

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM:

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

W.A.No.2390 of 2013
and
M.P.No.1 of 2013

V.Manoharan ..Appellant/Petitioner
..Vs..

1. The State of Tamil Nadu
Rep. by the Secretary to Govt.,
Personnel and Administration Dept.,
Fort St. George, Chennai - 9.
 2. The Principal Chief
Conservator of Forests,
Chennai.
 3. The Conservator of Forests,
Vellore Circle.
 4. The Divisional Forest Officer,
Rural Fuel Wood Range,
Tirupattur.
 5. The Forest Ranger,
Rural Fuel Wood Range - II,
Tirupattur Rural Fuel Wood Division,
Vellore Circle,
Vellore District.
- ..Respondents/Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 23.08.2011 passed in W.P.No.13262 of 2010.

Prayer in WP.13262 of 2010: Petition filed U/Article 226 of the constitution of India praying to issue a writ of Mandamus directing the respondents to regularize the services and the petitioner in the post of Forest Watchman in terms and G.O.Ms.95 dated 7.8.2009.

For Appellant : Mr.M.R.Jothimanian

For Respondents: Ms.A.Srijayanthi,
Special Government Pleader for R1

: Mr.M.Santhanaraman,
Additional Government Pleader
(Forest) for R2 to R5

JUDGMENT

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

The first respondent was initially engaged on daily wages for undertaking various activities at Rural Fuel Wood Range-II, Tirupattur. He worked there from 01 April 1999 to 31 March 2000. Thereafter, he was given appointment, by order dated 02 March 2000, on compassionate basis taking into account the unfortunate death of his father who as a plot watcher worked for a period of 28 years in the Forest Department. The Government issued an order in G.O.(Ms) No.95 dated 07 August 2009 regularising the services of the Plot watchers and Village Social Forestry Workers who have completed ten years of service. The claim made by the appellant for regularisation was not considered on the ground that he had not put in 10 years of continuous service. The appellant therefore filed a Writ Petition in W.P.No.13262 of 2010 for issuance of a Writ of Mandamus directing the respondents to regularise his services in the post of Forest Watcher in terms of the Government Order in G.O.(Ms).No.95 Environment and Forests (FR2) Department dated 07 August 2009. The learned Single Judge dismissed the Writ Petition on the ground that he had not completed 10 years of continuous service. Feeling aggrieved, the appellant has come up with this intra court appeal.

2. The learned counsel for the appellant, by placing reliance on the Government Order in G.O.(Ms)No.202 dated 18 December 2013 contended that the services of similarly placed persons, who have not completed 10 years of services have been regularised by the Government. According to the learned counsel, in case earlier service for the period from 01 April 1992 to 31 March 2000 is taken into account, the appellant would qualify for regularisation, as he had rendered 10 years of continued service. The learned counsel contended that the application submitted by the mother of the appellant for compassionate appointment was kept pending for years together. It is his contention that in case the services of the father of the appellants was regularised, in view of 28 years of services, the appellant would have been given compassionate appointment against a regular vacancy. The learned counsel contended that the respondents having given the benefits of the order for regularisation even to those who have not put in 10 years of continuous service, was not correct in denying similar relief to the appellant.

3. We have also heard the learned Special Government Pleader appearing for the first respondent and the learned Additional Government Pleader appearing for the respondents 2 to 5.

4. The appellant is the son of Thiru.M.Vettai who earlier worked as a Plot watcher for a period of 28 years. The father of the appellant died on 21.12.1999. The appellant was taken on daily wages by the Rural Fuel Wood Range-II. He worked in the said Department for the period from 04 April 1999 to 31 March 2000. Subsequently, he was appointed on 07 April 2000.

5. The claim made by the appellant for regularisation was not considered on the ground that he had not put in ten years of service.

6. The Government issued an order in G.O.(Ms) No. 95 dated 07 August 2009 directing regularisation of services of those employees who have completed 10 years of service. Subsequently, the Government issued an order in G.O.Ms.202 dated 18 December 2013, regularising the services of the employees who have qualified for regularisation. The said order indicates that several employees who have not completed 10 years of continuous service were given the benefits of regularisation. For example Thiru.A.Perumal whose name is found in Sl.No.50 of the Government Order was appointed only on 01 January.2000. Even though, he has not put in 10 years of service, his services were regularised. Similar is the case of Thiru. R.Palanisamy, who was appointed on 26 July 1999, Thiru.G.Kumar who was appointed on 19 September 1999, Thiru.L.Narayanasamy, appointed on 04.09.1999 and Thiru. K.Arumugam appointed on 01 September 1999. It is therefore clear that the Government have regularised the services of those employees, who have not even put in 10 years of service. Even if it is contended that the appointment of those employees would not give a right to the appellant to claim similar treatment, in case he is given the benefit of regularisation taking into account the earlier services from 01 April 1999 to 31 March 2000, he is eligible for regularisation. The certificate issued by the Forest ranger, Rural Fire Wood Tree Range-II, Tirupathur dated 1 April 1999, clearly indicates that pursuant to the order dated 07 April 2000, the appellant worked continuously for the period from 1 April 1999 to 31 March 2000. In case the said services is taken into account, the appellant would qualify for regularisation.

7. We have taken into account the entire period from 01 April 1999 to 31 March 2000 and the subsequent period from 07 April 2000 it is clear that the appellant is entitled to the benefit of G.O.(Ms).No.95 Environment and Forests (FR2) Department dated 07 August 2009.

8. The learned single Judge proceeded as if the appellant has not completed 10 years of continuous service. There was no attempt made by the learned Single Judge to consider the services rendered by the appellant prior to his regular appointment. It is not as if the appointment was in a different Department. It is the Forest Department, which employed the appellant earlier that too continuously for the period from 01 April 1999.

9. The order in G.O.(Ms).No.95 Environment and Forests (FR2) Department dated 07 August 2009 was issued in the larger interest of the employees, who have worked in the Forest Department for number of years. While interpreting the Government Order in G.O.(Ms).No.95 Environment and Forests (FR2) Department dated 07 August 2009, this Court must take into account the continuous services of the employees.

10. The order passed by the learned single Judge dated 23 August 2011 is set aside. The Writ Petition in W.P.No.13262 of 2010 is allowed. We direct the respondents to grant the benefits of the Government Order in G.O.(Ms).No.95 Environment and Forests (FR2) Department dated 07 August 2009 to the appellant by including his name in the Government Order in G.O.(Ms).No.202 dated 18 December 2013. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this Judgment.

11. In the result, the intra Court appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

arr

To

1. The Secretary to Government,
State of Tamil Nadu
Personnel and Administration Dept.,
Fort St. George, Chennai - 9.

2. The Principal Chief
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Chennai.

3. The Conservator of Forests,
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5. The Forest Ranger,
Rural Fuel Wood Range - II,
Tirupattur Rural Fuel Wood Division,
Vellore Circle, Vellore District.

+ 1 cc to the special Government Pleader Sr.21510
+ 1 cc to Mr.M.R. Jothimanian, Advocate Sr.21385

W.A.No.2390 of 2013

RJI (CO)
EU(14/05/2018)



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