

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.6599 of 2017 & W.M.P. No.7079 of 2017

R. Kuppan (Plot Watcher)

Petitioner

vs.

- 1 The Principal Chief Conservator of Forest
Panagal Maaligai
Saidapet
Chennai 600 015
- 2 The Chief Conservator of Forests
(Forestry Extension-North Region)
Chennai - 22
- 3 The Forest Officer
Research Division
Chennai - 127
- 4 The Divisional Forest Officer
Agro Forestry Research Division
Madurai
- 5 The Deputy Conservator of Forest
Agro - Forestry Research Division
Madurai
- 6 The Forestry Extension Officer
Forestry Extension Office
Vellore @ Pallikonda

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to quash the proceedings of the 6th respondent in letter no.C.No.161/2016 dated 12.08.2016 and consequentially pass an order treating the petitioner to have worked in the earlier post of "Plot Watcher" till 31.12.2015 and to direct the respondents to pay wages and other wages inclusive of retirement benefits or in the alternative directing the respondents to pay such appropriate compensation equivalent in lieu of such backwages and other wages inclusive of retirement benefits treating the petitioner

to have worked and retired on 31.12.2015 and also directing the respondents to pay interest at 24% p.a. from 11.03.2014 onwards within a time frame.

For petitioner	Mr. Y. Bhuvanesh Kumar
For respondents	Mr. N. Inbanathan
	Government Advocate (Forests)

ORDER

Mr. N. Inbanathan, learned Government Advocate (Forests), accepts notice for the respondents.

2 At the outset, it is worth pointing out that this writ petition has been wrongly filed by the petitioner without even realising that he has already filed a writ petition seeking the same prayer as sought in this writ petition, which was dismissed as withdrawn.

3 The petitioner was appointed as Plot Watcher in the Forestry Extension Division, Vellore and after some time, he was promoted as Mali vide proceedings dated 10.01.2014 issued by the Principal Chief Conservator of Forests, Chennai, the first respondent herein and was allotted to Research Circle, Chennai. Subsequently, he was allotted to Agro Forestry Research Division, Madurai vide proceedings dated 17.01.2014 of the Conservator of Forests, Research Circle, Chennai, due to which, he was relieved from the post of Plot Watcher on 11.03.2014. Later, the Deputy Conservator of Forests, Agro Forestry Research Division, Madurai, vide proceedings dated 13.03.2014, reported that the petitioner was not permitted to continue as Mali, since he was not able to read or write and accordingly, he was returned back. Only thereafter, the petitioner addressed a representation to the first respondent on 26.03.2014 requesting to repost him as Plot Watcher. But, the allegation made by the respondents against the petitioner shows that the petitioner did not turn up for duty for 21 months till he attained the age of superannuation.

4 With the above background, the petitioner came to this Court in W.P. No.4852 of 2016 on 04.02.2016 with the following prayer:

"seeking a writ of mandamus or any other writ, order or direction in the nature of writ directing second respondent to consider the petitioner's representation dated 26.03.2014 and re-appoint him as Plot Watcher as forwarded by the 6th respondent to the 2nd respondent in Proceedings Na.Ka.No.16/24 dated 11.06.2014 enclosing the petitioner's representation dated 26.03.2014 and to pass orders to pay the salary

for the post of Plot Watcher from 11.03.2014 onwards with all consequential benefits within a time frame."

5 Opposing the above prayer, the sixth respondent, viz., the Forestry Extension Officer Vellore at Pallikonda, filed a detailed counter affidavit taking a stand that the petitioner did not turn up for duty for 21 months; even according to the school submitted by the petitioner at the time of his appointment as Plot Watcher, his date of birth has been shown as 04.12.1955; therefore, he was deemed to have been retired from service on reaching the age of superannuation of 60 years on 31.12.2015.

6 The said counter affidavit also clearly shows that the petitioner wantonly refused to join duty even after 21 months from the date of rejection of his appointment as Mali; when the petitioner was promoted as Mali vide proceedings dated 10.01.2014 of the Principal Chief Conservator of Forests, he was allotted to the Research Circle, Chennai and subsequently, he was allotted to the Agro Forestry Research Division, Madurai and he was relieved from the post of Plot Watcher on 11.03.2014; subsequently, when he reported to duty, he was not permitted to continue as Mali since he was not able to read and write and as a result, he was returned back; however, the petitioner, instead of joining back, gave a representation to the Principal Chief Conservator of Forests, Chennai on 26.03.2014 requesting to repost him as Plot Watcher.

