

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.10.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30133 of 2019

K.Marimuthu

... 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

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to appoint the petitioner as Forest Watcher with effect from the date of his junior's appointment on 24.01.1995 by considering his representation 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 29.03.2010 and first respondent in his G.O.(Ms) No. 08, E & F (FR.2-II) Department dated 21.01.2019 with all consequential benefits.

For Petitioner : Ms.K.Jenitha

For Respondents : Mr.M.Elumalai
Government Advocate

WEB COPY

O R D E R

The case of the petitioner is that he joined in service on 13.01.1983 as a Social Forestry Worker through Employment Exchange. In the year 1994, the Government issued a G.O.Ms.No. 332, Environment and Forest Department, dated 22.12.1994, imposing a new condition of pass in S.S.L.C for holding regular post of Forest Watcher. As per the G.O., some of the juniors were appointed as Forest Watcher marching over the petitioner. Challenging the G.O.Ms.No. 332, dated 22.12.1994, an application

in O.A.No. 197 of 1995 was filed before the Tamil Nadu Administrative Tribunal. Thereafter the said G.O.332 was cancelled and a new Government Order in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999 was issued and the qualification was fixed as ability to read and write in Tamil.

2. In view of the cancellation of G.O.Ms. No.332, the petitioner has submitted representation to the second respondent to appoint him as a Forest Watcher on fixing the seniority on par with his juniors appointment as Forest Watcher. But his claim was not considered at the earliest point of time, with the result, his junior marched over him. After rendering two decades of service, the petitioner was brought into the regular time scale of pay in the cadre of Forest Watcher on 16.05.2008 with effect from the date of order without considering his seniority and without considering his claim for appointment on par with his juniors. Again the petitioner sent a representation to consider his claim. But so far, no order has been passed by them. Hence he filed this Writ Petition.

3. Mr. Elumalai, learned Government Advocate (Forest) takes notice on behalf of the respondents.

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 settled by this Honourable Court in series of decisions and therefore, the relief sought for in this writ petition 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. Considering the submissions as advanced by the learned counsel on either side, without going into the merits of the issue, this Court directs the respondents to regularise the services of the petitioner as Forest Watcher on par with his juniors in the light of the orders passed by this Court. However, it is made clear that the regularisation will be only for the purpose of counting the qualifying service for pension and not for other monetary benefits. The respondents are directed to carry out the exercise of granting regularisation within a period of twelve weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ebsi
To

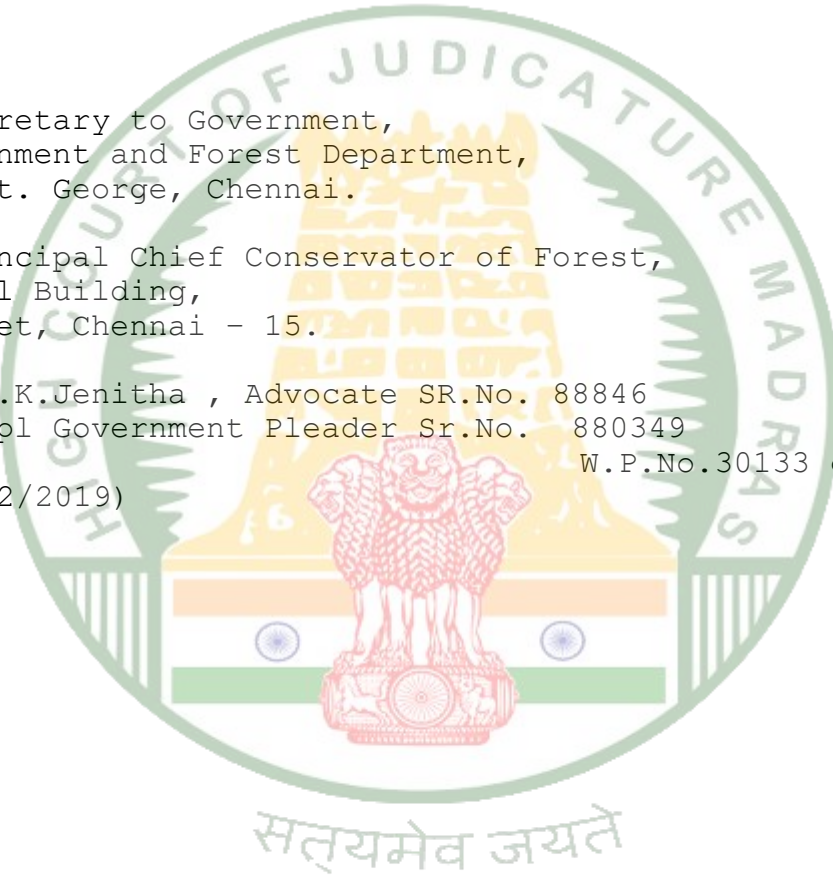
1. The Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai - 15.

+1cc to Ms.K.Jenitha , Advocate SR.No. 88846

+1 cc to Spl Government Pleader Sr.No. 880349

W.P.No.30133 of 2019

A.SK(02/12/2019)



WEB COPY