

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.42079 of 2016

P.Varadaraja Pani

.. Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Environment and Forest Department,
Fort St.George, Chennai-600 009.
 2. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai-600 015.
 3. The District Forest Officer,
Thiruvallur District,
Thiruvallur.
- .. 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 appoint the petitioner as regular time scale Forest Watcher taking into account the seniority and qualification, on par with the juniors, in the light of the orders passed in W.P.No.15561 of 2006, dated 10.03.2008, W.A.No.690 of 2008, dated 13.10.2009, W.P.No.23374 of 2008, dated 30.10.2009 and to confer all consequential benefits based on the representation of the petitioner, dated 10.11.2016 with effect from 24.01.1995.

For petitioner : Mr.C.Prabakaran
For respondents : Mr.N.Inbanathan, Govt. Advocate

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to appoint the petitioner as regular time scale Forest Watcher

taking into account the seniority and qualification, on par with the juniors, in the light of the orders passed in W.P.No.15561 of 2006, dated 10.03.2008, W.A.No.690 of 2008, dated 13.10.2009, W.P.No.23374 of 2008, dated 30.10.2009 and to confer all consequential benefits based on the representation of the petitioner, dated 10.11.2016 with effect from 24.01.1995.

2. It is the case of the petitioner that he was appointed as Plot Watcher in the respondent-Forest Department on 11.09.1982 on consolidated basis. He was engaged as daily wage employee for more than a period of 2 decades. He had been brought into regular time scale of pay of Forest Watcher, which is a cadre post/feeder category. His name had been included in the State-wide seniority list drawn by the Department time and again from the year 1994 and his name was placed in Sl.No.2091 in the State-wide seniority list of Forest Watchers below his juniors. However, he retired from service without any promotion on 03.07.2014 and had been paid meagre pension inspite of 32 years of service.

3. It is the further case of the petitioner that till the year 1994, for appointment to the post of Plot Watcher, the only qualification is ability to read and write. In 1994, the Government issued G.O.Ms.No.332, Environment and Forest Department, dated 22.12.1994, prescribing SSLC as minimum general educational qualification for appointment to bring in regular time scale. In view of the prescription of SSLC qualification, number of Plot Watchers and Social Forestry Workers who were engaged on daily wage basis, could not be considered for appointment as Forest Watcher, since they did not possess the SSLC qualification, and therefore, number of Original Applications were filed before the Tamil Nadu Administrative Tribunal, and the applicants obtained interim stay of operation of the said G.O.Ms.No.332.

4. Insofar as the petitioner is concerned, even though some of the similarly placed persons have passed SSLC and were given regular time scale of appointment as Forest Watcher even in the year 1995 along with 425 others, by virtue of interim stay granted by the Tribunal, some of them could not join the regular post of Forest Watcher. However, some of the persons who got promoted during the same period, have joined the regular post of Forest Watcher before grant of the said interim stay by the Tribunal and they continued in the regular post to the detriment of the petitioner.

5. It is further stated that the Government issued another in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999, whereby G.O.Ms.No.332, Environment and Forest Department, dated 22.12.1994 superseded/revoked, and therefore,

the prescription of SSLC as a qualification for appointment to the post of Plot Watcher is no longer in existence.

6. The petitioner's name was included in the State-wide seniority list drawn during the year 1994 and 1999 and his seniority was placed as mentioned above. The respondents ought to have followed the State-wide seniority list for the purpose of bringing the Plot Watchers engaged on daily wage basis into the time scale of pay, but the seniority list was not followed in letter and spirit. With the result, the juniors of the petitioner, namely Venkatachalam and others, whose seniority is in Sl.Nos.1504, 2001, 2086, 2258 and 2964 were brought under regular time scale of pay even in the year 1995 and further, they were given promotion as Forest Guard in the year 1999. This shows that the petitioner was not given appointment as Forest Watcher by following the State-wide seniority list.

7. The petitioner made representation to the respondents informing that he was fit for the post of Forest Watcher, but the claim was not considered by the respondents, which resulted in his juniors marching over the petitioner. Similarly placed persons like the petitioner, namely P.Sundaram, P.Govindan and 23 others filed W.P.Nos.15561 of 2006 and 23374 of 2008 before this Court, which were disposed of on 10.03.2008 and 30.10.2009 respectively, with a direction to consider their claim for appointment as Forest Watcher on par with his juniors. As against the said orders of this Court, the Department went on appeal in W.A.No.690 of 2008 and 607 of 2010, which were dismissed by the Division Bench of this Court on 13.10.2009 and 29.03.2010 respectively. Pursuant to the dismissal of the appeals, the respondents have implemented the said orders of this Court, by passing orders on 15.11.2010 and 07.01.2011 respectively.

8. It is the claim of the petitioner that non-consideration of the petitioner's request is illegal, as the issue is no more res-integra, in view of catena of decisions of the Supreme Court. Hence, principles of equity demands that when a benefit is given to a person, the same benefit should enure to the benefit of similarly placed persons and it should not be put against those similarly placed persons to their detriment. As the petitioner's grievance had not been redressed inspite of his latest representation, dated 10.11.2016, the petitioner had filed this Writ Petition for the relief stated supra.

9. Heard both sides and perused the materials available on record.

10. Considering the nature of relief sought for by the petitioner and also taking into consideration the facts and circumstances of the case, this Court, without going into the merits of the case, directs the respondents to consider the said representation of the petitioner, dated 10.11.2016, pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the respondents to decide the same at the time of disposing of the said representation purely on merits.

11. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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Copy to

1. The Secretary,
Environment and Forest Department,
Fort St.George, Chennai-600 009.
2. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai-600 015.
3. The District Forest Officer,
Thiruvallur District,
Thiruvallur.

+1cc to Mr.Prabakaran, Advocate, S.R.No.70457
+1cc to the Spl.Government Pleader (Forest), S.R.No.70616

kgk(CO)
md(29/12/2016)

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