

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.32594 of 2018

K.Madhaiyan

....Petitioner

Vs

- 1.State of Tamil Nadu
rep.by its Secretary to Government
Forest and Environment Department,
Fort St.George, Chennai - 600 090.
- 2.The Principal Chief Conservator of Forests
Panagal Building, Saidapet, Chennai-600 015.
- 3.The Principal Accountant General of Tamil Nadu
Accounts and Entitlement, O/o the Accountant
General, Teynampet, Chennai-18.Respondents

For Petitioner : M/s.P.Rajesh

For Respondent : Mr.K.K.Ramesh,

Government Advocate (Forests)-for R1 & R2

Mr.V.Vijay Shankar - for R3

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus Directing the Respondents 1 and 2 to appoint the petitioner as regular time scale of pay in Forest Watchers taking into account of his service seniority and qualifications on par with his juniors in the light of the orders passed in W.P.No.15561/2006 dated 10/03/2008 W.A.No.690/2008 dated 13/10/2009 W.P.No.23374/2008 dated 30/10/2009 W.A.No.607/2010 dated 20/03/2010 proceedings of the 2nd respondent dated 03/03/2017 and send revised proposals to the 3rd Respondent and consequential direction to the 3rd Respondent has to grant revise pension and all consequential service benefits with arrears.

O R D E R

Petitioner was appointed on daily wage basis in the Forest Department as Plot Watcher / 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 petitioner 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 petitioner on par with his juniors with effect from 24.01.1995. The petitioner has submitted a representation to the respondents seeking to regularise his services on par with his 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 petitioner on par with his 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. Accordingly, the writ petition is disposed of with a direction to the respondents to consider the representation of the petitioner for regularisation of his service, only for the

limited purpose of calculation of qualifying service for pension, and pass appropriate orders. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

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.
 3. The Principal Accountant General of Tamil Nadu
Accounts and Entitlement, O/o the Accountant
General, Teynampet, Chennai-18.
- +1 CC to Mr. P. Rajesh, Advocate sr 86836.

W.P.No.32594 of 2018

SAI (CO)
SP (23/01/2019)

सत्यमेव जयते

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