

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

W.P.No.43048 of 2016

P.Aravan

...Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by its Secretary to the Government,
Environment and Forest Department,
Fort St.George, Chennai - 600 009.
 2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai - 15.
 3. The Forestry Extension Officer,
Forestry Extension Division,
Namakkal.
 4. The Principal Accountant General of TamilNadu,
Teynampet,
Chennai - 18.
- ...Respondents

Writ petition is filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the 1st to 3rd respondents to count the half of service rendered by the petitioner as Plot Watcher from 11.01.1981 to 06.08.2009 on temporary basis along with the regular service from 07.08.2009 till the date of retirement on 31.08.2015 as qualifying service for the purpose of conferment of pension and to direct the respondents to send revised pension proposal to the fourth respondent for conferred the same with all consequential benefits within the time frame.

For Petitioner : Ms.K.Jenitha

For Respondents : Mr.N.Inbanathan, Government Advocate
for R1 to R3
Mr.V.Vijayashankar for R4

O R D E R

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

2. The petitioner joined as a Plot Watcher on 11.01.1981 in Social Forestry Division, Trichy, and paid salary from contingencies. The 1st respondent had issued G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999 for the preparation of State Wide Seniority List of Social Forestry Workers for the purpose of regularising their services as and when the vacancy arises and the name of the petitioner was included in the State Wide Seniority List in Serial No.1552. Subsequently, as per seniority, the petitioner was posted as Mali on 01.08.2007, by proceedings of the District Forest Officer and posted at Forestry Extension Centre, Namakkal. However, he was not paid regular pay scale. Thereafter, he was brought into time scale of pay with effect from 07.08.2009 and the petitioner attained the age of superannuation and retired from service on 31.08.2015.

3. The grievance expressed by the petitioner is that for the purpose of pensionary benefits 50% of the temporary service rendered by him is to be taken into consideration. In this regard, he submitted a representation dated 07.12.2015 to the 3rd respondent through proper channel. Since it has not been given disposal, the petitioner came forward to file the writ petition.

4. Learned counsel appearing for the petitioner would submit that in similar facts and circumstances, this Court had passed orders in W.P.No.8205 of 2011 and it was confirmed by the judgment dated 13.02.2012 in W.A.Nos.27 and 28 of 2012 and the Special Leave Petition in SLP.(Civil)Nos.14838 to 14839 of 2012 and 16119 to 16120 of 2012 filed before the Honourable Supreme Court challenging the above cited judgment came to be dismissed and as such there cannot be any impediment on the part of the respondent to positively consider the representation of the petitioner.

5. This Court, heard the submission Mr.N.Inbanathan, learned Government Advocate, who accepts notice for the 1st to 3rd respondents and Mr.V.Vijayashankar learned counsel who accepts notice for the 4th respondent.

6. Though the petitioner prays for a larger relief, this Court in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first to third respondents to consider and dispose of the petitioner's representation dated 07.12.2015 on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Secretary to the Government,
Environment and Forest Department,
Fort St.George, Chennai - 600 009.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai - 15.
3. The Forestry Extension Officer,
Forestry Extension Division, Namakkal.
4. The Principal Accountant General of TamilNadu,
Teynampet, Chennai - 18

+1cc to Mr.K. Jenitha, Advocate, S.R.No.72850
+1cc to the Special Government Pleader (Taxes), S.R.No.72678

mp(CO)
md(05/01/2017)

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