

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.1710/2017

K.Ramalingam

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Petitioner

Vs

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

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

3.The District Forest Officer,
Social Forestry Division,
Hosur, Krishnagiri District.

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

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 3rd respondent to count the petitioner service rendered by the petitioner as a plot watcher from 13.03.1987 to 06.08.2009 on temporary basis along with the regular service from 07.08.2009 to 31.07.2015 as qualifying service for the purpose of conferment of pension, allowing to avail commutation and to direct the respondents to send revised pension proposal on exercise of the petitioner option to the 4th respondent for grant of pension with all consequential benefits within time frame and all to extend the gratuity and other terminal benefit to the petitioner by taking entire service from 13.03.1987 till 31.07.2015.

For Petitioner : Mr.P.Paramasivadoss
For RR 1 to 3 : Mr.N.Inbanathan, GA [Forests]
For R4 : Mr.V.Vijayashankar

ORDER

By consent, the writ petition is taken up for final disposal. Mr.N.Inbanathan, learned Government Advocate [Forests] accepts notice on behalf of the respondents 1 to 3 and Mr.V.Vijayashankar, learned Standing Counsel accepts notice on behalf of the 4th respondent.

2 The petitioner would submit that he joined the services of the Tamil Nadu Forest Department in the year 1987 as "Plot Watcher" on a casual basis and despite putting very many years of service, his services have not been regularised and at last, the services of the petitioner and the other persons, similarly placed, have been regularised on 07.09.2009 and the petitioner retired from service on attaining the age of superannuation on 31.07.2015 and prior to the attainment of superannuation, the petitioner was promoted as Forest Watcher and retired in that capacity. According to the petitioner, he has rendered unblemished service for nearly 30 years to the satisfaction of the superior officers and the grievance expressed by the petitioner is that for the purpose of calculating the pension and other benefits, the period of service rendered by him between 07.08.2009 and 31.07.2015

alone has been taken into consideration and he was paid with a paltry sum of Rs.55,472/- towards terminal benefits. The petitioner also expresses his further grievance that he has been included in the Contributory Pension Scheme [CPS], taking note of the fact of his entry into service after 01.04.2003.

3 According to the petitioner, as per Rule 11[2] of the Tamil Nadu Pension Rules, 50% of the temporary service rendered by him has to be taken into consideration for the purpose of calculating pensionary benefits and G.O.Ms.No.22, P&AR Department, dated 28.02.2006 also stipulates that the daily wages / honararium employees, who had put in 10 years of service, were to be regularised. The petitioner also places reliance upon the Circular No.8/2012 of the 2nd respondent dated ...10.2012, in and by which, instructions have been issued to all the District / Divisional Forest Officer for sanction of pension to the Plot Watchers and 50% of temporary service rendered by them, have to be added with regular service and necessary entries were also directed to be made in the Service Register and in spite of it, it has not been done so.

4 Mr.P.Paramasivados, learned counsel appearing for

the petitioner would submit that in similar facts and circumstances, this Court, while passing orders on 18.06.2014 made in WP.No.12656/2013 *[P.Chinniyan Vs. The State of Tamil Nadu rep. by its Secretary to Government, Forest and Environment [Fr-2] Department, Chennai-9 and 4 others]*, has taken note of Rule 11[2] and 11[4] of the Tamil Nadu Pension Rules as well as various orders passed by this Court and directed the respondents therein to count half of the petitioner's service therein before his absorption along with the regular period of service, for the purpose of calculating pension and prays for appropriate orders.

5 Per contra, Mr.N.Inbanathan, learned Government Advocate [Forests] appearing for the respondents 1 to 3 would contend that the petitioner, as a matter of right cannot seek for such a relief and taking into consideration, the facts and circumstances, the petitioner was conferred with the benefits of CPS and prays for dismissal of the writ petition.

6 In response to the said submission, the learned counsel for the petitioner would submit that for belated settlement of terminal benefits, the petitioner is entitled to interest and in this regard, has also placed reliance upon the following judgments rendered by the

Hon'ble Supreme Court of India reported in:-

[a] **1994 [2] SCC 406 [R.R.BHANOT Vs. UNION OF INDIA AND OTHERS];**

[b] **1996 [10] SCC 297 [BAJI NATH GUPTA Vs. STATE OF BIHAR AND OTHERS];** and

[c] **2014 [8] SCC 894 [D.D.TEWARI [DEAD] THROUGH THE LEGAL REPRESENTATIVES Vs. UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED AND OTHERS]** and prays for interest on the belated settlement of the pensionary benefits.

7 This Court has considered the rival submissions and also perused the materials placed before this Court.

8 This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit one more representation along with a copy of this order as well as a copy of the earlier representation to the respondents 1 to 3 within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents 1 to 3 are directed to consider the said

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representation on merits and in accordance with law and pass orders within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner.

9 The writ petition stands disposed of with the above direction. No costs.

24.01.2017

Index : No

Internet : Yes

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