



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2018

CORAM :

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P (MD) Nos.17405 and 17406 of 2018

V.Chinnammal ... Petitioner in W.P.17405/18
P.Lingammal ... Petitioner in W.P.17406/18

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Forest and Environment (FR-2) Department,
Secretariat, Chennai - 600 009.
- 2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai - 15. ... RR1 and 2 in
both petitions
- 3.The Forest Range Officer,
Social Forest Range, ... R3 in W.P.No.17405/18
- 4.The Divisional Forest Officer,
Social Forestry Division Office,
Office of the District Collector Campus,
Virudhunagar,
Virudhunagar District. ... R4 in W.P.No.17405/18 &
R3 in W.P.No.17406/18
- 5.The Forest Extension Officer,
Forest Extension Centre,
Srivilliputhur,
Virudhunagar District. ... R4 in W.P.No.17406/18
- 6.The Principal Accountant General Officer,
Accountant general Officer,
of Tamil Nadu,
Teynampet, Chennai - 18. ... Respondent No.5 in
both petitions

Prayer in W.P.(MD) No.17405 of 2018: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to count half of the service of the petitioner's husband before his absorption on 07.08.2009 (i.e. from 01.12.1986 to 06.08.2009) along with regular service for the



petitioner's husband from 07.08.2009 to 05.04.2014 for the purpose of granting pension and to grant all benefits/retirement benefits with 18% interest within a time frame that may be fixed by this Court.

Prayer in W.P.(MD) No.17406 of 2018: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to count half of the service of the petitioner's husband before his absorption on 07.08.2009 (i.e. from 01.04.1981 to 06.08.2009) along with regular service for the petitioner's husband from 07.08.2009 to 22.08.2011 for the purpose of granting pension and to grant all benefits/retirement benefits with 18% interest within a time frame that may be fixed by this Court.

For Petitioners : Mr.K.Seemaraj

For Respondents : Mr.M.Murugan, G.A. For RR1 to 4
Mr.P.Gunasekaran for R5

COMMON O R D E R

In both the writ petitions, the prayer sought for is for a Writ of Mandamus, directing the respondents to count the half of service rendered by the petitioners' husband as Plot Watchers for certain period on temporary basis along with the period from the date of regular service till the date of death of the employees viz., 05.12.2014 and 23.08.2011 respectively as qualifying service for the purpose of granting pension and to grant all benefits/retirement benefits with 18% interest within a time frame that may be fixed by this Court.

2.Heard Mr.K.Seemaraj, learned counsel appearing for the petitioners and Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 to 4 and Mr.P.Gunasekaran, learned standing counsel appearing for the fifth respondent.

3.In both the cases, the widow of the employees of the respondent department are the petitioners. In the first case, the employee was working on daily wages basis as Plot Watcher from 01.12.1986 to 06.08.2009 and thereafter, as per the Government policy, he had been absorbed and he had been brought to time scale of pay and had been working from 07.08.2009 to 05.04.2014. While so, he died on 05.12.2014.

4.In the second case, the petitioner's husband was working on daily wages basis as Plot Watcher from 01.04.1981 to 06.08.2009 and thereafter, he has been brought to regular service and had been working from 07.08.2009 to 22.08.2011 and he died in harness on 23.08.2011.

5.Though both the employees, who are the respective husbands of the petitioners herein died in harness and they had been working in the respondent department for several years, the respondents have not sanctioned full pension/family pension for the said deceased

employees, because, they have not calculated the entire service rendered by them.

6. In this regard, the learned counsel appearing for the petitioners would submit that, as per the orders passed by this Court, 50% of the past services rendered by the Plot Watcher before they brought into regular time scale of pay on regular basis by way of their service as daily wages, can be calculated for the purpose of pensionary benefits. Therefore, in this regard, several representations have been made by the petitioners. But, everything went in vein. As the last representations made by the respective petitioners on 23.04.2018 and 05.06.2018 have also not been considered, the petitioners are before this Court.

7. The learned counsel appearing for the petitioners would further submit that, the issue raised by the petitioners in these writ petitions is covered by a number of decisions of this Court and in this regard, the learned counsel appearing for the petitioners relied upon a decision of this Court, where, I had an occasion to consider the same issue in W.P.(MD) Nos.23667 and 23668 of 2016 in V.Nagavalli and C. Thennammal Vs. The State of Tamil Nadu represented by its Secretary, Forest and Environment (FR-2) Department and others dated 05.12.2016, where I have passed the following order:

"2. The learned counsel appearing for the petitioners would contend that the issue raised in these writ petitions is a covered issue as number of orders have been passed by this Court and in this regard, the learned counsel for the petitioners relied upon the recent order of this Court made in W.P.(MD).No.19028 of 2016, dated 04.10.2016 in the matter of R.Panchavarnam vs. the State of Tamil Nadu represented by its Secretary, Forest and Environment (FR-2) Department, Secretariat, Chennai and others. In the said order, this Court has passed the following directions:

"6. Under such circumstances, the first respondent is directed to count half of the service of the petitioner (50%) before his absorption on 07.08.2009 i.e., from 01.12.1985 to 06.08.2009 along with the regular service from 07.08.2009, for the purpose of pension and thereafter, to settle the retirement benefits within a period of eight weeks from the date of receipt of a copy of this order."

