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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA
W.P(MD)No.23095 of 2016

V.Marikannu

: Petitioner

Vs.

1.The State of Tamil Nadu rep. by its Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai - 9.

2.The Principal Chief Conservator of Forest &
Head of the Department,
6th Floor, Panagal Buildings,
Thenampettai, Chennai - 15.

3.The Wild Life Warden,
Grizzled Squirrel Wild Life Sanctuary,
Srivilliputhur Division,
Srivilliputhur, Virudhunagar District.

4.The Chief Accountants General,
Office of the Accounts General, Chennai.

: 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 half of the service rendered by the petitioner on temporary basis from the date of joining to the date of regularization along with the regular service rendered by the petitioner till his retirement as qualifying service for the purpose of conferment of pension and other consequential benefits and to direct the respondents to send the pension proposal to the 4th respondent.

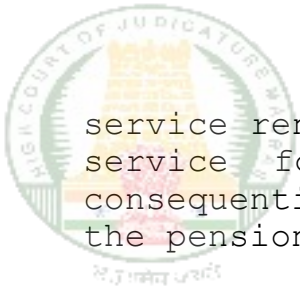
For Petitioner : Mr.P.Athimoolapandian

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

For Respondent No.4 : Mr.P.Gunasekaran

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to count half of the service rendered by the petitioner on temporary basis from the date of joining, to the date of regularization along with the regular



service rendered by the petitioner till his retirement as qualifying service for the purpose of conferment of pension and other consequential benefits and to direct the respondents 1 to 3 to send the pension proposal to the fourth respondent.

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 appointed as a Plot Watcher from 01.06.1980 to 31.01.1982 on daily wage basis. Subsequently, he was posted as Social Worker, Sivagangai from 01.02.1982 to 14.08.1990 and thereafter, he was posted as District Rural Development Authority Worker, Srivilliputhur from 09.11.1990 to 31.08.1996. Thus, the petitioner has completed total services of 16 years 14 days prior to regularization.

The petitioner has rendered regularized service for the period from 12.01.2004 to 30.04.2006. He retired from service on 30.04.2006.

3.1. 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. Therefore, he sent a representation on 08.07.2015 to the respondents. As the same has not been considered, this writ petition has been filed.

4. The learned counsel for the petitioner relied upon the Judgment rendered in W.P.No.24179 of 2014, dated 05.09.2014. Towards the compliance of the order of the High Court passed in the Writ Petition, the Government has passed G.O.Ms.No.44, dated 30.04.2014.

5. The claim of the petitioner is objected on the ground that even though the claim of the petitioner is based upon the earlier orders passed by this Court, on earlier occasion also objections have been raised stating that the respondent are suffering from financial crisis and it is not possible to consider the service, which are purely temporary. The said contention cannot be accepted as it has been repeatedly held by the Hon'ble Supreme Court that financial crisis cannot be a ground to decline the legitimate benefit to be conferred on the petitioner. 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 the Judgment referred to above. The respondent concerned is directed to submit the revised pension



proposal of the petitioner, within a period of twelve 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.

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/True Copy/

Sd/-

Assistant Registrar(CS-I)

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Environment and Forest Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.
 - 2.The Principal Chief Conservator of Forest &
Head of the Department,
6th Floor, Panagal Buildings,
Thenampettai, Chennai - 15.
 - 3.The Wild Life Warden,
Grizzled Squirrel Wild Life Sanctuary,
Srivilliputhur Division,
Srivilliputhur, Virudhunagar District.
 - 4.The Chief Accountants General,
Office of the Accounts General, Chennai.
- +1cc to SPECIAL GOVERNMENT PLEADER in SR. No.79019
+1cc to M/s.P.ATHIMOOLA PANDIAN Advocate in SR. No.78527
SMN
JS/SV/MMS/07.03.2017/3P-7C

ORDER MADE IN
W.P (MD) No.23095 of 2016
01.12.2016