7 When the above was the stand taken in the counter affidavit in the earlier round of writ petition, it is not known as to why the petitioner had taken a decision to withdraw the writ petition and after withdrawing the writ petition, has filed the instant writ petition, renewing the same prayer with an additional relief of quashment of order dated 12.08.2016, whereby and whereunder, his claim of backwages for the period he had not served, has been rejected.

8 As mentioned above, when the petitioner filed the earlier writ petition seeking a writ of mandamus directing the second respondent, viz., the Chief Conservator of Forests, (North Region), Chennai, to consider his representation dated 26.03.2014 and reappoint him as Plot Watcher and also to pass orders to pay salary for his service as Plot Watcher from 11.03.2014 onwards with consequential benefits within a time frame, after withdrawing the said writ petition, the petitioner is estopped from coming to this Court once again with the same prayer, but, with different wordings and with an additional relief of quashment of an order by which his claim of backwages has been turned down.

9 The learned counsel for the petitioner submitted in the earlier writ petition, the petitioner has asked for only payment of salary from 11.03.2014 till 31.12.2015, but, did not ask for pension.

10 But, this Court is not inclined to accept the said contention for the reason that a cursory glance of the earlier prayer and the present prayer clearly shows that the petitioner had asked for consequential benefits, which includes pension as well, along with payment of salary from 11.03.2014 to 31.12.2015.

11 In view of the foregoing discussion, this Court has no hesitation in holding that the present writ petition is liable to be dismissed on the ground of res judicata.

12 However, without going into the merits of the case as to whether the petitioner is entitled to get the benefit of pension, this Court directs the respondents to look into the issue as to whether the petitioner is entitled to get the pensionary benefits and if it is found that he is entitled to get those benefits, the same shall be considered on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition stands dismissed with the above direction. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

cad
To

1 The Principal Chief Conservator of Forest
Panagal Maaligai
Saidapet
Chennai 600 015

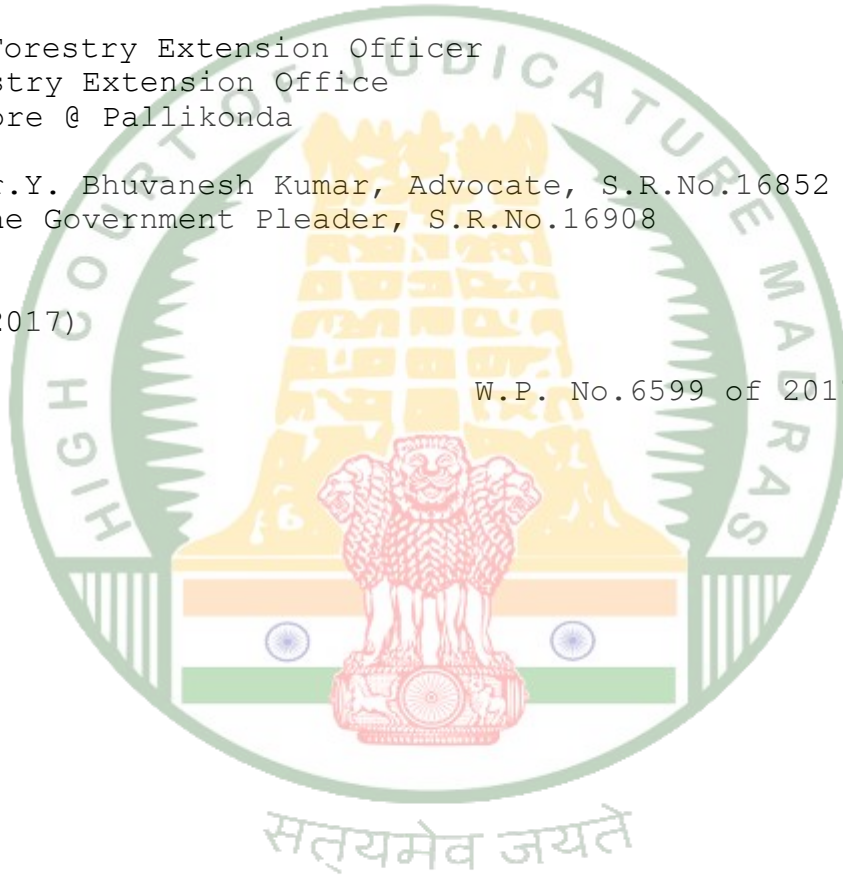
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Forestry Extension Office
Vellore @ Pallikonda

+lcc to Mr.Y. Bhuvanesh Kumar, Advocate, S.R.No.16852
+lcc to the Government Pleader, S.R.No.16908

ca (CO)
md(10/04/2017)

W.P. No.6599 of 2017



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