

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39120 of 2016

R.Mani

... Petitioner

Vs

1. The Principal Chief Conservator
of Forest,
Panagal Building,
Saidapet, Chennai-15.

2. The District Forest Officer,
Thiruvannamalai South Division,
Thiruvannamalai 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 issue an order of appointment appointing the petitioner as Forest Watcher as per the recommendation made by the Conservator of Forest, Vellore, in Na.Ka.No.7370/2014/L dated 28.8.2014 with all consequential benefits.

For Petitioner : Mr.S.Mani

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

सत्यमेव जयते
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 issue an order of appointment appointing him as Forest Watcher as per the recommendation made by the Conservator of Forest, Vellore, in Na.Ka.No.7370/2014/L dated 28.8.2014, with all consequential benefits.

3. It is the case of the petitioner that he was appointed as Plot Watcher in the Forest Department on 1.6.1980

on daily wage basis. After break in service, he was engaged to work on daily wage basis for a total period of about 20 years. Thereafter, pursuant to the directions given by this Court, the petitioner was given regular time scale of pay as Forest Watcher by proceedings dated 28.2.2003 of the Conservator of Forester, Coimbatore Region. However, at the time when the order of regularization was made ready, he was not in employment and hence, it was not served on him and consequently, he could not get the benefit of regularization of his service. On coming to know of the same, immediately, he sent a representation dated 18.3.2003 to the Conservator of Forester, Vellore Zone, pursuant to which, by proceedings dated 3.6.2003, the first respondent was requested to issue appropriate orders of regularization of his service. However, such order is not forthcoming till date. Hence, the petition.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that even though the petitioner rendered more than 20 years of service, his service was not regularized. Further, insofar as the break in service is concerned, it is purely due to administrative reasons and the petitioner is not in any way responsible for such break in service. The Division Bench of this Court, by judgment dated 28.4.2010 made in W.A.No.549 of 2010, held that if the break in service is not attributable on the part of the daily wage employee and if it is purely on administrative decision taken either for want of fund or for want of work to be assigned, such daily wage employee is entitled for being included in the State wide seniority list for being regularized in service. In this regard, the Conservator of Forest, Vellore Region, has sent a detailed proposal dated 28.3.2014 to the first respondent requesting him to consider the claim of the petitioner for regularization. But, so far, the first respondent has not passed any orders. Hence, he sought for a direction to the respondents to issue an order of appointment appointing the petitioner as Forest Watcher as per the recommendation made by the Conservator of Forest, Vellore, in Na.Ka.No.7370/2014/L dated 28.8.2014, with all consequential benefits.

5. I have also heard the learned Government Advocate (Forest), who has taken notice on behalf of the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to send a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is

directed to consider the said representation seeking appointment to the post of Forest Watcher and pass appropriate orders, on merits and in accordance with law and as per the recommendation made by the Conservator of Forest, Vellore, in Na.Ka.No.7370/2014/L dated 28.8.2014 and in the light of the decision of the Division Bench of this Court dated 28.4.2010 made in W.A.No.549 of 2010 (The Secretary to Government and 3 others v. Annamalai) and also as per G.O.(Ms) No.202 Environment and Forest Department dated 18.12.2013, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Principal Chief Conservator
of Forest,
Panagal Building,
Saidapet, Chennai-15.
2. The District Forest Officer,
Thiruvannamalai South Division,
Thiruvannamalai District.

+lcc to Mr.S.Mani, Advocate, S.R.No.64113

+lcc to the Special Government Pleader(Forest), S.R.No.64096

W.P.No. 39120 of 2016

VGI (CO)

CA(07/12/2016)

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