

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19867 of 2014

C.Mottaiyan

..Petitioner

Vs.

1.The Principal Chief Conservator of Forests
Panagal Building
Saidapet, Chennai 600 015.

2.The Forest Officer
Vellore Zone
Vellore.

3.The District Forest Officer
Vellore Division
Vellore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation date 29.01.2013, for supernumerary post of Plot Watcher.

For Petitioner : Mrs.P.Lakshmi Devi
for Mrs.R.K.Kalpana

For Respondents : Mr.E.Manoharan
Addl.Govt.Pleader (Forest)

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ORDER

The relief sought for in this Writ Petition is for a direction to the respondents to consider the petitioner's representation dated 29.01.2013, for supernumerary post of Plot Watcher.

2.The learned counsel appearing for the writ petitioner states that the petitioner was engaged as Plot Watcher in the year 1979 and was continued in service till 1987 in Thiruvannamali District. The petitioner served as Plot Watcher with some short break practice under the control of the District Forest Officer in various projects including TAP, RSVY and FDA. The learned counsel further submits that juniors to the petitioner were regularised and the case of the petitioner alone has been discriminated. In this regard, the writ petitioner made a representation to the respondents on 29.1.2013 and the writ petition is filed seeking a direction to consider the representation.

3.The representation is relating to permanent absorption of the writ petitioner in the post of supernumerary Plot Watcher. However, an appointment cannot be issued in the event of the petitioner not appointed by following the regular Recruitment Service Rules in force.

4.The learned Additional Government Pleader appearing on behalf of the respondents made a submission that the Department is

considering the cases of the temporary employees in accordance with the State wide seniority number and accordingly, they were already appointed in the supernumerary post as per G.O.No.95 Environment and Forest Department dated 07.08.2009. The counter affidavit filed by the first respondent states that the writ petitioner was only working as Plot Watcher continuously. Hence, the petitioner's name was not included in the State wide seniority list and not absorbed in the supernumerary post based on G.O.No.95 Environment and Forest Department dated 07.08.2009 and G.O.(Ms) No.140 Environment and Forests (FR2) dated 31.05.2012.

5.Thus, the fact regarding the nature of the employment of the petitioner is concerned, he was not even continuously served in the Department. Further, the learned Additional Government Pleader states that the writ petitioner was engaged by the District Forest Officer on daily wage basis. Thus, the nature of engagement cannot be considered as a legal appointment in the eye of law.

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6.In view of the fact that the petitioner's name was not found in the State wide seniority list, the question of considering the representation or the claim does not arise at all. A mere submission of

representation to the authorities will not constitute a legal right for the petitioner to move this writ petition seeking for issuance of a writ of mandamus. Even for issuing a direction to consider the representation, the writ petition has to establish his legal right and in the absence of any such legal right, this Court cannot issue any direction to the competent authorities to consider the claim made by the petitioner. This being the factum of the case, no further adjudication is required to be undertaken on the grounds raised in this Writ Petition.

7. Accordingly, the Writ Petition stands dismissed. No costs.

23.10.2017

rpa

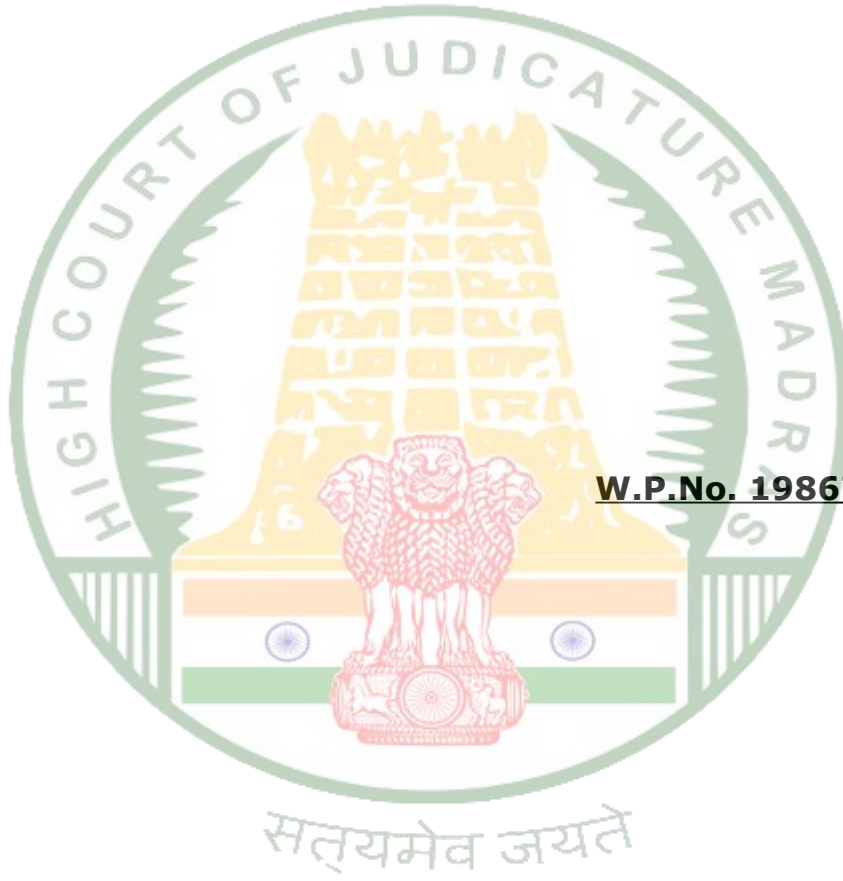
To

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Vellore Zone, Vellore.
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S.M.SUBRAMANIAM, J.,

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