

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22-10-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.31524 of 2015

And

M.P.No.1 of 2015

Tamil Nadu Forest Plantation Corporation  
Retired Staff Welfare Association,  
(Regd. No.241/28.9.2010),  
having Office at No.37/47, Raja Street,  
Subramaniapuram,  
Tiruchirapalli - 620 020 represented by its  
President Thiru S.Saba Natesan  
(Petitioner-Association President substituted  
vide order of Court made in the Memo in  
WP No.31524 of 2015 dated 22.10.2018) ... Petitioner

..Vs..

- 1.The Government of Tamil Nadu,  
Represented by the Principal Secretary  
to Government,  
Environment and Forest Department,  
Secretariat,  
Chennai-600 009.
- 2.Tamil Nadu Forest Plantation Corporation Ltd.,  
Represented by its Managing Director,  
Karur Main Road,  
Mallachipuram,  
Kamparasampettai (Post),  
Trichy - 620 101.

- 3.The Principal Secretary to Government,  
Finance (BPE) Department,  
Secretariat,  
Chennai-600 009.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the  
Constitution of India for the issuance of a Writ of  
Certiorarified Mandamus, calling for the records of the first

respondent relating to the order in letter No.1644/FR.8/2015-11, Environment and Forest (FR.8) Department, dated 23.2.2015, to quash the same and issue consequential directions to the respondents to grant pension and other benefits to the retired employees of TAFCORN, who are members of petitioner-Association, on par with retired employees of Forest Department for Government of Tamil Nadu and on par with retired employees of other Tamil Nadu Public Sector Undertakings.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.M.Santhana Raman,  
Additional Government Pleader  
(Forests).

#### O R D E R

The order of rejection, dated 23.2.2015, issued by the first respondent, for grant of pension and pensionary benefits on par with the officials of the Forest Department, is under challenge in this writ petition.

2. The learned counsel, appearing on behalf of the writ petitioner, contended that the writ petitioner is Tamil Nadu Forest Plantation Corporation Retired Staff Welfare Association and the members of the Association were the erstwhile employees of the Tamil Nadu Forest Plantation Corporation Limited, owned by the Government of Tamil Nadu.

3. The grievances of the members of the writ petitioner-Association are that they are receiving the Employees Provident Fund pensionary benefits, which is meager and the Department Officials are getting more pension and therefore, their pension is to be equated with the employees of the Forest Department. In other words, they are seeking the benefit of the Tamil Nadu Pension Rules on par with the employees of the Forest Department of the State of Tamil Nadu.

4. The learned counsel for the writ petitioner states that several representations were sent to the respondents and earlier, the writ petitioner filed a writ petition in WP No.34355 of 2013 and this Court directed the first respondent to consider the case of the writ petitioner and even thereafter, they have rejected the claim of the writ petitioner on the ground that the claim cannot be accepted. It is contended that the Government has not taken any independent decision in this regard and the Government has simply followed the decision taken by the Board and therefore, the case of the writ petitioner is to be considered afresh by considering all the factual circumstances.

5. The learned Additional Government Pleader (Forests), appearing on behalf of the respondents, disputed the contentions of the learned counsel for the writ petitioner, by stating that the writ petitioner is an Association of the Retired Employees of the Tamil Nadu Forest Plantation Corporation Limited and they are governed by the Service Rules of the Corporation.

6. As per the Service Rules of the Corporation, namely, the Tamil Nadu Forest Plantation Corporation Limited Staff Regulations, 1974, the employees are eligible to get the benefits as applicable under the Rules and they cannot seek the benefits as applicable to the Government employees of the Forest Department. It is contended that the terms and conditions of service and the Service Rules of the Corporation, are independent and formulated by the Board.

7. This apart, the conditions of appointment itself is based on the Rules in force. Thus, the benefits agreed upon between the employees and the management of the Board alone can be granted to the members of the writ petitioner-Association and therefore, the very claim of the members of the writ petitioner-Association that they are entitled to get the benefits as applicable to the Government employees of the Forest Department, cannot be accepted at all.

8. In support of the said contention, the learned Additional Government Pleader (Forests) referred to paragraph-5 of the counter-affidavit filed by the respondents 1 and 3, which reads as under:-

"5. It is also submitted that this Hon'ble High Court in its order dated 18.12.2013 in WP No.34355 of 2013 has directed the first respondent therein, namely, the Principal Secretary to Government, Environment and Forests Department, Secretariat, Chennai-9 to consider the proposal sent by the second respondent therein, namely, the Managing Director, Tamil Nadu Forest Plantation Corporation Limited dated 19.8.2011 in letter No.Na.Ka.7680/2011/ka/3 and pass appropriate order within a period of six weeks. Accordingly, the above proposal of the Managing Director, Tamil Nadu Forest Plantation Corporation Limited was considered by the first respondent herein and rejected the said proposal vide its letter No. 1644/FR.8/ 2014-11, dated 23.2.2015. Since the same has not been approved by the Boards of

Directors of Tamil Nadu Forest Plantation Corporation Limited in 190<sup>th</sup> Meeting held on 27.6.2014, considering the fact that the employees of all Public Sector Undertakings including the employees of Tamil Nadu Forest Plantation Corporation Limited are covered under the Employees' Pension Scheme, 1995 only and not under the Tamil Nadu Pension Rules. Tamil Nadu Forest Plantation Corporation Limited employees are paid pensionary benefits such as encashment of leave, gratuity as per Payment of Gratuity Act."

