



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE **S.VIMALA****W.P (MD) No.22762 of 2016**

Ganesan

: Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by Secretary to Government,
Finance (Pension) Department,
Fort St. George,
Chennai - 9.

2.Principal Chief Conservator of Forest,
Panagal Buildings,
Chennai - 15.

3.The District Forest Officer,
Virudhunagar District,
Virudhunagar.

4.The Principal Accountant General,
The Principal Accountant General of Tamil Nadu,
Teynampet,
Chennai - 18.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 to count the half of the service rendered by the petitioner as a social forest watcher from 03.06.1981 to 06.08.2009 along with the regular service as Plot Watcher from 07.08.2009 to 28.02.2014 as the qualifying service and sent the revised pension proposal to the fourth respondent and to further direct the fourth respondent to sanction the eligible pension and all other terminal benefits to the petitioner within a time frame as fixed by this Court.

For Petitioner : Mr.S.Alagusundar

For Respondents 1 to 3 : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.

**ORDER**

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to count the half of the service rendered by the petitioner as a social forest watcher from 03.06.1981 to 06.08.2009 along with the regular service as Plot Watcher from 07.08.2009 to 28.02.2014 as the qualifying service and sent the revised pension proposal to the fourth respondent and to further direct the fourth respondent to sanction the eligible pension and all other terminal benefits to the petitioner

2. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader, who took notice for the respondents 1 to 3 and the learned counsel, who took notice for the fourth respondent. By consent, the writ petition itself is taken up for final disposal.

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

The petitioner was initially appointed as a Social Forestry Watcher on 03.06.1981 on daily wages basis. Thereafter, his services were regularised on 07.08.2009 by the third respondent, by the proceedings dated 29.08.2009. Thereafter, he was employed till 28.02.2014, on which date, he retired from service on account of superannuation. His services were regularised only from 07.08.2009 and not from 03.06.1981.

3.1. The case of the petitioner is that the petitioner is entitled to get pension benefits in terms of G.O.Ms.No.408, dated 25.08.2009, applicable to the persons, who are recruited on or before 01.04.2003. The new contributory pension scheme was introduced by virtue of G.O.Ms.No.259, dated 06.08.2003, which states that the persons recruited after 01.04.2003 are not eligible to get old pension.

3.2. The claim of the petitioner is that the petitioner must be treated as a regular employee from 03.06.1981, in which event, he will be considered under the old pension scheme. Therefore, 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. The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that due to the financial crisis, the claim of the petitioner has not been considered and the petitioner was not in regular service and therefore his claim should not be considered.



6.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 and therefore the petitioner is also entitled to the same benefit.

7.It is not in dispute that the facts in those cases are similar to that of the facts in this case.

7.A. From the facts it is evident that the petitioner is a person appointed before 01.04.2003 and he is eligible to be considered under old pension scheme. Under such circumstances, the writ petition is disposed of directing the respondents 1 to 3 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/pension for authorization before the fourth respondent, within a period of ten weeks from the date of receipt of a copy of this order and the fourth respondent is directed to sanction the same within a period of two weeks, thereafter. No costs.

Sd/-

Assistant Registrar(CS-I)

/True copy/

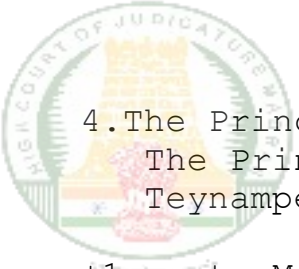
Sub Assistant Registrar

To

1.The Secretary to Government,
Finance (Pension) Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.

2.The Principal Chief Conservator of Forest,
Panagal Buildings, Chennai - 15.

3.The District Forest Officer,
Virudhunagar District, Virudhunagar.



4.The Principal Accountant General,
The Principal Accountant General of Tamil Nadu,
Teynampet, Chennai - 18.

+1 cc to M/s.A.Alagusundar, Advocate in SR.No. 73921
+1 cc to The Special Government Pleader in SR.No. 74000
+1 cc to M/s.P.Gunasekaran, Advocate in SR.No. 74345

smn

CSL/MV-MMS/31.01.2017 : 4P/8C

**ORDER MADE IN
W.P (MD) No.22762 of 2016
29.11.2016**