



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2018

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.(MD) No.663 of 2015
and
M.P.(MD).No.1 of 2015

M.Meenal

... Petitioner

vs.

1. The Government of TamilNadu,
rep. By its Secretary to Government
Forest and Environment Department,
Fort St. George,
Chennai-600 009.
2. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai-15.
3. The Divisional Forest Officer,
Ramanathapuram,
Ramanathapuram District.
4. The Accountant General of Tamil Nadu,
O/o. The Accountant General,
Office at Thenampet,
Chennai-18.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 4th respondent in his proceedings Pen 13/III/11306363/FP/13-14/ADK dated 18.07.2013 and quash the same as illegal and consequently to direct the respondents No.1 to 3 to count half of the service rendered by the petitioner's husband as Plot Watcher from 02.03.1982 to 08.09.2004 along with regular service rendered by petitioner's husband as forest watcher from 09.09.2004 to 29.09.2012 as qualifying service and send the revised proposal to the 4th respondent and to grant pension with all consequential benefits.

For Petitioners : Mr.A.Velan, for Mr.Venkatesh Kumar

For Respondents : Mr.A.Muthukaruppan, Additional Govt.Pleader
for RR-1 to 3

Mr.P.Gunasekaran for R-4

O R D E R

The writ petition is filed by one Meenal, w/o. Late Manoharn, seeking writ of Certiorarified mandamus, calling for the records relating to the orders passed by the fourth respondent, declining the request of the petitioner to extend the benefit of family pensionary scheme, as per the Tamil Nadu Pension Rules, 1978.

2.The brief facts of the case is that Late Manoharan joined the Forest Department as Plot Watcher on 02.08.1982 on daily wage basis. After continuous services without break for nearly 22 years, his service was regularized and he was inducted as regular employee of the Forest Department on 09.09.2004. He died while in service on 29.09.2012. When the writ petitioner sought for pensionary benefits, her request was declined by the 4th respondent on the ground that the said Manoharan has not completed 10 years of qualifying service to extend the benefit of pension scheme.

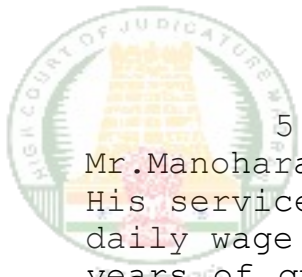
3.Referring to Rule 11(2) of the Tamil Nadu Pension Rules, 1978, wherein, it is stated as follows:

"Half of the service paid from contingencies shall be allowed to count towards qualifying service for pension along with regular service",

the learned counsel appearing for the petitioner contended that similarly placed employees of various departments were granted pensionary benefits, though their regularization was subsequent to the implementation of contributory pension scheme which came into effect from 01.04.2003. Therefore, denial of family pension to the writ petitioner citing that the services of Manoharan was regularized subsequent to contributory pension scheme does not hold good.

4.The learned Additional Government Pleader appearing for the State of Tamil Nadu and the learned counsel appearing for the Accountant General of Tamil Nadu fairly conceded that the Division Bench of this Court has applied Rule 11(4) of the Tamil Nadu Pension Rules, 1978, in the case Plot Watchers, who are paid daily wage and later regularized, 50% of total services of the Plot Watchers should be taken into service. Accordingly, this writ petitioner is also entitled to the benefit under the Tamil Nadu Pension Rules. A Division Bench of this Court in the case of **Government of Tamil Nadu and Others V. M.Gopal** has confirmed the judgment of the learned Single Judge passed in W.P.No.8205 of 2011, dated 19.04.2011 wherein the learned Single Judge has observed that the reasoning of the respondent by citing G.O.Ms.No.259, dated 06.08.2003 cannot stand in the way of computing qualifying service

<https://hcserVICESportal.org/hcServices/> 11(2) of the Tamil Nadu Pension Rules, 1978.



5. Admittedly, in this case, the petitioner's husband Mr. Manoharan has joined the service as Plot Watcher on 02.03.1982. His service was regularized on 09.09.2004. If 50% of his service as daily wage is taken into account, certainly, it exceeds more than 10 years of qualifying service, which will entitle him to get benefit. Consequently, the writ petitioner being the wife of employee is entitled for family pension.

6. Therefore, the impugned order passed by the 4th respondent, dated 18.07.2013 is hereby quashed. In the light of the judgment and the earlier orders of this Court, which has also been confirmed by the Hon'ble Apex Court, the second respondent herein is directed to send the pension proposals to the first respondent within a period of 12 weeks from the date of receipt of a copy of this order. On receipt of the proposal, the first respondent herein shall pass appropriate orders within a period of 8 weeks thereafter.

7. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To:

1. The Secretary to Government,
Government of TamilNadu,
Forest and Environment Department,
Fort St. George, Chennai-600 009.
2. The Principal Chief Conservator of Forests,
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Ramanathapuram District.
4. The Accountant General of Tamil Nadu,
O/o. The Accountant General,
Office at Thenampet,
Chennai-18.

+ 1 CC TO Mr. P. GUNASEKARAN, ADVOCATE IN SR No. 94921
+ 1 CC TO M/s. AJMAL ASSOCIATES, ADVOCATE IN SR No. 95008
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 94958

VS

TE/SV/SAR-1 : 12/12/2018 : 3P/8C

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