

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.1727 of 2017 and
C.M.P.No.22119 of 2017

- 1.The Government of Tamil Nadu
Represented by its Secretary
Environment and Forest Department
Secretariat, Chennai 600 009.
 - 2.The Principal Chief Conservator of Forests
Having Office at Panagal Maaligai,
Saidapet, Chennai 600 015.
 - 3.The District Forest Officer
Hosur at Mathiyagiri.
 - 4.The Accountant General of Tamil Nadu
Office at D.M.S. Compound
Teynampet, Chennai 600 018.
 - 5.Government of Tamil Nadu
rep. by its Secretary,
Finance Department, Secretariat,
Chennai-9.
- ...Appellants/Respondents
- Vs
- K.Pavadai ...Respondent/Petitioner

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.21891 of 2014 dated 14.08.2014.

WP.NO.21891/2014:

Writ Petition Under Article 226 of Constitution of India seeking to issue a Writ, direction or Writ of Mandamus, directing the respondents 1 to 3 to count half of the service rendered by the petitioner as Plot Watcher on daily wage basis from 1.10.1981 till 5.1.2004 along with the regular service rendered by him as Forest Watcher from 6.1.2004 till the date of his retirement namely 30.6.2013 as qualifying service send the revised proposal to the fourth respondent grant pension to the petitioner with all consequential monetary benefits.

For Appellants : Mr.M.Santhanaraman
Additional Government Pleader (Forests)

For Respondent : No appearance

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The Writ Petition filed by the respondent for counting half of his earlier service rendered as Plot Watcher from 01 October, 1981 to 06 January, 2004 for the purpose of fixing his pension was allowed by the learned Single Judge by following the earlier judgment in W.A.Nos.27 and 28 of 2012 dated 13 February, 2012, which was upheld by the Hon'ble Supreme Court by judgment dated 10 May, 2012 in SLP (Civil) Nos.14838 and 14839 of 2012.

2. The appellants were not prepared to consider the case of the respondent for counting the earlier service on account of Sub Rule (4) Rule 11 of the Tamil Nadu Pension Rules, 1978. The said Sub Rule contained a cut off date, viz., 01 April, 2003. The Sub Rule was the subject matter in W.P.No.12656 of 2013. The learned Single Judge quashed the Sub Rule by order dated 18 June, 2014. The order has become final.

3. There is no statutory provision prevailing as on today in view of quashing Rule 11 (4) of the Tamil Nadu Pension Rules, 1978 to deny 50% of the past service to the employees. The learned Single Judge was therefore, perfectly correct in allowing the Writ Petition filed by the respondent by following the earlier order passed by the learned Single Judge, which was upheld by the Division Bench and the Hon'ble Supreme Court. We are, therefore, of the view that the appellants have not made out a case to interfere with the order passed by the learned Single Judge.

In the upshot, we dismiss the intra court appeal filed by the State. The appellants are directed to comply with the order passed by the learned Single Judge within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary,
Government of Tamil Nadu,
Environment and Forest Department
Secretariat, Chennai 600 009.

2.The Principal Chief Conservator of Forests
Having Office at Panagal Maaligai,
Saidapet, Chennai 600 015.

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Hosur at Mathiyagiri.

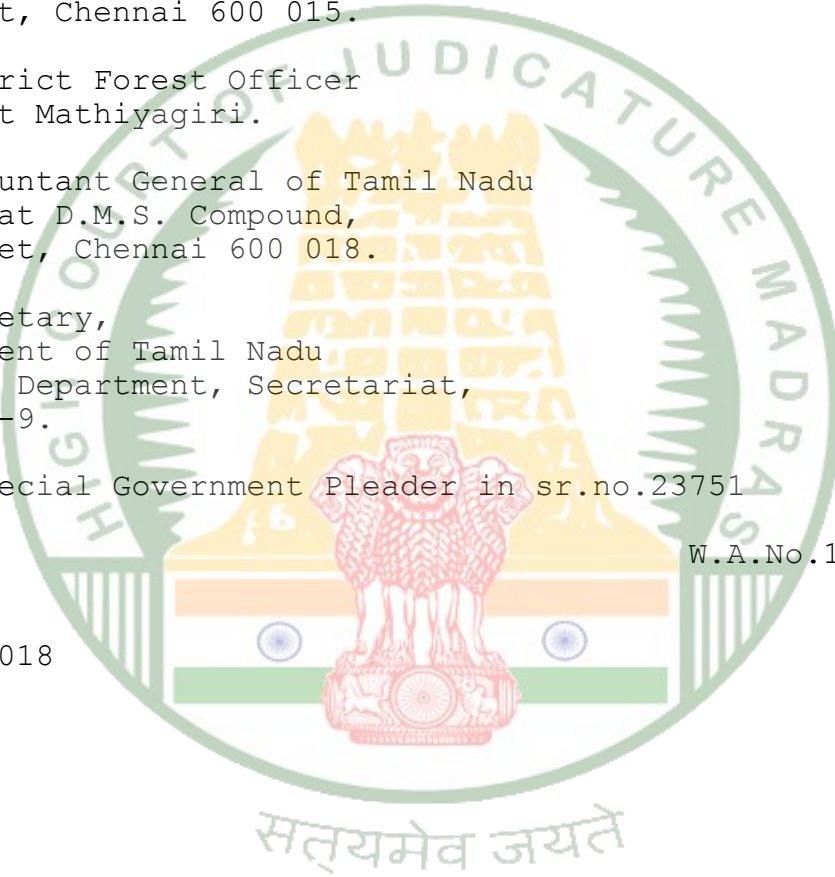
4.The Accountant General of Tamil Nadu
Office at D.M.S. Compound,
Teynampet, Chennai 600 018.

5.The Secretary,
Government of Tamil Nadu
Finance Department, Secretariat,
Chennai-9.

+1cc to Special Government Pleader in sr.no.23751

W.A.No.1727 of 2017

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