9. The learned counsel for the writ petitioner mainly contended that the impugned order states that the Board rejected the claim of the writ petitioner and therefore, the Government has not considered the same. By drawing an inference, the learned counsel is of an opinion that the Government has to take an independent decision in respect of the Resolution passed by the Board. The State, being a welfare one, has to consider these Welfare Schemes in a liberal manner and by following a pragmatic approach. Thus, the decision taken is improper and the case of the writ petitioner is to be reconsidered.

10. This Court is of an opinion that undoubtedly, the formation of Service Rules is a prerogative power of the Competent Authorities. The Courts cannot interfere with the formation of such Service Rules, in the absence of establishing that the Service Rules so formulated is unconstitutional. Only in the case of unconstitutionality, the Rules can be struck down and in all other circumstances, the employees as well as the management are bound by the Rules framed in this regard.

11. Admittedly, the members of the writ petitioner-Association were appointed, served and retired from service from the Tamil Nadu Forest Plantation Corporation Limited. Admittedly, they are not employees of the Government Department. The members of the writ petitioner-Association are governed by the Service Rules prevailing in the Tamil Nadu Forest Plantation Corporation Limited and accordingly, they are receiving the Employees Provident Fund Pension Scheme benefits and the other terminal benefits and pensionary benefits were also settled as per the terms and conditions of the Service Rules in force. The claim of the writ petitioner-Association is that they are entitled to get the pensionary benefits as applicable to the Government employees of the Forrester Department.

12. The Court cannot direct the Government to formulate a policy in respect of grant of pension, undoubtedly,

the Pension Schemes and the Welfare Schemes. Thus, it is for the Government to formulate such Schemes in the interest of the employees concerned and it is left open to the members of the writ petitioner-Association to approach the Government for the purpose of implementing better Pension Schemes for the welfare of the retired employees. However, this Court cannot express any opinion, in this regard, in the present writ petition as the members of the writ petitioner-Association have not established any vested right with reference to the Rules in force.

13. In the absence of establishing any legal right based on the provisions of law, this Court would not issue directions to the Government to implement a policy, which is otherwise inapplicable to the employees of the Tamil Nadu Forest Plantation Corporation Limited. Thus, it is left open to the writ petitioner to approach the Competent Authorities for claiming better benefits or any other Scheme, which would be of more beneficial to the retired employees. The State, being a model employer, also shall consider all such claims if it is feasible and if the same is in accordance with the provisions of law.

14. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-  
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Government of Tamil Nadu,  
Represented by the Principal Secretary  
to Government,  
Environment and Forest Department,  
Secretariat,  
Chennai-600 009.
- 2.The Managing Director,  
Tamil Nadu Forest Plantation Corporation Ltd.,  
Karur Main Road,  
Mallachipuram,  
Kamparasampettai (Post),  
Trichy - 620 101.

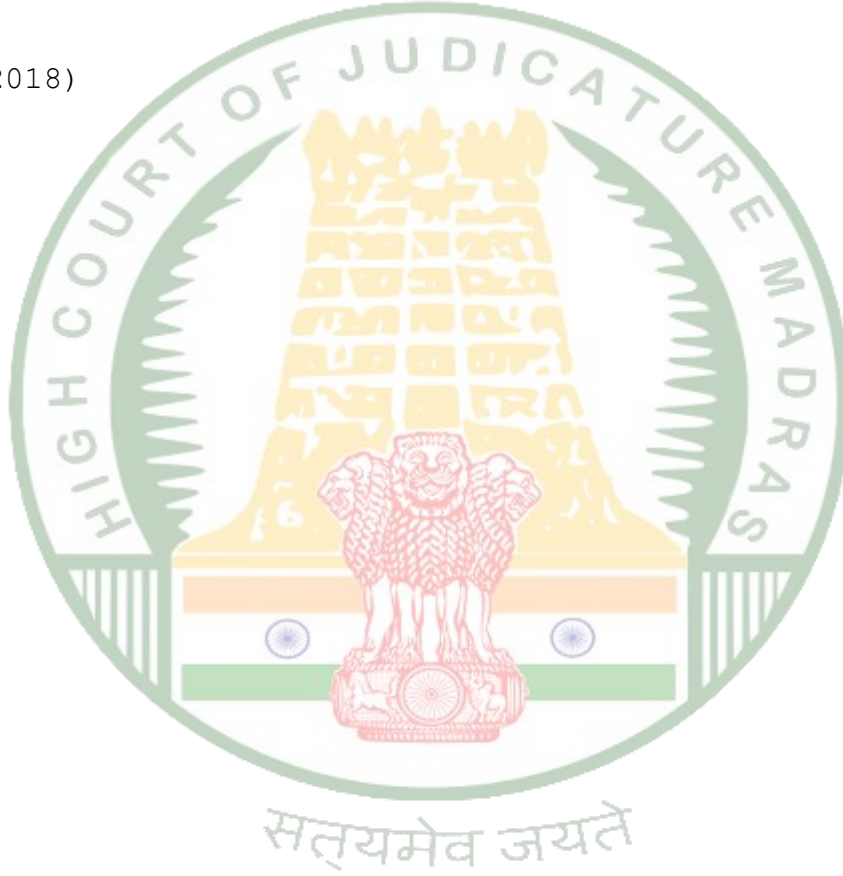
3.The Principal Secretary to Government,  
Finance (BPE) Department,  
Secretariat,  
Chennai-600 009.

+1cc to Mr. M.Ravi Advocate, S.R.No. 71807

+1cc to the Special Government Pleader(Forest), S.R.No. 71681

WP No.31524 of 2015

GP (CO)  
GN(14/11/2018)



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