3. The learned counsel for the petitioners also would rely upon a Government Order in G.O.Ms.No.44, Environment Forest (F2) Department, dated 29.08.2016, wherein a case of similar nature for 71 members of plot watchers /forest watchers, who had been similarly placed like that of the petitioner



had been considered, of course, pursuant to the various orders passed by this Court and accordingly, through the said Government Order, the Government directed to calculate 50% of the services rendered by the employees before they were permanently absorbed for the purpose of service benefit and the relevant portion of the said Government Order is reproduced for better appreciation of the issue hereunder:

"In various writ petitions filed by 71 numbers of retired Plot Watchers/Forest Watchers/Malis/legal heir of the deceased forest watchers separately before the Hon'ble High Court of Madras and the Madurai Bench of Hon'ble Madras High Court with a prayer to count 50% of the services rendered by them as plot watcher on daily wages along with their regular service for calculation of pension and the Hon'ble High Court in all the above cases has directed the respondents to count half of the services rendered by the petitioners as plot watcher on daily wages along with their regular service as qualifying service for calculation of pensionary benefits and to grant eligible pension and other consequential benefits.

2. In pursuance of the orders of the Hon'ble High Courts, the Principal Chief Conservator of Forests has requested the Government to issue orders to implement the orders of the Hon'ble High Court of Madras and the Madurai Bench of Hon'ble Madras High Court to count 50% of service rendered by the 71 petitioners, on daily wages along with their regular service for calculation of pension and other monetary benefits.

3. The Government, after careful examination, accept the proposal of the Principal Chief Conservator of Forests and direct the half of the services rendered on daily wages by the 71 petitioners mentioned in the annexure to this order, shall be counted along with their regular service for calculation of pensionary benefits."

4. The learned Government Advocate appearing for the respondents would contend that the said benefit was given only on considering case to case basis, of course pursuant to the various orders passed by this Court. The decision was not taken by the Government covering of those persons and only based on the



relevant material of each of the employee, benefits were given calculating the 50% of the past service before they were observing their regular service and also pursuant to the order of this Court.

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5. Considering the said submissions made by the learned counsel appearing for both sides and in view of the Government Order, dated 29.08.2016, where the Government has given the same relief to number of persons and also considering the various orders of this Court and especially the order dated 04.10.2016 made in W.P.(MD).No.19028 of 2016 of this Court, this petitioner would also be entitled to get the same relief and in view of the same, the following orders are passed:

6. The respondents are directed to take the 50% of the past service of the petitioners' husband before they were absorbed and accordingly, the pensionary benefits and all other retirement benefits shall be calculated and the same shall be paid to the petitioner within a period of eight weeks from the date of receipt of a copy of this order."

8.While relying upon the said decision, the learned counsel appearing for both sides would submit that the same relief can be extended to the petitioners also.

9.I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

10.As rightly pointed out by the learned counsel appearing for the petitioners as fairly endorsed by the learned Government Advocate appearing for the respondents 1 to 4 and the learned standing counsel appearing for the fifth respondent, the issue raised in these writ petitions is no more res-integra as 50% of past services rendered by the Plot Watchers before they brought into regular time scale of pay can be taken into account for the purpose of pensionary benefits.

11.In that view of the matter, by taking into account the factual matrix of this case, since number of cases of this nature have already been decided by this Court, the following order is passed in these cases:

"The respondents are directed to consider the representation given by the petitioners on 23.04.2018 and 05.06.2017 respectively by taking into account the earlier order passed by this Court in this regard and accordingly, pass necessary orders for taking into



account 50% of the past services rendered by the employees, i.e. the husbands of the petitioners herein, for the purpose of pensionary benefits and accordingly, revise their pensionary/family pension benefits and disburse the same, within a period of eight weeks from the date of receipt of a copy of this order."

12. With the above direction, these writ petitions are disposed of. No costs.

Sd/
Assistant Registrar (CS-I)

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Sub Assistant Registrar (CS-II)

To

1. The Secretary to Government,
State of Tamil Nadu,
Forest and Environment (FR-2) Department,
Secretariat, Chennai - 600 009.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai - 15.
3. The Forest Range Officer,
Social Forest Range,
Virudhunagar District.
4. The Divisional Forest Officer,
Social Forestry Division Office,
Office of the District Collector Campus,
Virudhunagar District.
5. The Forest Extension Officer,
Forest Extension Centre,
Srivilliputhur,
Virudhunagar District.

+1cc to Mr. P. GUNASEKARAN, Advocate, SR.No. 77098
+2cc to Mr. K. SEEMARAJ, Advocate, SR.No. 77055, 77056
+1cc to M/s. Special Government Pleader, SR.No. 77273

W.P (MD) Nos. 17405 and 17406 of 2018
03.08.2018

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