

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2018

CORAM:

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

W.A.No.1483 of 2016
and
C.M.P.No.18414 of 2016

- 1.The State of Tamil Nadu
Represented by its Secretary to Government
Forest and Environment Department
Fort St.George, Chennai 600 009.
 - 2.The Principal Chief Conservator of Forests
Panagal Building
Saidapet, Chennai 600 015.
 - 3.Forest Range Officer
Social Forestry Range
Thirukovilur, Villupuram District.
 - 4.District Forest Officer
Hosur Forest Division
Hosur (T.K.), Krishnagiri District.
 - 5.The Principal Accountant General of Tamil Nadu
Accounts and Entitlement
O/o The Accountant General
Teynampet, Chennai 600 018.
- ... Appellants
- Vs
- C.Rani
- ...Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.32608 of 2016 dated 19.09.2016.

W.P.No.32608/2016:

This Writ Petition filed under Article 226 of the constitution of India praying to issue a Writ, direction or order in the nature of a Writ of Mandamus to consider petitioner's representation dated 10.11.2015 and consequential direction, directing the respondents 1 to 4th count half of the service rendered by the petitioner husband from the date of Joining in service as Plot Watcher on 22.10.1980 to 30.04.2003

along with regularized service rendered by petitioner husband as forest watcher from 01.05.2003 to 31.07.2013 and send the revised proposal to the 5th respondent to grant family pension to the petitioner with all consequential pensionary benefits from the petitioner husband date of death and arrears with interest.

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

For Respondent :Mrs.Selvi Rajesh

JUDGMENT

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

The Writ Petition filed by the respondent for counting half of her husband's earlier service rendered as Plot Watcher from 22 October 1980 to 30 April, 2003 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's husband for counting the earlier service on account of Rule 11 Sub Clause (2) of the Tamil Nadu Pension Rules, 1978. The Rule contained a cut off date, viz., 01 April, 2003. The said Rule was the subject matter in W.P.No.12656 of 2013. The learned Single Judge quashed the 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 (2) 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.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

gms

To

- 1.The Secretary to Government
State of Tamil Nadu
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 - 5.The Principal Accountant General of Tamil Nadu
Accounts and Entitlement, O/o The Accountant General
Teynampet, Chennai 600 018.
- +1 CC to Mr.P. Rajesh, Advocate sr 5355.
+1 CC to The Spl. Govt. Pleader sr 5119.

सत्यमेव जयते

W.A.No.1483 of 2016

RJ (CO)
SP(16/02/2018)

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