

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39296 of 2016

C.Kamaraj

... Petitioner

Vs

1.The Principal Chief Conservation of Forest,
Panagal Building,
Saidapet,
Chennai - 600 015.

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 first respondent to confer regular time scale of appointment to the petitioner in the cadre of Plot Watchers (Supernumerary Post) as per G.O.Ms.No.95, Forest Department dated 07.08.2009 and in the light of the proposal sent by the second respondent in the proceeding Na.Ka.No.6/04/15/Va dated May 2016 within a time limit that may be specified by this Hon'ble Court.

For Petitioner : Mr.S.Mani

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

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 first respondent to confer regular time scale of appointment to the petitioner in the cadre of Plot Watchers (Supernumerary Post) as per G.O.Ms.No.95, Forest Department dated 07.08.2009 and in the light of the proposal sent by the second respondent in the proceeding Na.Ka.No.6/04/15/Va dated May, 2016, within a time limit that may be specified by this Court.

3.It is the case of the petitioner that he joined as Plot Watcher in the Forest Department on 10.08.1991 on daily wage basis and continued as such till 23.09.2001 and thereafter, he was stopped from being engaged on daily wages for want of funds. The petitioner has put in more than 10 years of service. The Government issued G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999 and ordered to draw State Wide Seniority List according to which, the names of those who have rendered ten years or more service on daily wage basis were included. The said Government Order further stated that the persons whose names were included in the State Wide Seniority List shall be conferred with regular service in time scale of pay, when their turn comes. The petitioner's name was included in the State Wide Seniority List drawn by the Department in Serial No.5336, but he was not brought into regular time scale of pay.

4.The petitioner would further state that the Government issued orders in G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009 ordering that all the Plot Watchers and Social Forestry Workers working in the Forest Department be brought into regular time scale of pay and appointed as Plot Watcher (Supernumerary) provided that their names are included in the State Wide Seniority List and it was also ordered that if a daily wage employee is stopped from being engaged due to administrative reasons and has completed ten years of service, they shall also be given the benefit of the Government Order in G.O.Ms.No.95, dated 07.08.2009.

5.The petitioner would further state that the second respondent has also sent proposal to the first respondent through proper channel, recommending to consider the claim of the petitioner to bring him under the regular service and since it evoked no response, he made representation dated 10.06.2016 to the first respondent seeking to consider his claim for regularization of service in the light of the proposal sent by the second respondent and since no response is forthcoming, came forward to file this writ petition.

6.Today, when the matter was taken up for consideration, the learned counsel appearing for the petitioner submitted that even though the petitioner rendered more than 10 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 28.04.2010 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 second respondent has sent a proposal dated May, 2016 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 confer regular time scale of appointment to the petitioner in the cadre of Plot Watchers (Supernumerary Post) as per G.O.Ms.No.95, Forest Department dated 07.08.2009 and in the light of the proposal sent by the second respondent in the proceedings in Na.Ka.No.6/04/15/Va dated May, 2016.

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

8.Considering the facts and circumstances of the case, the submissions made on either side and 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 and pass appropriate orders, on merits and in accordance with law and in the light of G.O.Ms.No.95, Forest Department dated 07.08.2009 and in the light of the proposal sent by the second respondent in Na.Ka.No.6/04/15/Va dated May, 2016 and also in the light of the decision of the Division Bench of this Court dated 28.04.2010 made in W.A.No.549 of 2010 (The Secretary to Government and 3 others vs. Annamalai), within a period of six weeks thereafter.

9.The writ petition is disposed of accordingly. No costs.

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Sd/-
Assistant Registrar
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Sub-Assistant Registrar

To

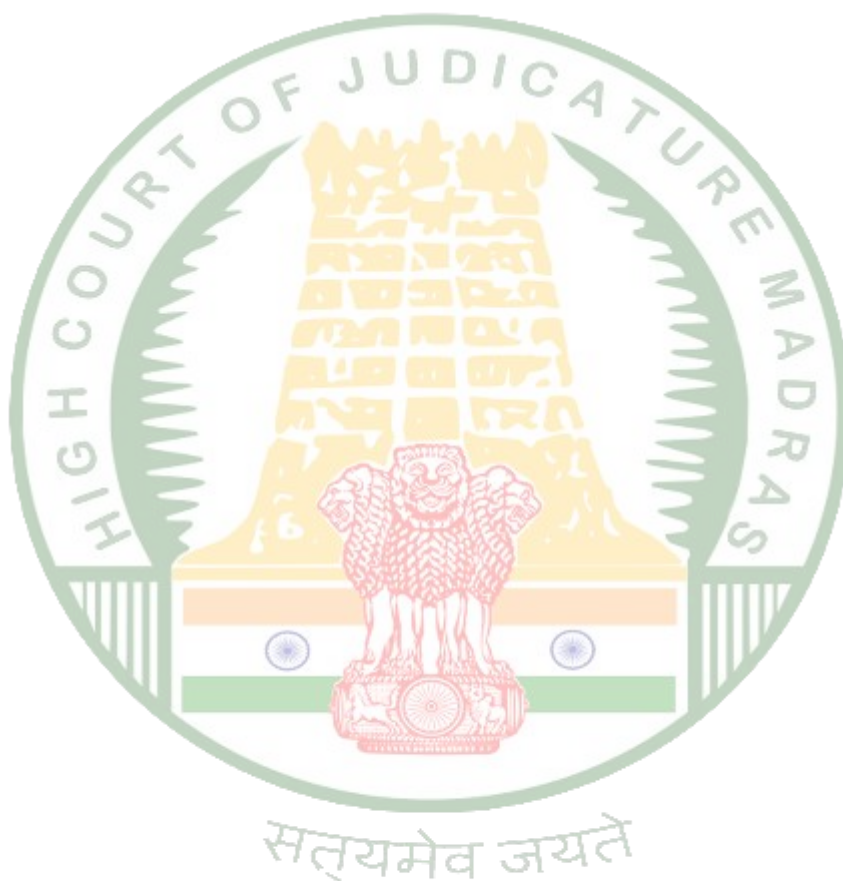
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Thiruvannamalai District.

+1CC to MR.S.MANI Advocate SR.NO.64509
+1CC to SPECIAL GOVERNMENT PLEADER [F] SR.NO.64661

W.P.No.39296 of 2016

KJI[CO]
MK:21/12/2016



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