

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.12.2018

CORAM
THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.32568 of 2018 and W.M.P.No.37683 of 2018

1.K.Muthusamy
2.P.Annadurai
3.M.Sundaram
4.C.Kannadasan
5.S.Rajasekaran
6.R.Selvam
7.S.Selvam
8.M.Poongavanam
9.D.Gunasekaran
10.K.Settu
11.K.Munusamy
12.A.Parthiban
13.P.Gangadurai
14.Chinnaraj
15.C.Sundaram
16.C.Udaiyan
17.R.Karuppan
18.T.Mallika
19.S.Veerappan
20.S.Arul Jothi
21.A.Vellamuthu

.....Petitioners

Vs

1.Government of Tamil Nadu
rep.by its Secretary, Environment and
Forests Department, Fort St.George
Chennai - 600 090.

2.The Principal Chief Conservator of Forests
Panagal Building,
Saidapet,
Chennai-600 015.

.....Respondents

For Petitioner : M/s.S.Mani

For Respondent : Mr.K.K.Ramesh,
Government Advocate (Forests)

Prayer : Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of Mandamus directing the
respondents to regularise the service of the petitioners as

Forest Watcher from 24.01.1995 notionally by taking into account their seniority and qualification on par with their junior Mr.Karuppan, in the light of the orders passed in W.P.No.15561 of 2006 dated 10.03.2008, W.A.No.690 of 2008 dated 13.10.2009, W.P.No.23374 of 2008 dated 30.10.2009, W.A.No.607 of 2010 dated 29.03.2010 and proceedings of the 2nd respondent dated 07.01.2011 and confer all consequential benefits.

O R D E R

Petitioners were appointed on daily wage basis in the Forest Department as Plot Watchers / Social Forestry Worker. The above said post is a non-cadre post, in which more than 3000 persons had been appointed throughout the State, during the relevant period, including the petitioners. As per Tamil Nadu Forest Service Rules, the qualification required for holding the post of Forest Watcher is "ability to read and write". As against the said Rule, the Government issued G.O.Ms.No.332, Forest Department, imposing a new condition to have a pass in SSLC for holding the regular post of Forest Watcher. As per the above Government order, 425 SSLC qualified persons were appointed as Forest Watcher, and those who do not possess SSLC qualification were excluded, whereby juniors had marched over the seniors.

2. Aggrieved by this, the unqualified SSLC daily wage plot watchers challenged the G.O.Ms.No.332 dated 22.12.1994 before the Tribunal by filing O.A.No.197 of 1995 and obtained interim stay. During the pendency of original application before the Tribunal, the Government issued G.O.Ms.No.64, Forest Department and restored the qualification of "Ability to read and write" as prescribed in the Rule instead of a pass in SSLC. Thereafter, during 2003-2018, the petitioners were brought to time scale of pay in the cadre post of Forest Watcher, after rendering more than two decades of service on daily wage basis. Similarly placed persons like the petitioners filed W.P.No.15561 of 2006 and W.P.No.23374 of 2008 and those writ petitions were allowed. W.A.No.690 of 2008 and 607 of 2010 were filed as against the orders passed in the above writ petitions, which were dismissed. Thereafter, the Government implemented the aforesaid order of this Court and gave regular time scale of pay to the petitioners on par with their juniors with effect from 24.01.1995. The petitioners have submitted a representation dated 23.06.2017 to the respondents seeking to regularise their services on par with their juniors, but no order has been passed. Thus, the present writ petition is filed.

3. Mr.K.K.Ramesh, learned Government Advocate (Forests) takes notice on behalf of the respondents.

4. Learned counsel for the petitioners submits that the

issue involved in this writ petition as regards regularisation of service of the petitioners on par with their juniors with effect from 24.01.1995 is settled by this Honourable Court in series of decisions and therefore, the relief sought for is no longer res integra. He further submits that the relief sought for in this writ petition is a remedy in rem and not a remedy in personam.

5. Learned Government Advocate appearing for the respondents, on instructions, would submit that regularisation can be done without monetary benefits and only for the purpose of calculation of qualifying service for pension.

6. Considering the submissions as advanced by the learned counsel on either side, without going into the merits of the issue, this Court directs the respondents to regularise the services of the petitioners as Forest Watcher on par with their junior in the light of the orders passed by this Court. However, it is made clear that the regularisation will be only for the purpose of counting the qualifying service for pension and not for monetary benefits. The respondents are directed to carry out the exercise of granting regularisation within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kst

To

1.The Secretary,
Government of Tamil Nadu,
Environment and Forests Department,
Fort St.George, Chennai - 600 090.

2.The Principal Chief Conservator of Forests
Panagal Building,
Saidapet, Chennai-600 015.

+21ccs to Mr.S.Mani, Advocate, S.R.No.85347

W.P.No.32568 of 2018

RK(CO)

rrs 13/02/2019