839

+lcc to the Special Government Pleader(Forest), S.R.No.63890

W.P.No.38834 of 2016

SV(CO)
CA(14/12/2016)



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