

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.1260 and 1261 of 2017

P.Karunamoorthy ... Petitioner in W.P.No.1260 of 2017

R.Asokan ... Petitioner in W.P.No.1261 of 2017

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 Forests,
Panagal Building,
Saidapet, Chennai-15. ...1st and 2nd Respondents
in both WP's

3.The District Forest Officer,
Nilgiris North Division,
Uthagamandalam. 3rd Respondent in
W.P.No.1260/2017

4.The Principal Accountant General of Tamil Nadu,
Teynampet, Chennai-18. 4th Respondent in both WP's

5.The District Forest Officer,
Thanjavur Division, ...3rd Respondent in W.P.1261/2017
Thanjavur.

Prayer in W.P.No.1260 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 to count the half of service rendered by the petitioner as Social Forestry Worker from 16.11.1984 to 24.01.1995 on temporary basis along with the regular service from 25.01.1995 till the date of retirement on 31.10.2016 as qualifying service for the purpose of conferment of pension and to direct the respondents to send pension proposal to the fourth respondent under the old pension scheme for authorize the same with all consequent benefits within the time frame.

Prayer in W.P.No.1261 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 to count the half of service rendered by the petitioner's wife as Social Forestry Worker from 24.08.1983 to 06.08.2009 on temporary basis along with the regular service from 07.08.2009 till the date of retirement on 22.08.2011 as qualifying service for the purpose of conferment of pension and to direct the respondents to send family pension proposal to the fourth respondent for authorize the same with all consequent benefits within the time frame.

For Petitioner :M/s.K.Jenitha
in both W.Ps.

For Respondents :Mr.N.Inbanathan,
in both W.Ps. Government Advocate (Forests)
for R1 to R3

Mr.V.Vijayashankar for R4

C O M M O N O R D E R

By consent, these Writ Petitions are taken up for final disposal.

W.P.No.1260 of 2017

2. The petitioner in W.P.No.1260 of 2017 was appointed as Social Forestry Worker on 16.11.1984 at Social Forestry Range, Villupuram and was paid from contingencies and the respondents issued G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999 for preparation of State Wide Seniority List of Social Forestry Workers/Plot Watchers to regularize their services as and when the vacancy arises and as per the above said Government Order, his name was included in the State Wide Seniority List in Sl.No.3804 and the petitioner was appointed as Forest Watcher in the regular time scale of pay on 30.03.2012, vide proceedings of the third respondent in Na.Ka.No.6545/2011/Pa1. It is further averred by the petitioner that the Government issued G.O.Ms.No.332, Environment and Forest Department, dated 22.12.1994, imposing a new condition of pass in S.S.L.C. for holding regular post of Forest Watcher and as per the said Government Order, 425 qualified persons were appointed as Forest Watchers and aggrieved by the said Government Order, unqualified persons challenged G.O.Ms.No.332 dated 22.12.1994, before the Tamil Nadu Administrative Tribunal in O.A.No.197 of 1995 and during the pendency of the Original

Application, the Government relaxed the service rules and restored the qualification as ability to read and write instead of a pass in S.S.L.C. through G.O.Ms.No.64, E&F Department dated 08.03.1999. The grievance expressed by the petitioner is that some of the junior persons who got promotion during the same period, have joined as Forest Watchers and got their subsequent promotion as Forest Guard and Forester and the petitioner has also filed W.P.No.41100 of 2015 praying for a direction to the respondents to appoint him as regular time scale of pay Forest Watcher by taking into account of his seniority and qualification on par with his juniors and pendency of the writ petition, the petitioner was permitted to retire on attaining the age of superannuation on 31.10.2016, vide proceedings of the third respondent and after retirement, the petitioner requested the third respondent to send pension proposal by counting 50% of service for nearly 11 years of temporary service along with more than 21 years of regular service as per the entry made in his Service Register for conferment of pension as per the Old Pension Scheme and conferment of consequential benefits and despite receipt and acknowledgment of the petitioner's representation dated 09.11.2016 in this regard, no orders have been passed and therefore, came forward with this writ petition.

W.P.No.1261 of 2017

3. The petitioner would aver that his wife was appointed as Village Social Forestry Worker on 24.08.1983 through Employment Exchange in Thanjavur Social Forestry Range and she was paid from contingencies. The respondents has issued G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999 for preparation of State Wide Seniority List of Social Forestry Workers/Plot Watchers to regularize their services as and when the vacancy arises and the petitioner's wife was brought under regular time scale of pay with effect from 07.08.2009 after 26 years of unblemished record of service and as per the said Government Order, name of the petitioner's wife was included in the Statewide Seniority List in Sl.No.2954. The petitioner's wife was brought under regular time scale of pay with effect from 07.08.2009 after 26 years of unblemished record of service on the basis of G.O.Ms.No.95 of the first respondent dated 07.08.2009 and she was conferred with all benefits as that of Government servants. On 22.08.2011, the petitioner's wife died due to heart attack, leaving behind the petitioner, one daughter and one son as her legal heirs. After the demise of his wife, the petitioner requested the third respondent to grant family pension and other benefits by considering his wife's long service and as per Rule 11(2) of the Tamil Nadu Pension Rules, 1978, half of the service paid from contingencies shall be allowed to count towards qualifying service for pension along with regular service. The petitioner, in this regard, has also

submitted a representation dated 09.01.2015 to the respondents and despite receipt and acknowledgment, no orders have been passed and hence, the petitioner has come forward with this writ petition.

4. The learned counsel appearing for the petitioners would submit that the matter in issue is covered by the judgment rendered by this Court in P.Chinniyan v. State of Tamil Nadu, Rep by Secretary to Government, Forest and Environment (F2) Department, Chennai-9 [(2014) 6 MLJ 316] and prays for appropriate orders.

5. Mr.N.Inbanathan, learned Government Advocate (Forest) would submit that the representation of the petitioners would be considered and appropriate orders will be passed at an early date.

6. Though the petitioner has prayed for larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioners, directs the respondents 1 to 3 to consider and dispose of the petitioners' representations dated 09.01.2015 and 09.11.2016 and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners.

7. The Writ Petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

jvm

To

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

2.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai-15.

3.The District Forest Officer,
Nilgiris North Division,
Uthagamandalam.

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

5.The District Forest Officer,
Thanjavur Division,
Thanjavur.

+1cc to the Special Government Pleader Sr.3568

+1cc to the Special Government Pleader Sr.3566

W.P.Nos.1260 and 1261 of 2017

lrs[col]
srg 6/2/2017



WEB COPY