

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.41338 of 2016

C.Subramanian

... 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 Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai-15.
 - 3.The District Forest Officer,
Kallakurichi Division,
Kallakurichi,
Villupuram District.
- Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation with regard to appoint him as regular time scale of pay Night Watchman taking into account of his date of appointment on par with the petitioner junior's appointment on regular time scale of pay fixed on 09.10.2010 and to confer all consequential benefits within time frame.

For Petitioners : Mr.K.Jenitha

For respondents : Mr.N.Inbanathan, GA (F)

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation with regard to appoint him as regular time scale of pay Night Watchman taking into account of his date of appointment on par with the petitioner junior's appointment on regular time scale of pay fixed on 09.10.2010 and to confer all consequential benefits within time frame.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1. The petitioner has joined as Plot Watcher on 01.08.1981 in Social Forestry Division, Kallakurichi and he was paid from contingencies. As per G.O.Ms.No.64, his name was included in the State wife Seniority List in S.No.1380. Subsequently, as per his seniority, he was appointed as Mali and he was posted at Forestry Extension Centre, Nanmangalam, Chennai on 01.08.2007. But, he was not paid with the pay scale of Mali and he was compelled to work on temporary basis. Thereafter, based on G.O.22, P & AR, Department, the respondents have issued G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, the petitioner's service was brought into regular time scale of pay with effect from 07.08.2009.

2-2. It is also stated by the petitioner that the Tamil Nadu Forest Department was established as the Madras Forest Department in the year 1855. The objective of the Tamil Nadu Forest Department is to conserve biodiversity and eco-systems of forests, to ensure water security and food security of the State. The National Forest Policy, 1988 sets the basis objectives, essentials and strategies of Forest Management. The Forest Department is recruiting staff for raising plantations and protections of the Forest and Wildlife. The staff of the Tamil Nadu Forest Department are governed by Tamil Nadu Forest Subordinate Service Rules and State Forest Service Rules. The posts of Forest Ranger / Forester / Forest Guard / Forest Guard with Driving License / Forest Watcher and Mali (Gardner) and Night Watchman come under the Tamil Nadu Forest Subordinate Service Rules. Similarly, for the zoological park, the Tamil Nadu Zoo Subordinate Service Rules, 2002 has been framed only for the last grade Servants like Biologist, Animal Keepers, Sweeper etc.

2-3. It is further stated by the petitioner that upto June 2012, direct recruitment of uniformed staff in the post of Forester / Forest Guard / Forest Guard with Driving License / Forest Watcher, was done by obtaining list of eligible candidates from the Employment Exchanges, conducting test and interview. The Employment Exchanges are sponsoring eligible candidates based upon their registration seniority. However, there was inordinate delay in sponsoring the candidates through Employment Exchanges which resulted in administrative problems. In the post of Forest Watchers, Mali and Night Watchman, the Forest Department had appointed the persons as temporary Plot Watchers. Some of the temporary workers were selected through Employment Exchange and they were called as Social Forestry Workers for the Special Scheme Work. The Plot Watchers and Social Forestry Workers were appointed as Forest Watchers, Mali and Night Watchman as and when the vacancy arises. For the appointment to the posts of Forest Watchers

from Plot Watchers and Social Forestry Workers, there was no seniority and there was no mode of selection, as a result of which there were some irregularities in appointing the persons to the post of Forest Watchers. Hence, some of the Plot Watchers and Social Forestry Workers had approached the Tamil Nadu Administrative Tribunal by filing a petition, seeking suitable direction to the Department. The Tribunal has also issued direction to the Department to prepare the Statewide Seniority List of Plot Watchers and Social Forestry Workers. Based on the said direction, the Forest Department has issued a Government Order in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999 for preparation of Statewide Seniority List. A Common Statewide Seniority List was prepared with a cutoff date of 01.02.1993 for Plot Watchers and Social Forestry Workers including the deputed staff to the DRDA Department and the list consisted 5442 workers. Subsequently, 79 persons were included and now, the total temporary workers are 5521.

2-4.It is also stated by the petitioner that the State Government has issued G.O.Ms.No.22, P & AR, Department, dated 01.06.2006 for regularization of service for all temporary workers, who have completed ten years of service, in all the Departments. Thereafter, the Tamil Nadu Forest Department has issued several orders for regularizing the services of the Plot Workers and Social Forestry Workers. The Temporary Workers, who were left over in the State Wide seniority list of the Zoological Park and working in Sanctuaries, which come 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 1st respondent herein has issued G.O.Ms.No.142, Environment and Forest (FR.2) Department, dated 30.09.2010, for the regularization of service as Mali, Gardner, Night Watchman and their services have been regularization with effect from the date of completion of ten years. The nomenclature of the Last Grade Workers, governed under the Tamil Nadu Forest Subordinate Service Rules and The Tamil Nadu Zoo Subordinate Service Rules are one and the same and both of them come under the Forests Department and they were promoted in due panel of seniority list. But, with regard to the service regularization and time scale of pay, there is an anomaly in the pay.

2-5.It is alleged by the petitioner that one Muthu, who joined the service on 01.08.1991, was regularized on 09.10.2010 as per G.O.Ms.No.142, Environment and Forest (FR.5) Department, which is based on G.O.Ms.No.22. The said Muthu joined the service, only after the petitioner joined the service. However, the petitioner's service was not regularized. Hence, the petitioner sent representations to the respondents seeking to appoint him on regular time scale of pay on par with his juniors. The last such representation sent by the petitioner is on 01.08.2016. Since the petitioner's representations were not considered by the

respondents, the petitioner has come forward with the present writ petition.

3. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Forest) appearing for the respondents and perused the materials available on record.

4. Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion on the claim of the petitioner, this Court directs the respondents to consider the representation dated 01.08.2016 given by the petitioner and to pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst. Registrar (J)

/true copy/

Sub Asst. Registrar

ssv

To

1. The Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Fort St. George,
Chennai-9.
2. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai-15.
3. The District Forest Officer,
Kallakurichi Division,
Kallakurichi,
Villupuram District.

1 cc to Government Pleader, Sr. 68764
1 cc to M/s.K. Jenitha, Advocate, Sr. 69022

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BVS (CO)
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