

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 17.12.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO. 30072 OF 2018

Balan

.. Petitioner

- Vs -

1. Government of Tamil Nadu
rep. By its Secretary
Environment & Forest Department
Fort St. George, Chennai 600 009.
 2. The Prl. Chief Conservator of forests
Panagal Building, Saidapet
Chennai 600 015.
 3. The District Forest Officer
Thiruvallur District
Thiruvallur.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents to pay all retirement benefits due to the petitioner including regular pension, DCRG and other retirement benefits with effect from 31.01.2004 and pay the arrears.

For Petitioner : Mr. C.Prabhakaran

For Respondents : Mr. K.K.Ramesh, GA (Forest)

ORDER

This writ petition has been filed seeking direction to the respondents to consider the representation of the petitioner dated 20.12.2017 for grant of notional promotion in appropriate place on par with his juniors for the post of Forest Guard and to grant all consequential benefits.

2. The petitioner was appointed as Plot Watcher at Village Social Forestry Range, Tiruttani, Thiruvallur Division, on 1.6.86 on consolidated basis. The petitioner was brought into time scale of pay and appointed as Forest Watcher on 3.3.14.

Based on the educational qualification, the Plot Watchers were appointed in the existing vacancies in the respective Division on the basis of G.O. Ms. No.332 dated 2.12.94. By G.O. Ms. No.64, dated 8.3.99, the services of the Forest Plot Watchers were regularised. However, several Plot Watchers, who were junior to the petitioner were brought into time scale of pay and were promoted without following the seniority list. Therefore, the affected persons like the petitioner filed W.P. No.15561 of 2006 and an order was passed by this Court to place the persons in appropriate place. Against the said order, the respondents filed writ appeal and the same was dismissed upholding the order passed in the writ petition.

3. Similarly another writ petition filed on the same lines was also allowed. These orders were implemented by the 2nd respondent. In such circumstances, the respondents should have considered the representation of the petitioner even prior to his superannuation. The representation, dated 20.12.17, has been submitted by the petitioner even before the date of retirement. The petitioner attained superannuation on and from 31.8.18. Even though the petitioner has attained superannuation, no order has been passed on the said representation submitted by the petitioner. Therefore, the present writ petition has been filed.

4. On notice, Mr.K.K.Ramesh, learned Government Advocate (Forest) appeared for the respondents and filed counter. It is the stand of the respondents that the petitioner was engaged as Plot Watcher, purely on consolidated daily wage basis and that he was engaged temporarily as and when need arose. The Government directed preparation and maintenance of state-wide seniority list and further directed to regularise the persons by bringing them into time scale of pay on the basis of seniority. Accordingly, as and when vacancy arose, the persons, who continued in the job on the date of consideration of their name for regularisation, were regularised subject to the individual possessing necessary qualification.

5. It is further submitted that G.O. Ms. No.95 dated 7.8.09 permit appointment of individuals, who were working for more than 10 years on temporary basis. The Plot Watchers working in the Department with prescribed qualifications were regularised in their respective posts as and when vacancy arose. The name of the petitioner has been included in the seniority list and the seniority position assigned is No.4745 and his services were regularised with effect from 7.3.14. It is further submitted that the respondents are not guilty of giving any step motherly treatment to the petitioner and regularisation was done only in accordance with seniority.

6. Though the respondents have given details relating to regularisation of the persons on the basis of the Government Order, however, the said counter does not answer the contention raised by the petitioner. The main grievance of the petitioner is that no orders has been passed on his representation dated 20.12.2017.

7. In view of the limited relief sought for, this Court is of the view that it would be suffice to direct the respondents to consider the representation submitted by the petitioner, dated 20.12.2017, and pass orders thereon within a particular time frame.

8. In the above circumstances, this writ petition is disposed of directing the respondents to consider the representation dated 20.12.2017 submitted by the petitioner, in the light of the averments made in the representation, and pass orders thereon, within a period of eight weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

GLN
To

1. The Secretary
Environment & Forest Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009.
2. The Prl. Chief Conservator of forests
Panagal Building, Saidapet
Chennai 600 015.
3. The District Forest Officer
Thiruvallur District
Thiruvallur.

+1cc to Mr.C.Prabakaran, Advocate SR.No.87833

+1cc to Special Government Pleader (Forest) SR.No.87608

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VG II(CO)
GMY(22/01/2019)