



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE **S.VIMALA**

W.P (MD) No.21445 of 2016

and

W.M.P (MD) No.15327 of 2016

M.Chellam

: Petitioner

Vs.

1.The Secretary to Government,
Forest & Environment Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2.The Principal Chief Conservator of Forest,
Office of the Principal Chief Conservator of Forest,
Panagal Maligai, Saidapet, Chennai - 600 015.

3.The Conservator of Forest,
Virudhunagar Circle,
Virudhunagar.

4.The Divisional Forest Officer,
Social Forestry Division,
Virudhunagar.

5.The Accountant General,
Office of Accountant General,
DMS Compound, Teynampet,
Chennai - 600 018.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to count 50% of past services of the petitioner as Plot Watcher from 10.4.1984 till absorption on 08.07.2009 for the purpose of granting full pension as per Rule 11 (1) of the Tamil Nadu Pension Rules, 1978 and G.O(3D)No.44, Environment & Forests (FR-2) Department, dated 29.08.2016 together with arrears of pension and revised pension etc. within a reasonable time.

For Petitioner

: Mr.K.Appadurai

For Respondents 1 to 4

: Mr.V.R.Shanmuganathan,

Special Government Pleader.

For Respondent No.5

: Mr.P.Gunasekaran

**ORDER**

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to count 50% of past services of the petitioner as Plot Watcher from 10.4.1984 till absorption on 08.07.2009 for the purpose of granting full pension as per Rule 11(1) of the Tamil Nadu Pension Rules, 1978 and G.O(3D)No.44, Environment & Forests (FR-2) Department, dated 29.08.2016 together with arrears of pension and revised pension.

2. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader, who took notice for the respondents 1 to 4 and the learned counsel, who took notice for the fifth respondent. By consent, the writ petition itself is taken up for final disposal.

3. The background facts leading to the filing of this writ petition are as follows:

The petitioner was appointed as a Plot Watcher in Varusanadu Soil Conservation Division, Theni Range on 10.04.1984 and was employed till 31.03.2007 on daily wages basis. Thereafter, he was transferred to Social Forestry Division, Srivilliputhur SF-Range, Virudhunagar and he was employed from 01.04.2007 to 06.08.2009. Finally, he was absorbed into regular post of Plot Watcher on 08.07.2009. He retired on superannuation on 31.08.2016. Thus, the petitioner has completed 32 years of service. The Government issued G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, wherein counting of 50% of the past service of the employees, who had put in long service, was ordered to be regularised. The said benefit was restricted only to the employees, who had been regularized till 01.04.2003. Thereafter, the Government passed G.O(Ms)No.183, dated 18.07.2012, granting pension taking into account 50% of past services of the staff, who had been absorbed in 2004 and thereafter. In order to grant similar benefit, the first respondent had issued a circular dated 01.11.2012 to all the authorities in the Forest Department in the State to forward the details of the staff, who are eligible to count their 50% of past services, to enable them to get pension. The name of the petitioner has been omitted and the names of all others had been forwarded and the Government issued G.O(3D)No.44, dated 29.08.2016 granting the benefit of counting 50% past services to 71 Plot Watches for the purpose of pension. The petitioner also submitted a representation dated 26.09.2016 to the respondents 2 to 4 seeking the above said claim. As the same has not been considered so far, this writ petition has been filed.

4. The grievance of the petitioner is that 50% of the service rendered by him prior to regularization is not taken into account for the purpose of pension and other benefits, as per Rule 11(2) of Tamil Nadu Pension Rules.

5. Placing reliance on the orders of this Court in **P.Chinniyan v. State of Tamil Nadu, rep. by its Secretary to Government, Forest and Environment (FR-2) Department, Chennai - 600 009 and others** reported in (2014) 6 MLJ 316, W.P(MD)No.19159 of 2013 dated

23.07.2014 (M.Kalimuthu v. The Government of Tamil Nadu rep. by its Secretary, Forest and Environment Department, Chennai - 600 009) and W.P(MD)No.17483 of 2016 dated 03.10.2016 (S.Subramanian v. State of Tamil Nadu, rep. by its Secretary to Government, Forest and Environment (FR-2) Department, Chennai - 600 009 and others), the learned counsel for the petitioner would point out that 50% of the services rendered by the similarly placed persons have been ordered to be counted for the purpose of pension.

6.It is not in dispute that the facts in those cases are similar to that of the facts in this case. Under such circumstances, the writ petition is disposed of directing the respondents 1 to 4 to count 50% of service rendered by the petitioner before regularisation along with the service rendered after regularization for the purpose of pension and other terminal benefits in the light of Rule 11(2) of the Tamil Nadu Pension Rules and also the Judgments referred to above and submit the revised pension proposal of the petitioner for the terminal benefits for authorization before the fifth respondent, within a period of twelve weeks from the date of receipt of a copy of this order and the fifth respondent is directed to authorise the same within a period of two weeks, thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Forest & Environment Department,
Government of Tamil Nadu, Fort St. George, Chennai - 600 009.
- 2.The Principal Chief Conservator of Forest,
Office of the Principal Chief Conservator of Forest,
Panagal Maligai, Saidapet, Chennai - 600 015.
- 3.The Conservator of Forest, Virudhunagar Circle, Virudhunagar.
- 4.The Divisional Forest Officer,
Social Forestry Division, Virudhunagar.
- 5.The Accountant General,
Office of Accountant General, DMS Compound, Teynampet,
Chennai - 600 018.

+1 cc to The Special Government Pleader in SR.No. 67485

+1 cc to M/s.K.Appadurai, Advocate in SR.No. 67627

ORDER MADE IN

W.P(MD)No.21445 of 2016

and W.M.P(MD)No.15327 of 2016

10.11.2016

smn

CSL/DB/29.11.2016: 3P/8C

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