



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.02.2017
CORAM :

THE HONOURABLE MR.JUSTICE **S.VAIDYANATHAN**

WEB COPY

W.P (MD) No.3087 of 2017

K.Karuppaiah : Petitioner
Vs.

1)The Principal Chief Conservator of Forest,
Saidapet,
Chennai.

2)The Principal Secretary,
Forest & Environment Department,
Chennai-9.

3)The Chief Accountant General,
No.361, Anna Salai,
Teynampet,
Chennai.

4)The Conservator of Forest,
Trichy Circle,
J.K. Nagar,
Trichy-23.

5)The District Forest Officer,
Machuvadi,
New Model School,
Pudukkottai & District.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus, directing the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from 01.01.1981 to 07.08.2009 on daily wages basis along with regular service rendered by the petitioner from 07.08.2009 to 31.01.2016 with all consequential benefits from the date of retirement by considering the petitioner's representation dated 27.12.2016.

For Petitioner	: Mr.K.Baalasundharam
For R1, R2, R4 & R5	: Mr.S.Sathish Kumar
	Additional Government Pleader
	: Mr.P.Gunasekaran

**ORDER**

The prayer in the Writ Petition is for a Writ of Mandamus, directing the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from 01.01.1981 to 07.08.2009 on daily wages basis along with regular service rendered by the petitioner from 07.08.2009 to 31.01.2016 with all consequential benefits from the date of retirement by considering the petitioner's representation dated 27.12.2016.

2.Mr.S.Sathish Kumar, learned Additional Government Pleader takes notice for the respondents 1, 2, 4 and 5 and Mr.P.Gunasekaran, learned counsel takes notice for the 3rd respondent. By consent of both parties, the writ petition itself is taken up for final disposal.

3.The learned counsel appearing on behalf of the petitioner submitted that 50% of the service rendered by the petitioner from 01.01.1981 to 07.08.2009 on daily wages, shall be taken into account as a qualifying service, so that he would be getting a revised pension and the 3rd respondent may be directed to sanction the pension along with other terminal benefits. The learned counsel appearing on behalf of the petitioner further submitted that the issue involved in this case is also covered by the decisions of this Court in W.P(MD)No.13832 of 2011, dated 29.06.2011 and in W.P(MD)No.6359 of 2013, dated 01.04.2013.

4.In response to the same, the learned Additional Government Pleader appearing for the respondents 1, 2, 4 and 5 submitted that the decisions quoted by the petitioner, will not be applicable to the facts of the present case, as the petitioners in those cases, were regularised prior to 01.04.2003. The case of the respondents is that the petitioner's service has been regularised only after 01.04.2003 and therefore, he is not entitled to the benefit mentioned in the Government Order. It is also submitted by the learned Additional Government Pleader that since the service of the petitioner has been regularised only after 01.04.2003, he is not eligible for the relief sought for in the writ petition.

5. Since there is disputed question of fact and the learned counsel appearing on behalf of the petitioner contends that the petitioner is entitled to the benefit of the orders passed by this Court and as per Government Order, his past services should be taken into account, without expressing any opinion on the merits of the issue involved, the respondents are directed to consider the case of the petitioner, based on the facts as narrated by him and also the decisions referred to supra and in case, the petitioner satisfies the conditions mentioned in the above decisions, the benefit can be extended to the petitioner and such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



With the above direction, this Writ Petition stands disposed of. No costs.

Sd/
Assistant Registrar

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/True Copy/

Sub Assistant Registrar.

To

1)The Principal Chief Conservator of Forest,
Saidapet,
Chennai.

2)The Principal Secretary,
Forest & Environment Department,
Chennai-9.

3)The Chief Accountant General,
No.361, Anna Salai,
Teynampet,
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4)The Conservator of Forest,
Trichy Circle,
J.K. Nagar,
Trichy-23.

5)The District Forest Officer,
Machuvadi,
New Model School,
Pudukkottai & District.

+1CC to M/S.K.BALASUNDHARAM, Advocate, SR.No.11365

+1CC to M/S.P.GUNA SEKARAN, Advocate, SR.No.11558

+1CC to the Special Government Pleader, SR.No.11582

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nbi

JM AM/MR/09.03.2017/3P/9C