

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16485 OF 2019

M.Gunasekaran

.... Petitioner

Vs

1.The State of Tamil Nadu,
Rep., by its Secretary to Government,
Environment and Forest Department,
Fort. St. George,
Chennai.

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai-15.

... Respondents

For Petitioner : Ms.K.Jenitha

For Respondents : Mr.Elumalai,
Government Advocate

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents to appoint and promote the petitioner as Forest Watcher with effect from the date of his juniors appointment and promotion by considering the petitioners last representation dated 12.06.2018 in the light of the order 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 20.03.2010 and first respondent in his Government Letter No.24184/FR 2-(II)/2017-1 dated 14.05.2018 with all consequential benefits

O R D E R

The Petitioner was appointed on daily wage basis in the Forest Department as Plot Watcher. As per Tamil Nadu Forest Subordinate 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, Environment and 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.199 of 1995 and obtained interim stay. During the pendency of original application before the Tribunal, the Government issued G.O.Ms.No.64, Environment and 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 petitioner was 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.Nos.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 their juniors with effect from 24.01.1995. The petitioner have submitted a representation dated 12.06.2018 to the respondents seeking to regularise his services on par with their juniors, but no order has been passed. Thus, the present writ petition is filed.

4. Learned counsel for the petitioner 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. Considering the facts and circumstances of this case, without going into the merits of the issue, this Court is inclined to issue direction to the respondents to dispose of the petitioner's representation dated 12.06.2018, if not disposed of already, within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy//

Sub Assistant Registrar

bkn

To

1.The Secretary to Government,
Environment and Forest Department,
Fort. St. George,
Chennai.

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai-15.

+1cc to Ms.K.Jenitha, Advocate, SR.No.83585.

+1cc to Government Pleader, SR.No.83873.

W.P.No.16485 OF 2019

VD (CO)
CSR(18/12/2019)

सत्यमेव जयते

WEB COPY