



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.18362 of 2016

A.Chinnaiah

... Petitioner

vs.

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

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

3)The Principal 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

Petition 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 01.10.1983 to 07.08.2009 on daily wages basis along with regular service rendered by the petitioner from 07.08.2009 to 31.07.2016 with all consequential benefits from the date of retirement by considering the petitioner's representation dated 08.08.2016.

For Petitioner : K.Balsundharam

For Respondents : Mr.M.A.Alagathevan,

<https://hcservices.ecourts.gov.in/hcservices/>

Special Government Pleader

ORDER

This Writ of Mandamus has been filed, to direct the respondents to fix and disburse the pension to the petitioner, by counting half of the service rendered by him from 01.10.1983 to 07.08.2009 on daily wage basis, along with the regular service rendered by the petitioner from 07.08.2009 to 31.07.2016, with all consequential benefits from the date of retirement, by considering the petitioner's representation dated 08.08.2016.

2. According to the petitioner, he was initially appointed as Village Social Forestry Watcher on 01.10.1983 on daily wage basis at Viralimalai Range; subsequently, he was transferred to Pudukkottai Range in the year 1991 and worked in the said Range from 01.10.1983 to 07.08.2009 for more than 25 years; his services as Plot Watcher were regularised vide G.O.No.95, Environmental and Forest Department, dated 07.08.2009 and he was posted at Pudukkottai Forest Range Office in the regular time scale of pay and he retired from service on 31.07.2016, on attaining the age of superannuation.

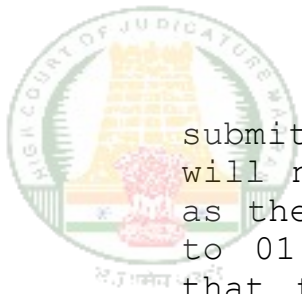
3. The grievance of the petitioner is that 50% of the services rendered by him prior to regularisation, is not taken into account for the purpose of pension and other benefits as per Rule 11(2) of the Tamil Nadu Pension Rules. Hence, he made a representation dated 08.08.2016, therefor. As the said representation did not evoke any response, present writ petition has been filed.

4. The learned counsel for the petitioner 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 representation of the petitioner, 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 submitted that it is agreeable for the respondents to consider the representation 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, this Writ Petition is disposed of directing the respondents to consider the representation 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(CSI)

/True Copy/

Sub Assistant Registrar

nbi

To

1) The Principal Chief Conservator of Forest,

<https://hcservices.ecourts.gov.in/hcservices/>

Saidapet,

Chennai.



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

3) The Principal 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.

+1cc to Mr.K.Baladundharam, Advocate Sr.No. 55671

+1cc to Spl.Government Pleader Sr.No. 56120

JAM/24.10.16/SKS-RR/4P-8C

W.P (MD) No.18362 of 2016
26.09.2016