

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.21152 of 2019

and

WMP.No.20354 of 2019

K.Rajagopal

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Environment and Forest Department,
Fort St. George,
Chennai 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai- 600015.

3.The District Forest Officer,
Kanchipuram District,
Kanchipuram.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent dated 16.08.2017 made in letter No.3291/FR2 (II)/2017-3 and to quash the same in so far as the denial of monetary benefits is concerned and consequently direct the respondents to pay arrears of salary and back wages based on the regularization order passed by the second respondent dated 26.09.2017 in Reference No.LL1/29746/2014 with all other monetary emoluments.

For Petitioner : Mr.G.Prabakaran

For Respondents : Mr.M.Elumalai
Government Advocate

O R D E R

This Writ Petition has been filed for the issuance of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent dated 16.08.2017 made in letter No.3291/FR2(II)/2017-3 and to quash the same in so far as the denial of monetary benefits is concerned and consequently direct the respondents to pay arrears of salary and back wages based on the regularization order passed by the second respondent dated 26.09.2017 in Reference No.LL1/29746/2014 with all other monetary emoluments.

2. The case of the petitioner is that he was initially appointed as Plot Watcher on daily wage basis and he rendered service as such for years together. Later, he filed a Writ Petition in W.P.No.22758 of 2014 for regularization of his service which came to be allowed by this Court on 22.08.2014, directing respondents to regularize the service of the petitioner on par with the juniors as Forest Watcher. Pursuant to the said direction, it appears that the second respondent / Principal Chief Conservator of Forests by proceedings dated 16.08.2017 has regularized the services of the petitioner and fixed the seniority on par with the juniors in the post of Forest Watchers notionally and with monetary benefits from the date of the proceedings i.e. 16.08.2017. Aggrieved by the denial arrears of salary and back-wages, pursuant to the regularization, the petitioner has come forward with the present Writ Petition challenging the impugned proceedings in so far as it denied monetary benefits of arrears of salary and back-wages based on the regularization.

3. Learned Government Advocate appearing for the respondents has filed a counter affidavit on behalf of the third respondent wherein he would draw the attention of this Court to paragraphs 6 and 7 which are extracted under:

"... 6. It is respectfully submitted that the similarly placed persons have filed in various writ petitions with a prayer to appoint the petitioner as regular time scale Forest Watcher taking into account of their seniority and qualifications on par with their juniors in the light of the orders passed in W.P.No.15561 of 2006 dated: 10.03.2008, W.A.No.690/08, dated: 13.10.2009, W.P.No.23374 of 2008 dated: 31.10.2009 W.A.No.607 of 2010 dated 20.03.2010, based on the Court direction, Thiru.T.Shanmugavel have filed a Writ Petition in W.P.No.37627 for seeking to fix seniority in the post of Forest Watcher on par with their Juniors. The Hon'ble High Court order was implemented by the Government have issued orders in his Government Letter No.24184/FR2(II) 2017-1,

dated:14.05.2018 to regularize the service of the Petitioner on par with their juniors in the post of Forest Watcher and also another Government Order in G.O.(Ms).No.08 E&F (FR2-II) department, dated 21.01.2019. Further the monetary benefits were accorded only from the date 26.09.2017. It is respectfully submitted that petitioner along other similarly placed persons already preferred W.P.No.22759 of 2014 before this Hon'ble High Court of Madras. The Hon'ble Court by an order dated 22.08.2014 was pleased to issue following directions:

"Considering the fact that the Petitioner's juniors were already regularized, even before the petitioners could get regularized, as per the decision referred to above, it is appropriate to direct the respondents to regularize the service of the petitioners on par with their juniors as Forest Watcher, within a period of twelve weeks from the date of receipt of a copy of this Order. The petitioners are entitled to only regularization from the date on which, the juniors were regularized and they are not entitled to any monetary benefits from that date: (emphasis added)

It is respectfully submitted that Hon'ble Court was pleased to issue direction to only regularization from the date on which the juniors were regularized and they are not entitled for any monetary benefits from the date, having accepted the above judgment and without preferring any appeal over the above judgment and same is attained finality the petitioner had chosen to prefer the present Writ Petition challenging the order dated 16.08.2017 made in letter No.3291/FR2(II)2014-3 wherein the monetary benefits were granted only from 16.08.2017. Due to huge financial implication cost upon the Government on the basis of no work no pay the monetary benefits were restricted only from 16.08.2017.

7. It is respectfully submitted that the date of retirement of the petitioner is on 30.04.2014. The petitioner was granted with all the retirement benefits including emolument accrued due to the fixation of seniority on par with the Junior and necessary order were passed in this regard. The petitioner having received all the benefits had now preferred the Writ Petition after the period to two years. The Writ Petition has to be dismissed on ground of delay and laches."

Therefore, on perusal of the above, it appears that even while disposing of the Writ Petition filed by the petitioner in.

W.P.No.22759 of 2014 dated 22.08.2014, this Court has categorically clarified in the order that the petitioner is entitled to only regularize from the date of which his juniors were regularized and he is not entitled to any monetary benefits. Therefore, now after having the benefit of regularization, the petitioner cannot now assail the impugned order of the second respondent in so far as denial of monetary benefits. In fact, while implementing the orders of this Court, the second respondent has extended the benefits of regularization to the petitioner and taking note of the fact that huge financial implication would cast upon the Government and on the basis of 'No Work No Pay', the benefits were restricted from 06.08.2017. In such a view of the matter, this Court does find any scope to interfere with the impugned order.

4. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(JJ Act)

// True Copy//

Sub Assistant Registrar

bkn

To

- 1.The Secretary,
Environment and Forest Department,
Fort St. George, Chennai 600 009.
- 2.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai- 600015.
- 3.The District Forest Officer,
Kanchipuram District, Kanchipuram.

+1cc to Mr.C.Prabakaran, Advocate, SR.No.86813.
+1cc to Government Pleader, SR.No.86600.

W.P.No.21152 of 2019
and
WMP.No.20354 of 2019

SVI (CO)
CSR: 07.02.2020