

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

W.P.No.31329 of 2018

D.Rajendran

... Petitioner

versus

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
Environment & Forest Department,
Fort St. George,
Chennai - 9.
2. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai - 15.
3. The District Forest Officer,
Thiruvavarur District,
Thiruvavarur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records of the second respondent in Ref.No.LL2/38806/2016-15 dated 10.01.2018 and to quash the same with consequential direction to include the petitioner's name in the statewide seniority list and to regularize his service in the Supernumerary post of Plot Watcher as per G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009 and G.O.Ms.No.202, Environment and Forest (FR-2) Department, dated 18.12.2013 with all consequential benefits.

For Petitioner : M/s.K.Jenitha

For Respondents : Mr.K.K.Ramesh,
Government Advocate (Forest)

ORDER

The petitioner was initially appointed as Plot Watcher on 01.12.1993. From 01.12.1993 till date, he is working as Plot Watcher in various ranges in Thiruvavarur Division.

1.1. According to the petitioner, the Government issued G.O.Ms.No.64, Environment and Forests Department, dated 08.03.1999, for preparation of State wide seniority list of Plot Watchers/Social Forestry Workers for the purpose of regularization of services according to seniority.

1.2. Thereafter, the Government issued G.O.(D) No.95, Environment and Forests Department, dated 07.08.2009 for regularizing the services of all the Social Forestry Workers/Plot Watchers, whose name have been included in the State Wide Seniority List and who have completed 10 years of service in the Forest Department.

1.3. Subsequently, the first respondent issued G.O.Ms.No.202, Environment and Forest (Forest-2) Department, dated 18.12.2013, for regularization of service of Plot Watchers who have rendered above 10 years of service whose names have not included in the State Wide Seniority List in supernumerary post.

1.4. It is the grievance of the petitioner that despite those G.Os. the services of the petitioner was not considered, but, that of his juniors were considered for regularization. Hence, he made a representation to the 3rd respondent seeking regularization of his service.

1.5. Based on the said representation, the Forest Range Officer sent a proposal for regularization of the petitioner to the third respondent on 08.06.2015. As the said proposal was not considered, the petitioner filed a writ petition in W.P.(MD) No.22925 of 2016 seeking a direction to the respondents to regularize the service of the petitioners in the post of Plot Watcher and the said writ petition was disposed of by an order 30.11.2016 with a direction to the respondents to consider the representation of the petitioner

- (a) in the light of the proposal sent
- (b) in the light of G.O.Ms.No.64 dated 08.03.1999,
- (c) G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006,
- (d) G.O.Ms.No.84, Environment and Forests (F.R.S.) Department, dated 09.08.2007 and
- (e) G.O.Ms.No.95, Environment and Forests (F2) Department, dated 07.08.2009 and
- f) to pass orders on merits and in accordance with law.

1.1. Pursuant to the said order, the Conservator of Forests, by proceedings dated 20.12.2017, sent a proposal to the second respondent. But, the second respondent, by proceedings, dated 10.01.2018, rejected the proposal saying that the petitioner has not completed 10 years of service. Challenging

the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the rejection of proposal is against the communication dated 08.06.2015, in which, there is a specific admission that the petitioner has completed 10 years of service. Though there was a specific direction by this Court, the second respondent rejected the claim of the petitioner. Hence, the impugned order is liable to be set aside.

3. A perusal of the records available before this Court reveals that the petitioner has completed 13 years of service, i.e. from 01.12.1993 till 01.01.2006 and 25 years of service as of now. Therefore, the petitioner is entitled to regularization in terms of G.O.Ms.No.64 dated 08.03.1999, G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, G.Ms.No.84, Environment and Forests (F.R.S.) Department, dated 09.08.2007 and G.O.Ms.No.95, Environment and Forests (F2) Department, dated 07.08.2009, as ordered by this Court in the earlier writ petition in W.P.(MD) No.22925 of 2016.

4. The impugned order cannot be sustained for the simple reason that it is an admitted fact by the Range Officer in the proceedings dated 08.06.2015 that the petitioner is working for more than 10 years. The respondents are bound by the admission made and they are estopped from disputing the fact that the petitioner was serving for more than 10 years. Therefore, the impugned order is liable to be set aside and it is set aside accordingly. Consequently, the petitioner is entitled to be considered for regularization as he has now completed 25 years of continuous service. When the services of similarly placed workmen have been regularized under the Government Orders cited above, there is no reason as to why the service of the petitioner alone is not regularized when the conditions stipulated under the G.Os. remain satisfied.

5. In the result, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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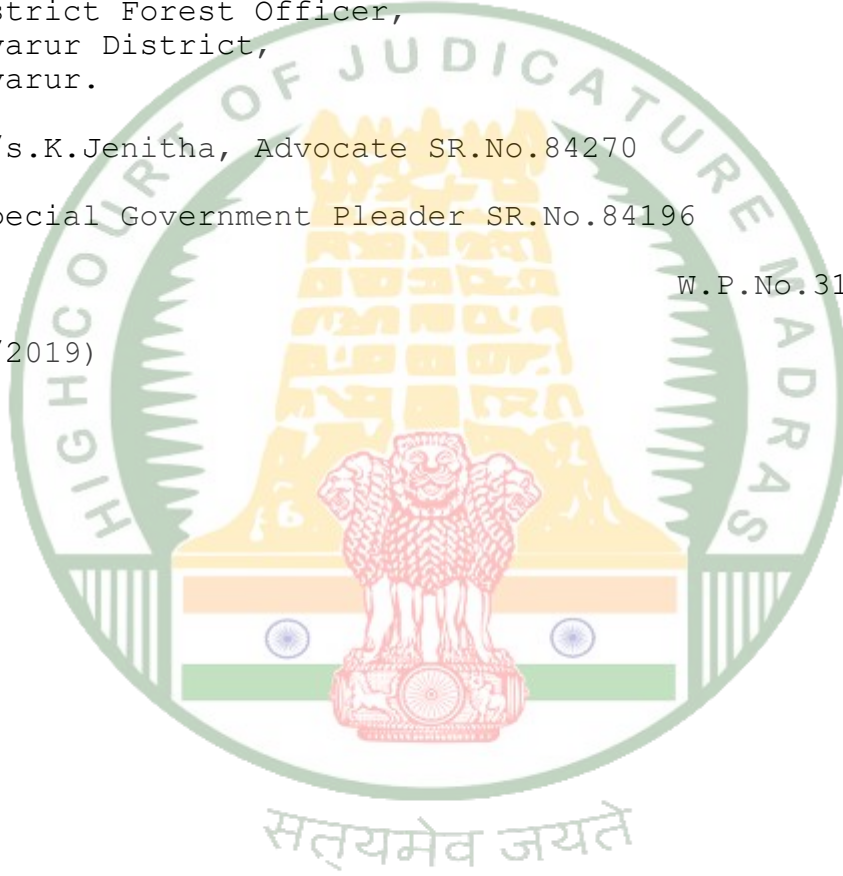
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Thiruvarur.

+1cc to M/s.K.Jenitha, Advocate SR.No.84270

+1cc to Special Government Pleader SR.No.84196

W.P.No.31329 of 2018

VSNII (CO)
GMY (07/02/2019)



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