



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.08.2017
CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WEB COPY

W.P.(MD)No.15526 of 2017

S.Maheswari

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Forest & Environment Department,
Fort St. George,
Chennai.

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

3. Divisional Forest Officer,
Social Forest Division,
Madurai.

4. Principal Accountant General of Tamil Nadu,
Office of Accountant General,
Teynampet,
Chennai.

... Respondents

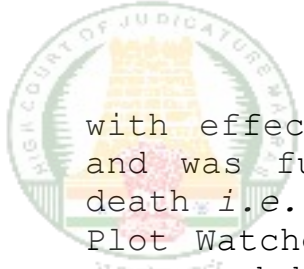
Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents to grant and disburse family pension due to the petitioner on account of the death of the petitioner's husband K.Singaravelan on 31.01.2013, who was employed as Forest Watcher in the Forest Department.

For Petitioner	: Mr.S.Anand Chandrasekar for M/S.Sarvabhauman Associates
For Respondents 1 to 3	: Mr.R.Karthikeyan Additional Government Pleader
For 4 th Respondent	: Mr.P.Gunasekaran

ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.

2. The petitioner's husband was appointed as Plot Watcher on temporary basis on 01.01.1984 and his services were regularised



with effect from 07.08.2009. He was promoted as Forest Watcher and was functioning in the said post from 16.11.2010, till his death i.e., on 31.10.2013. It is claimed that the service of the Plot Watchers and Village Social Forest Workers, who were working on an ad hoc basis, was not regularised. Subsequently, based on representations and demands made by them, Government Orders came to be issued. Pursuant thereto, the said persons were brought under regular time scale of pay and consequential benefits were granted.

3.It is stated that many of the Plot Watchers, who served and retired from service were not granted pensionary benefits under the Tamil Nadu Pension Rules, 1978 [in short 'the Rules'], on the ground that they were not having 10 years of continuous pensionary service, since the service rendered by them continuously prior to permanency on daily wage basis, was treated as non-pensionable service.

4.It is further stated that one B.Murugan, who retired from service on 13.09.2005 was granted pensionary benefits by virtue of G.O.(D)No.332, Environment and Forest [F2] Department, dated 19.11.2008, wherein 50% of the service rendered by him on daily wage basis was ordered to be included with his regular service for the purpose of sanction of pension. The said Government Order was passed based on the recommendation made by the second respondent. In the said Government Order, it was further clarified that with respect to similar type of cases, necessary orders will be passed by the Government based on the recommendation of the second respondent.

5.It is further claimed that Rule 11(2) of the Rules clearly states that for calculating the qualifying service, half of the service paid from contingencies shall be allowed to be counted. The petitioner's husband satisfies the said condition contained in Rule 11(2) of the Rules, as he was appointed as Plot Watcher on daily wage basis on 01.01.1984 and was regularised in service as Plot Watcher on 07.08.2009 and was promoted as Forest Watcher and was functioning in the said post from 16.11.2010, till his death i.e., on 31.10.2013. Subsequent to his death, though the petitioner received the death emoluments of her husband, her request for grant and disbursal of family pension in the status as spouse, made to the District Forest Officer was not considered. Hence, the petitioner gave a representation to the respondents 2 and 3 on 07.01.2016. Respondents 2 and 3 have received the said representation, but they have not taken any steps to disburse family pension to the petitioner. Subsequently, the petitioner received a communication, dated 28.04.2016, sent by the third respondent, wherein it was stated that on the basis of G.O.No.408, Environment and Forest [F2] Department, dated 25.08.2009, an order is passed to count 50% of the service rendered by her husband on temporary



basis for pensionary benefits. Despite the said communication, the third respondent has not taken any necessary action on the petitioner's representation. Hence, the present Writ Petition.

6. The learned counsel for the petitioner submitted that in similar circumstances, the respondents have also released pensionary benefits to the similarly placed persons. Recently, the Government have issued G.O.3(D)No.17, Environment and Forests (FR-(II)) Department, dated 26.04.2017, ordering that half of the service of 48 persons shall be accounted along with their regular services for calculating their pensionary benefits. Moreover, in another W.P.(MD)No.6527 of 2015, this Court, vide order, dated 23.04.2015, directed the respondents therein to consider the case of one C.Muthupandian, who is a similarly placed as that of the petitioner's husband.

7. Heard Mr.R.Karthikeyan, learned Additional Government Pleader, who takes notice for the respondents 1 to 3 and Mr.P.Gunasekaran, learned Standing Counsel, who takes notice for the fourth respondent.

8. The learned Additional Government Pleader appearing for the respondents 1 to 3 and learned Standing Counsel appearing for the fourth respondent sought sufficient time to consider the case of the petitioner.

9. In view of the above, the second respondent is directed to send appropriate proposal to the first respondent within a period of one week from the date of receipt of a copy of this order. On receipt of such proposal, the first respondent is hereby directed to consider the case of the petitioner in the light of G.O.(3D) No.20, Environment and Forests (FR-2) Department, dated 28.04.2016 and G.O.(3D)No.17, Environment and Forests (FR-(II)) Department, dated 26.04.2017 and pass appropriate orders within a period of four weeks from the date of receipt of copy of this order.

This writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government of Tamil Nadu,
Forest & Environment Department,
C. V. R. George,
Chennai.



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

WEB COPY

3. The Divisional Forest Officer,
Social Forest Division,
Madurai.

4. The Principal Accountant General of Tamilnadu,
Office of Accountant General,
Teynampet,
Chennai.

+ 1 CC TO M/S.Sarvabhauman Associates, IN SR No.73283

+ 1 CC TO MR.P.Gunasekaran, ADVOCATE IN SR No.73338

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.73501

rmi/smn2

MK/KP/SAR-2/03.10.2017/4P/8C

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