

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2508 of 2018
and CMP No.20335 of 2018

1. The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Environment & Forest Department,
Secretariat, Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 600 015.
3. The District Forest Officer,
Sathyamangalam Division,
Sathyamangalam - 638 402.
Erode District.

... Appellants/Respondents

Vs.

A.Babu ... Respondent/Petitioner

Writ Appeal filed under Clause 15 of the Letters Patent
against the Order dated 20.09.2017 made in W.P.No.10618 of 2013.

Prayer in WP.No.10618/2013:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directions the respondents to include the name of the petitioner in the appropriate place in the Statewide Seniority List of Plot Watchers/Village Social Forestry Watchers for appointing them in the Supernumerary Post of Forest Watchers and to appoint them in the said post with retrospective effect from the date of appointment of his immediate junior with all consequential benefits.

For Appellants : Mr.R.Bala Ramesh
Spl. Govt. Pleader (Forests)

J U D G E M E N T

(Order of the Court was delivered by SUBRAMONIUM PRASAD, J)

The instant appeal is directed against the order dated 20.09.2017 passed in W.P.No.10618 of 2013.

2. The writ petitioner was appointed as Anti-Poaching Watcher / Plot watcher in Forest Department in Salem and was serving from 01.12.1991 onwards, on daily wages. The petitioner contends that he was serving as an Informer to assist the Special Task Force, Erode, appointed to nab Forest Brigand Sandalwood smuggler Veerappan and his associates, was not denied by the appellants / respondents in the writ petition.

3. The writ petitioner gave a representation on 30.11.2006 to the State for absorbing him as Forest Watcher on the grounds that he has rendered much more than 10 years of service. The District Forest Officer, Sathyamangalam recommended his claim to the Principal Chief Conservator of Forest, Chennai. It is stated in the writ petition, that District Forest Officer, had also sent a report on 19.09.2011, furnishing the names of Anti-Poaching Watchers, who have rendered more than 10 years of service and the name of the petitioner finds place in the report. Since no action was taken thereon the petitioner gave another representation on 18.11.2011 claiming that his services should be regularised. In the absence of any positive response from the Government, the writ petitioner has filed W.P.No.10618 of 2013.

4. It is the case of the petitioner that he was doing a very dangerous job, acting as an Informer against Forest Brigand Veerappan and has put his life at stake. It was further contended by him in the writ petition that similarly placed persons were directed to be included in the State Wide Seniority List of Village Social Forestry Workers / Plot Watchers / Malis as Forest Watcher in Tamil Nadu Forest Subordinate Services.

5. On notice, the Government filed its reply. According to the Government, the petitioner was engaged on daily wages to carry out various casual works as under.

Period					Division
From	To	Day	Month	Year	
01 April 1997	31 October 1997	0	7	0	Sandalwood Depot, Salem
01 January 1998	31 January 1998	1	0	0	Sandalwood Depot, Salem

Period					Division
From	To	Day	Month	Year	
01 May 1998	31 December 1998	0	8	0	Sathyamangalam Range, Sathyamangalam.
01 January 1999	31 March 1999	0	3	0	Sathyamangalam Range, Sathyamangalam.
01 January 2000	31 March 2000	0	3	0	Bhavanisagar Range, Bhavanisagar
01 January 2001	31 March 2001	0	3	0	Hassanur Range, Hassanur
01 Nov 2005	Till Date	0	7	7	Sathyamangalam Range, Sathyamangalam.

6. According to the State, petitioner had not completed full 10 years of service and further his services was not utilised in the Forest Department. He was never in continuous service. It is further stated that from 01.04.2001 to 31.10.2005, there was a break in service.

7. The writ petition has been allowed by the learned Single Judge, by the impugned judgment dated 20.09.2017, which is under challenge.

8. Heard the learned counsel for the parties and perused the record.

9. The facts are not denied. The petitioner was engaged as a Plot Watcher and infact was working as an informer to assist the Special Task Force, Erode, appointed to nab Forest Brigand Sandalwood smuggler Veerappan and his associates. The Government has passed G.O.(Ms.) No.95, Environment and Forests (FR2) Department dated 07.08.2009, wherein, the services of the Plot Watchers / Forest Watchers, who had been engaged for a long period on daily wages were sought to be regularized. The relevant portion of the Government order, reads as under.

"5. In order to remove the difficulties in this subject matter and keeping in view of the long pending demands of the Plot Watchers and Village Social Forestry Workers who are suffering without getting any benefit of a regular permanent job even after working for several years on daily wage basis, the Government examined the proposals of the Principal Chief

Conservator of Forests actively and carefully. Based on this, on 17.07.2009 when the budget demand of the Department of Environment and Forests for the year 2009-2010 was presented to the Tamil Nadu Legislative Assembly, the Honourable Minister for Forests announced in the Assembly that those remaining 3058 Plot Watchers / Village Social Forestry Workers included in the state wide seniority list and who are working on daily wage basis for more than 10 years will be appointed in a new post of "Plot Watchers" carrying a special pay scale of Rs.2500-5000 with Grade pay Rs.500/- per month and their services will be regularized.

6. Accordingly the Government hereby order that, out of the remaining 3058 persons available in the statewide seniority list, those who have rendered a service of more than 10 years, be appointed as Plot Watchers in the supernumerary post created with a special scale of pay of Rs.2500-5000 with grade pay of Rs.500 and their services be regularized from the date of issue of this order.

