

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. Nos. 1536 & 1537 of 2017

W.P. No. 1536 of 2017

M. Gaja

... 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,
Panagal Building,
Saidapet, Chennai - 15.
3. The District Forest Officer,
Thiruvallur Forest Division,
Thiruvallur.
4. The Principal Accountant General
of Tamil Nadu,
Teynampet, Chennai - 18. ... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 to 3 to count half of service rendered by the petitioner as Social Forestry Worker from 16.10.1983 to 06.08.2009 on temporary basis along with the regular service from 07.08.2009 till the date of retirement on 31.01.2017 as qualifying service for the purpose of conferment of pension and to direct the respondents to send pension proposal to the fourth respondent to authorize the same with all consequential benefits within the time frame.

W.P. No. 1537 of 2016

M. Athirajan

...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,
Panagal Building,
Saidapet, Chennai - 15.
3. The District Forest Officer,
Thanjavur Division,
Thanjavur.
4. The Principal Accountant General
of Tamil Nadu,
Teynampet, Chennai - 18. ...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 to 3 to count half of the service rendered by the petitioner as Social Forestry Worker from 01.09.1983 to 06.08.2009 on temporary basis along with regular service from 07.08.2009 till the date of retirement on 31.05.2010 as qualifying service for the purpose of conferment of pension and to direct the respondents to send pension proposal to the fourth respondent to authorize the same with all consequential benefits within time frame.

For Petitioners :: Ms.K. Jenitha

For Respondents :: Mr.N. Inbanathan,
Govt. Advocate (Forest)
for R1 to R3
Mr.V.Vijayashankar for R4

WEB COPY
COMMON ORDER

By consent, the main writ petitions themselves are taken up for final disposal.

2. Mr.N. Inbanathan, learned Government Advocate (Forest) accepts notice on behalf of respondents 1 to 3 and Mr.V. Vijayashankar, learned counsel accepts notice on behalf of the 4th respondent.

3. The petitioner in W.P. No. 1536 of 2017 would state that he joined the service as a Plot Watcher on 16.10.1983 in Ponneri Range of Chengalpattu Division. As per G.O.Ms. No. 64 Environment and Forest Department dated 08.03.1999, for the preparation of State Wide Seniority List of Social Forestry Workers/Plot Watchers, the name of the petitioner was included in the State Wide Seniority List at Serial No. 3095. The petitioner would further submit that in terms of G.O.Ms. No. 95 Environment and Forest Department dated 07.08.2009, he was brought under the time scale of pay, with effect from 07.08.2009, by proceedings dated 31.08.2009 and he had put in 25 years of hard, sincere and unblemished service to the satisfaction of his superior officers and he is going to retire on 31.01.2017 on reaching the age of superannuation. The grievance of the petitioner is that half of the period of service, rendered by him, on daily wages basis, have not been taken into consideration for the purpose of conferment of pensionary benefits and this is in violation of Rule 11(2) of Tamil Nadu Pension Rules, 1978.

4. The petitioner would further submit that in terms of the order dated 01.02.2013, in W.P. No. 34704 of 2012, in G.Ponnusamy and 3 others V. The Government of Tamil Nadu, represented by its Secretary to Government, Environment and Forest Department, Fort St. George, Chennai - 600 009 and 4 others as well as the order dated 09.04.2014 in W.P. No. 18956 of 2013 in D. Samikannu and another V. The Government of Tamil Nadu, represented by its Secretary to Government, Environment and Forest Department, Fort St. George, Chennai - 600 009 and 3 others, half of the period of service, rendered on daily wages, has to be taken into consideration for grant of pension. In this regard, the petitioner has also submitted a representation dated 13.12.2016 to the 3rd respondent. Since no orders have been passed, came forward to file the above writ petition.

5. As far as the petitioner in W.P. No. 1537 of 2017 is concerned, he was appointed as a Social Forestry Worker on 01.09.1983 in the Social Forestry Division, Thanjavur, vide proceedings dated 09.09.1983. As per G.O.Ms. No. 64 Environment and Forest Department dated 08.03.1999, for the preparation of State Wide Seniority List of Social Forestry Workers/Plot Watchers, the name of the petitioner was included in the State Wide Seniority List at Serial No. 2957. The petitioner herein has also made a similar claim, as that of the petitioner in W.P. No. 1536 of 2017 and in this regard, he has submitted a representation dated 09.01.2016 to the 3rd respondent, through proper channel. Since the said representation is yet to be disposed of, came forward to file this writ petition.

6. Learned counsel for the petitioners, would submit that, in similar circumstances, this Court has passed very many orders directing the respondent concerned to count half of the service rendered by the employee concerned, on daily wages basis, for the purpose of calculating pension and therefore, prays for similar orders.

7. Per contra, Mr.N. Inbanathan, learned Government Advocate (Forest), appearing for respondents 1 to 3, would contend that the claim of the petitioners is hit by delay and laches and the petitioners, as a matter of right, cannot claim the relief sought and prays for dismissal of the writ petitions.

8. Though the petitioners have prayed for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the respective petitioners, either in their representations or in the writ petitions, directs the 3rd respondent to consider the representation of the respective petitioners dated 13.12.2016 and 09.01.2016, on merits and in accordance with law, if the papers are in order, within a period of six weeks from the date of receipt of a copy of this order and forward a proposal to the 2nd respondent, who, inturn, is directed to consider the said proposal, on merits and in accordance with law, within a further period of eight weeks and thereafter, the 2nd respondent shall forward the same to the 1st respondent, who, shall consider and pass orders, on merits and in accordance with law, within a period of ten weeks thereof and communicate the decision taken to the respective petitioners.

9. The writ petitions are disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nv
To

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,
Panagal Building,
Saidapet, Chennai - 15.
3. The District Forest Officer,
Thiruvallur Forest Division,
Thiruvallur.
4. The District Forest Officer,
Thanjavur Division,
Thanjavur.
5. The Principal Accountant General
of Tamil Nadu,
Teynampet, Chennai - 18.

+2cc to M/S.K.Jenitha, Advocate Sr.4128, 4129
+1cc to the Special Government Pleader Sr.4067,4068

W.P. Nos. 1536 & 1537 of 2017

ak[col
srg 10/02/2017

सत्यमेव जयते

WEB COPY