

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.10618 of 2013 and
M.P.No.1 of 2013

A.Babu

... Petitioner

Vs.

1. Government of India,
Rep by the Secretary to Government,
Environment & Forest Department,
Secretariat, Chennai 600 009.
2. The principal Chief Conservator of Forests,
Chennai 600 015.
3. The District Forest Officer,
Sathyamangalam Division,
Sathyamangalam 638 402,
Erode District.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to include the name of the petitioner in the appropriate place in the state wide seniority list of Plot Watchers/Village Social Forestry Watchers for appointing them in the said post with retrospective effect from the date of appointment of his immediate junior with all consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.M.Santhanaraman
Addl. Government Pleader (Forest)

O R D E R

Heard Mr.M.Ravi, learned counsel appearing for the petitioner and Mr.M.Santhanaraman, learned Additional Government Pleader (Forest) appearing for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Mandamus, to direct the respondents to include the name of the petitioner in the appropriate place in the state wide seniority

list of Plot Watchers/Village Social Forestry Watchers for appointing them in the said post with retrospective effect from the date of appointment of his immediate junior with all consequential benefits."

3. The case of the petitioner is as follows:

The petitioner was serving as Plot Watcher in the Forest Department in Salem and then in Sathyamangalam Division from 01.12.1991 onwards, on daily wage basis. According to him, he was working as Informer from 1993-2005, to assist the Special Task Force, Erode, which force has deployed to nab the late Forest Brigand Veerappan and his associates.

4. According to the petitioner, he had rendered more than 10 years of service either in the Forest Department or assisted by Special Task Force. The fact of the petitioner is that he employed in the Special Task Force for the purpose of nabbing the Forest brigand Veerappan is sought to be established by the certificate issued by the Police Personnel which are filed in the typed set of papers in support of the writ petition. The certificate issued by the Deputy Superintendent of Police on various dates certifying that the petitioner was serving as Informer in the Special Task Force.

5. The fact that the petitioner was employed as Plot Watcher was further testified by the document produced by the petitioner dated 29.01.2007, in which the District Forest Officer had addressed a communication to the Principal Conservator of Forest stating that the petitioner was employed from 2000 till 18.10.2004 as Plot Watcher. This document has not been disputed by the respondents.

6. The petitioner also further relied on the communication dated 29.01.2007, in which it is further reiterated by the Forest Ranger that the petitioner had been employed as Plot Watcher. According to the petitioner, all these documents would clearly establish the factum of petitioner's employment as Plot Watcher. In respect of several Plot watchers who were employed on daily wages, the Government has issued G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, to regularize the service of all the Plot Watchers/Forest Watchers who were working in the Department for more than 10 years. In pursuance of the implementation of the said Government Order, several thousands of Plot watchers services were regularized as supernumerary Watchers.

7. According to the petitioner, since he is also covered under the said Government Order, he has approached this Court to issue a mandamus for inclusion of his name in the state wide seniority list as Plot Watcher for appointing him in the post of Plot Watcher on regular basis.

8. Upon notice, learned Additional Government Pleader (Forest) appearing for the respondents entered appearance and filed a detailed counter affidavit. The learned counsel for the respondents would dispute the fact that the employment of the petitioner as Plot Watcher for more than 10 years. In the counter, a tabular column, it is found in paragraph 3 in which it is stated that the petitioner had been working for more than 9 years, even according to the respondents as Plot Watcher. Moreover, the document relied on by the petitioner given by the District Forest Officer vide communication dated 29.01.2007, wherein it is stated that the petitioner was employed for more than four years from 2000 till 18.10.2004.

9. According to the petitioner, after filing of the writ petition, his employment as Post Watcher has not been borne on any record in order to deny the benefit of regularization of the petitioner as done in the case of other similarly placed Plot Watchers.

10. The learned counsel for the respondents would submit that the petitioner was only employed as Informer for assisting the Special Task Force of the State Government for the purpose of nabbing the Forest Brigade Veerappan and his services accordingly not utilized as Plot Watcher as made out by the petitioner.

11. On the other hand, the learned counsel appearing for the petitioner vehemently contended that all the documents filed in support of the writ petition unequivocally discloses the fact that the petitioner was indeed employed as Plot Watcher but utilized for assisting the Special Task Force in public interest. The documents certifying the petitioner having been employed as Special Task Force are signed by the higher officials of the Forest Department. Therefore, the same cannot be called into question.

12. On behalf of the petitioner, rejoinder has been filed reiterating the claim of the petitioner and disputing the fact that the petitioner was not employed as Plot Watcher during the relevant period. According to the petitioner, he had rendered more than 14 years of service and therefore, he was entitled to be treated on par with other thousands of Plot Watchers whose service came to be regularized in G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, by creating any post if the vacancies are not otherwise available.

13. This Court has given its anxious consideration to the rival submissions made by the learned counsels for the parties and perused the materials and pleadings placed on record. At the outset, this Court has to see whether the petitioner had been in employment for more than 10 years entitling him for the benefit of G.O.Ms.No.95 dated 07.08.2009. In the instant case, the factum of the petitioner's employment as Plot

Watcher has been clearly established by the documents filed in support of the writ petition and such documents having been issued by the higher officials of Police and Forest Department. As rightly contended by the learned counsel for the petitioner, the petitioner's service cannot be called into question.

14. Although an attempt has been made by the learned counsel for the respondents that the petitioner was not employed as Plot Watcher continuously and only for a limited period he was employed, cannot carry any conviction in the face of the fact, that in the counter affidavit, it is admitted that the petitioner had worked for more than 9 years. In the said circumstances, the petitioner alone cannot be treated differently while granting the benefit of G.O.Ms.95, Environment and Forest Department, dated 07.08.2009.

15. In the light of the above discussion and narrative, this Court has no hesitation in allowing the writ petition. In the said circumstances, there shall be a direction to the respondents to include the name of the petitioner in the state wide seniority list and regularise the services by appointing him as Forest Watcher by creating a supernumerary post in case of non-availability of vacancy in terms of G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009 with all other attendant and consequential benefits as granted to other similarly placed persons. The said exercise shall be initiated and completed by the respondents within a period of three months from the date of receipt of a copy of this order.

16. With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

gsk

Sd/-

Assistant Registrar [CCC]

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Secretary to Government,
Government of India,
Environment & Forest Department,
Secretariat, Chennai 600 009.
2. The principal Chief Conservator of Forests,
Chennai 600 015.

3.The District Forest Officer,
Sathyamangalam Division,
Sathyamangalam 638 402,
Erode District.

+1CC to Mr.M.Ravi Advocate SR.NO.69046

W.P.No.10618 of 2013

VGII [CO]
MK:27/10/2017



WEB COPY