



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)Nos.17972 to 17974 of 2016

S.Selvakumar
M.Muthukaruppan
V.Sakthivel

... Petitioner in W.P.17972/16
... Petitioner in W.P.17973/16
... Petitioner in W.P.17974/16

vs.

1)The Principal Chief Conservator of Forest,
Saidapet,
Chennai.

2)The Principal Secretary,
Forest & Environment Department,
Chennai-9.

3)The Chief Accountant General,
No.361, Anna Salai,
Teynampet,
Chennai.

4)The Conservator of Forest,
Trichy Circle,
J.K. Nagar,
Trichy-23.

5)The District Forest Officer,
Matchuvadi,
Near Model School,
Pudukkottai & District.

... Respondents in all WPs

W.P(MD)17972/16 filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from 24.03.1986 to 07.08.2009 on daily wages basis along with regular service rendered by the petitioner from 07.08.2009 to 30.04.2016 with all consequential benefits from the date of retirement by considering the petitioner's representation dated 08.08.2016.

W.P(MD)17973/16 filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from 10.09.1982 to 19.01.2007 on daily wages basis along with regular



service rendered by the petitioner from 19.01.2007 to 30.09.2014 with all consequential benefits from the date of retirement by considering the petitioner's representation dated 08.08.2016.

W.P(MD)17974/16 filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from 01.01.1984 to 07.08.2009 on daily wages basis along with regular service rendered by the petitioner from 07.08.2009 to 31.12.2015 with all consequential benefits from the date of retirement by considering the petitioner's representation dated 08.08.2016.

For Petitioner(in all WPs) : Mr.K.Baalasundharam
For R1, R2, R4 & R5(in all WPs): Mr.M.Alagudevan
Special Government Pleader
For R3 : Mr.P.Gunasekaran

COMMON ORDER

The petitioners have sought for Writ of Mandamus, directing the respondents to fix and disburse the pension to them by counting half of the service rendered by them from 24.03.1986 to 07.08.2009, from 10.09.1982 to 19.01.2007 and from 01.01.1984 to 07.08.2009 respectively, on daily wages basis, along with the regular service rendered by the petitioners from 07.08.2009 to 30.04.2016, from 19.01.2007 to 30.09.2014 and from 07.08.2009 to 31.12.2015, with all consequential benefits from the date of retirement, by considering the petitioners' individual representations all dated 08.08.2016.

2.According to the petitioners, they were initially appointed as Village Social Forestry Watcher, through the employment exchange on 24.03.1986, 10.09.1982 and 19.12.1983 respectively, on daily wage basis and their services were regularised with effect from 07.08.2009, 19.01.2007 and 07.08.2009 respectively. They retired from service on 30.04.2016, 30.09.2014 and 31.12.2015 respectively, on attaining the age of superannuation.

3.The grievance of the petitioners is that 50% of the services rendered by them prior to regularisation, is not taken into account for the purpose of pension and other benefits as per Rule 11(2) of the Tamil Nadu Pension Rules. Hence, they made representations all dated 08.08.2016 therefor. As the said representations did not evoke any response, present writ petitions have been filed.

4.The learned counsel for the petitioners has relied upon a decision of this Court passed in similar circumstances in W.P(MD) No.6527 of 2015 dated 23.04.2015 and prayed that the

representations of the petitioners herein, may be directed to be considered in the light of the said order.

5. It is relevant to extract paragraphs 3 to 5 of the order made in W.P(MD)No.6527 of 2015 dated 23.04.2015:-

''3. The learned counsel appearing on behalf of the petitioner submitted that 50% of the service rendered by the petitioner as Plot Watcher from 01.04.1983 to 07.08.2009, shall be taken into account as a qualifying service, so that he would be getting a revised pension and the fourth respondent may be directed to sanction the pension along with other terminal benefits. The learned counsel appearing on behalf of the petitioner further submitted that the issue involved in this case is also covered by the decisions of this Court in W.P(MD)No.13832 of 2011, dated 29.06.2011 and in W.P(MD)No.6359 of 2013, dated 01.04.2013.

4. In response to the same, the learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the decisions quoted by the petitioner, will not be applicable to the facts of the present case, as the petitioners in those cases, were regularised prior to 01.04.2003. The case of the respondents 1 to 3 is that the petitioner's service has been regularised only after 01.04.2003 and therefore he is not entitled to the benefit mentioned in the Government Order. It is also submitted by the learned Additional Government Pleader that since the service of the petitioner has been regularised only after 01.04.2003, he is not eligible for the relief sought for in the writ petition.

5. Since there is disputed question of fact and the learned counsel appearing on behalf of the petitioner contends that the petitioner is entitled to the benefit of the orders passed by this Court and as per Government Order, his past services should be taken into account, without expressing any opinion on the merits of the issue involved, the respondents 1 to 3 are directed to consider the case of the petitioner, based on the facts as narrated by him and also the decisions referred to supra and in case, the petitioner satisfies the conditions mentioned in the above decisions, the benefit can be extended to the petitioner and such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.''

6. Learned Special Government Pleader appearing for the respondents 1, 2, 4 and 5 and the learned counsel for the 3rd respondent submitted that it is agreeable for the respondents to consider the individual representations of the petitioner dated 08.08.2016, in the light of the order made in W.P(MD)No.6527 of 2015 dated 23.04.2015 and to pass orders within a time frame.



7. Recording the above submission, these Writ Petitions are disposed of directing the respondents to consider the individual representations of the petitioner dated 08.08.2016, in the light of the order made in W.P(MD)No.6527 of 2015 dated 23.04.2015 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. No costs.

Sd/-

Assistant Registrar(Writ)

/True Copy/

Sub Assistant Registrar

To

1)The Principal Chief Conservator of Forest,
Saidapet,
Chennai.

2)The Principal Secretary,
Forest & Environment Department,
Chennai-9.

3)The Chief Accountant General,
No.361, Anna Salai,
Teynampet,
Chennai.

4)The Conservator of Forest,
Trichy Circle,
J.K. Nagar,
Trichy-23.

5)The District Forest Officer,
Matchuvadi,
Near Model School,
Pudukkottai & District.

+3cc to Mr.K.Baalasundharam, Advocate Sr.No.54239-54241

+2cc to Mr.P.Gunasekaran, Advocate Sr.No. 54363

JAM/20.10.16/EM-MPA /4p-11c

W.P (MD) Nos.17972 to 17974 of 2016

21.09.2016