

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.31103 of 2017 and
WMP No.34105 of 2017

P.Rajendran

.. Petitioner

-vs-

1. The State of Tamilnadu
rep. by its Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai - 9
2. The Principal Chief Conservator of Forest,
Panagal Building, Saidapet,
Chennai - 15
3. The Conservator of Forests,
Villupuram Circle, Villupuram
4. The District Forest Officer,
Kallakurichi Forestry Division,
Kallakurichi
5. The Forest Range Officer,
Forest Extension Centre,
Ulundurpet

.. Respondents

Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 4th respondent to permit the petitioner to join duty as per the proceedings of the 3rd respondent in Pa.Aa.No.43 /2017/Pa2 dated 08.08.2017 and also to pay his salary, which is pending disbursement on compulsory wait for the past four months from 16.08.2017 within time frame.

For Petitioner :: Ms.K.Jenitha

For Respondents:: Mr.E.Manoharan

Additional Government Pleader (Forests)

O R D E R

This Writ Petition has been filed seeking a direction to the 4th respondent to permit the petitioner to join duty as per

proceedings of the 3rd respondent passed in Pa.Aa.No.43/2017/Pa2 dated 08.08.2017 and also pay the salary, which is pending for the past four months.

2. The brief facts of the case are as follows:

(i) Petitioner joined as plot watcher on 01.02.1982. Subsequently, his name was included in the Statewide Seniority List vide Serial No.1698 and posted as Mali vide proceedings in Na.Ka.No.228/2007 dated 01.08.2007 at Forestry Extension Center, Ulunderpet. Subsequently, he was brought into regular time scale of pay as per G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009. On an earlier occasion, the Government also issued G.O.Ms.No.64 Environment and Forest Department dated 08.03.1999 stating that the State Level Seniority List of daily waged social forestry workers and plot watchers are to be prepared as per clause (iv) of Paragraph No.3 of the G.O., to those who are able to read and write Tamil must be appointed as forest watcher or Malis by relaxing the recruitment rules and age restrictions. In this regard, during the time of preparation of state wide seniority list, the District Forest Officer, Kallakurichi has taken physical measurement and height of the petitioner was measured as 162.6 cms and the same was recorded as 162 cms. In view of short fall of $\frac{1}{2}$ cms, than the minimum height of 163 cms, his services were not regularised as forest watcher.

(ii) Subsequently, similarly placed person like the petitioner has filed W.P.No.6327 of 2005 seeking a direction to appoint the petitioner therein as forest watcher with effect from 07.09.2004, as per Statewide Seniority List. This Court, had issued a direction in W.P.No.6327 of 2005 to appoint the petitioner therein as forest watcher by relaxing the Rule, as was done in the case of Sivanesan in G.O.(2D) No.56, Environment and Forest Department dated 06.09.2005 for the same post. Thereafter, Petitioner has also submitted his representation to appoint him as Forest watcher by relaxing Rule of Height in the light of the order passed in W.P.No.6327 of 2005.

3. Learned Additional Government Pleader (Forests) appearing for the respondents submitted that reliance has been placed by the petitioner on the order passed by this Court in W.P.No.6327 of 2005 and the case of Sivanesan, wherein the Rule was relaxed in G.O.(2D) No.56, Environment and Forest Department dated 06.09.2006, cannot be accepted and the same cannot be stated as precedent, since a perusal of the order dated 08.08.2017 passed by 3rd respondent, namely, the Conservator of Forests, Villupuram Circle, Villupuram clearly shows that the petitioner was posted as Supernumerary Plot Watcher in Kallakurichi. Further, he fairly submitted that inspite of order dated 08.08.2017 posting the petitioner as Supernumerary watcher

in Kallakurichi, he was not permitted to join duty, however, he has also produced a proceedings dated 25.11.2017 from the 4th respondent, namely, the District Forest Officer, Kallakurichi Division, Kallakurichi and contended that the petitioner was posted as Supernumerary Watcher to Vellimalai Beat of Vellimalai Range.

4. On a careful perusal of the facts of the case and upon hearing the arguments advanced on either side, it is clear that the petitioner was not having the requisite height as per Rule for the post of Forest Watcher, therefore, he can be considered only for the post of Malis. That apart, petitioner has also given an undertaking letter on 24.08.2017 to the 4th respondent stating that he will not claim any service rights / benefits including the allowance available or attached to the post of regular forest watcher and that he will avail the benefits of Mali. Moreover, petitioner was accommodated as supernumerary plot watcher with the scale of pay meant for Malis and he has also accepted the said appointment by way of his undertaking. Therefore, it shows that the petitioner is appointed as Supernumerary Water with the scale of pay meant for Malis, hence, it is open to the petitioner to proceed and join at Vellimalai beat of Vellimalai range as per order dated 25.11.2017. In view of the foregoing, the Writ Petition stands closed. However, petitioner can claim his salary only for the post of Malis. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS III)

//True copy//

Sub Assistant Registrar

ssd

To

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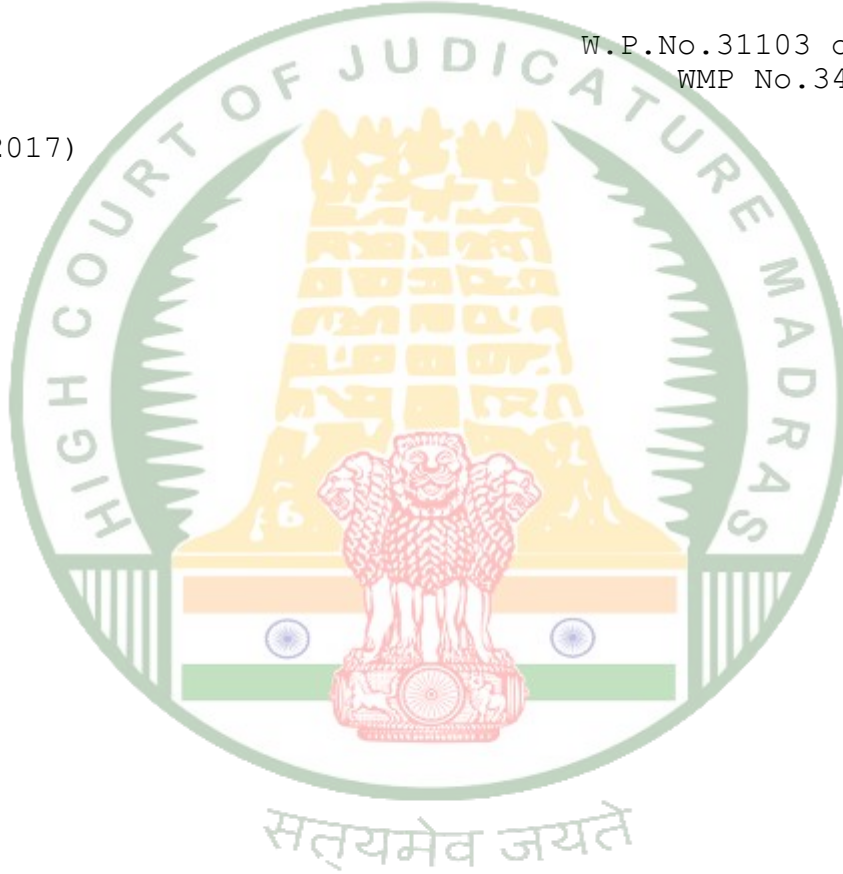
5. The Forest Range Officer,
Forest Extension Centre,
Ulundurpet

+lcc to Mr.K.Jenitha, Advocate SR.No.85170

+lcc to Government Pleader SR.No.85190

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GN(28/12/2017)



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