7. As stated above in Para 6, the Principal Chief Conservator of Forest is requested to issue directions to all the concerned for the immediate issue of posting orders to all the above mentioned Plot Watchers and Social Forestry Workers from the date of issue of the Govt. Order, to the places where they are working at present. The Principal Chief Conservator of Forests is also requested to prepare and send a model posting order format to all subordinate officers to ensure issuance of uniform posting orders to all the employees.

8. The present practice of absorbing them as Forest Watchers, Mali, Office Assistants, Office Watchman, Bungalow Watchman and Drivers on the basis of their eligibility and seniority in the State Wide Seniority List in the posts remaining vacant at present and in future also. The vacant posts should not be filled up by any other methods. All the newly created supernumerary posts will automatically cease to exist as and when those in service are promoted, retired or leave the posts for other reasons."

10. A perusal of the abovesaid Government Order, would show that the petitioner, who was working from 1997 to 2014 and was assisting the Special Task Force would be covered by G.O.(Ms.) No.95, Environment and Forests (FR2) Department dated 07.08.2009. The relevant portion of which has been quoted above.

11. The tabular column in paragraph No.3 of the counter affidavit filed by the 3rd respondent therein itself would show that the writ petitioner had served definitely for more than 9 years and 5 months. The contention of the State that his services has been utilised by the police and not by the Forest Department, cannot be accepted. The certificates and other materials, which are on record would show that the services of the writ petitioner was being utilised by the Special Task Force in public interest for a very dangerous mission. The factum of the petitioner's employment as Plot Watcher was not denied. Fact that he was helping Special Task Force for nabbing Veerappan is not denied. The certificates given by the officials regarding the services, are not denied.

12. The learned Single Judge has placed reliance on a fact that several others, who were similarly placed that of the petitioner had been given the benefit of G.O.(Ms.) No.95, Environment and Forests (FR2) Department dated 07.08.2009 and why the petitioner alone should be denied the benefit of G.O. (Ms.) No.95, Environment and Forests (FR2) Department dated 07.08.2009. The decision of the learned Single Judge therefore, cannot be found fault with. Writ Appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

13. The State is directed to include the name of the petitioner in the State Wide Seniority List of Village Social Forestry Workers / Plot Watchers / Malis as Forest Watcher in Tamil Nadu Forest Subordinate Services and regularise his services by appointing him as Forest Watcher, if necessary, by creating a supernumerary post, in case of non-availability of vacancy in terms of G.O.(Ms.) No.95, Environment and Forests (FR2) Department dated 07.08.2009, with all other attendant and consequential benefits as granted to other similarly placed persons, within a period of three weeks from the date of receipt of a copy of the order.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

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

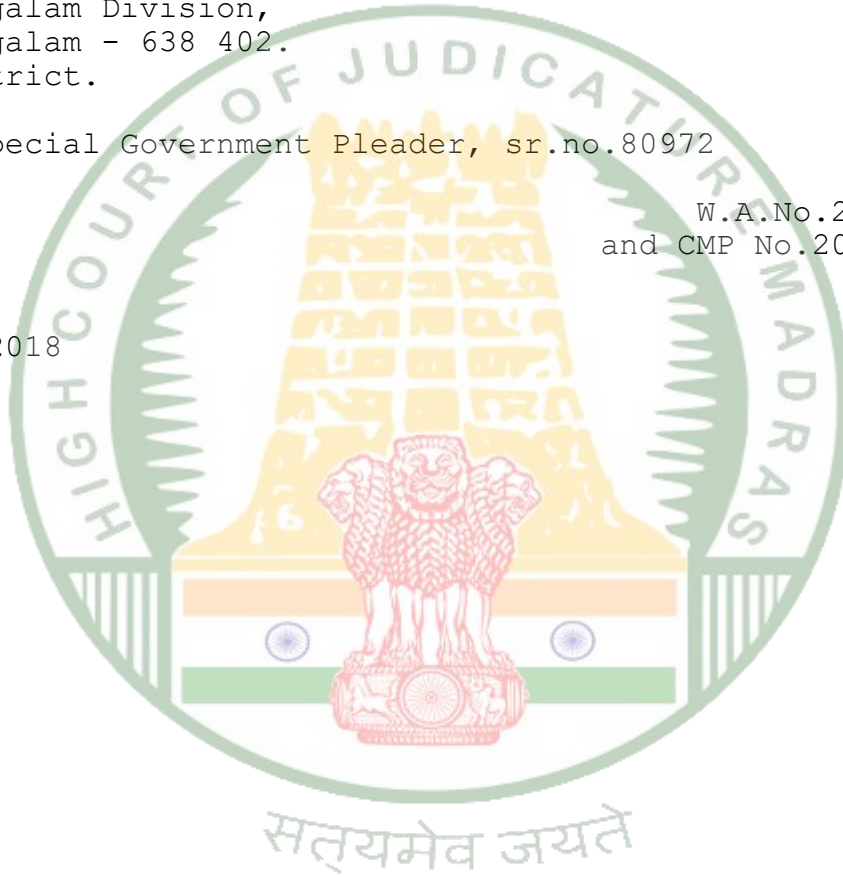
2. The Principal Chief Conservator of Forests,
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3. The District Forest Officer,
Sathyamangalam Division,
Sathyamangalam - 638 402.
Erode District.

+1cc to Special Government Pleader, sr.no.80972

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sj(co)
nr 18/12/2018



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