

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

THE HON'BLE Mr.JUSTICE.M.DHANDAPANI.J

W.P.Nos.31208, 31211, 31213 & 31210 of 2019

A.Lurdusamy Petitioner in WP.No.31208/2019
I.Balu Petitioner in WP.No.31211/2019
L.Stephen Petitioner in WP.No.31213/2019
R.Mani Petitioner in WP.No.31210/2019

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forests Department,
Fort St.George, Chennai - 600 090.
- 2.The Principal Chief Conservator of Forests
Panagal Building, Saidapet,
Chennai-600 015. R1&R2 in all WPs
- 3.The District Forest Officer,
Villupuram Forest Division,
Villupuram.R3 in WP.31208&31210 of 2019
- 4.The District Forest Officer,
The Nilgiris south Forest Division,
UthagamandalamR3 in WP.NO.31211 of 2019
- 5.The Deputy Director,
Mudhumalai Tiger Reserve,
UthagamandalamR3 in WP.NO.31213 of 2019

Prayer in WP.No.31208/2019 : Writ Petitions 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 petitioner representation dated 06.08.2019 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 Government Order in G.O. (Ms)No.8 of the 1st respondent dated 21.01.2019 with all consequential benefits with all consequential benefits.

Prayer in WP.No.31210/2019 :

Writ Petitions 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 representation dated 06.08.2019 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 Government order in G.O.(Ms) No. 8 of the 1st Respondent dated 21.01.2019 with all consequential benefits with all consequential benefits

Prayer in WP.No.31211/2019 :

Writ Petitions 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 on 24.01.1995 by considering the petitioners representation dated 02.08.2019 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 W.P.No. 6327 / 2005 dated 04.12.2012 W.P.No. 9708 / 2014 dated 12.09.2014 W.A.No. 1703 / 2014 dated 10.10.2016 and Government order in G.O.(Ms) No. 8 of the 1st Respondent dated 21.01.2019 with all consequential benefits with all consequential benefits

Prayer in WP.No.31213/2019 :

Writ Petitions 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 on 24.01.1995 by considering the petitioners representation dated 02.08.2019 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 W.P.No. 6327 / 2005 dated 04.12.2012 W.P.No. 9708 / 2014 dated 12.09.2014 W.A.No. 1703 / 2014 dated 10.10.2016 and Government order in G.O.(Ms) No. 8 of the 1st Respondent dated 21.01.2019 with all consequential benefits with all consequential benefits.

For Petitioners : Mr.I.Kannapatel
For Respondents : Mr.M.Elumalai,
Government Advocate (Forests)

COMMON ORDER

1. These Writ Petitions have been filed by the petitioners, praying for issuance of a Writ of Mandamus, to appoint and promote the petitioners as Forest Watchers with effect from the date of his juniors appointment and promotion by considering the petitioner representations dated 02.08.2019 06.08.2019 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 Government Order in G.O.(Ms)No.8 of the 1st respondent dated 21.01.2019 with all consequential benefits with all consequential benefits.
2. The case of the petitioners is that the petitioners were appointed on daily wage basis in the Forest Department as Social Forestry Workers on various dates. The above said post is a non-cadre post, in which more than 3000 persons had been appointed throughout the State, during the relevant period, including the petitioners. As per Tamil Nadu Forest 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, 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.
3. 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.197 of 1995 and obtained interim stay. During the pendency of original application before the Tribunal, the Government issued G.O.Ms.No.64, 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 petitioners were 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 petitioners filed W.P.No.15561 of 2006 and W.P.No.23374 of 2008 and those writ petitions were allowed. W.A.No.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 petitioners on par with their juniors with effect

from 24.01.1995. The petitioner has submitted a representation dated 21.01.2019 to the first respondent seeking to regularize his services on par with his juniors, but no order has been passed. Thus, the present writ petition is filed.

- 4.Mr.M.Elumalai, learned Government Advocate (Forests) takes notice on behalf of the respondents.
- 5.Learned counsel for the petitioner submits that the issue involved in this writ petition as regards regularization of service of the petitioners on par with their 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 petitions is a remedy in rem and not a remedy in personam.
- 6.Learned Government Advocate appearing for the respondents, on instructions, would submit that regularization can be done without monetary benefits and only for the purpose of calculation of qualifying service for pension.
- 7.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 consider the representations of the petitioners made on 02.08.2019 and 06.08.2019 and regularize the service of the petitioner as Forest Watcher on par with his junior in the light of the orders passed by this Court. However, it is made clear that the regularization will be only for the purpose of counting the qualifying service for pension and not for monetary benefits. The respondents are directed to carry out the exercise of granting regularization within a period of eight weeks from the date of receipt of a copy of this order.
- 8.With the above direction, these Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

jrs
To

- 1.The Secretary,
Environment and Forests Department,
Fort St.George, Chennai - 600 090.
- 2.The Principal Chief Conservator of Forests
Panagal Building, Saidapet, Chennai-600 015.

3.The District Forest Officer,
Villupuram Forest Division,
Villupuram.

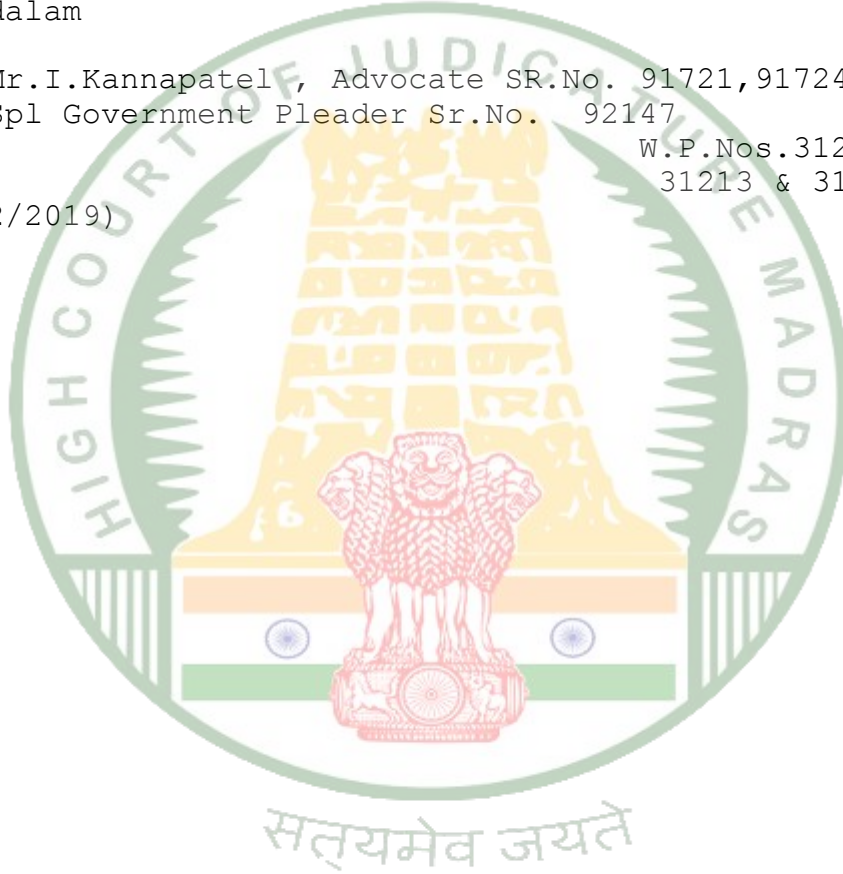
4.The District Forest Officer,
The Nilgiris south Forest Division,
Uthagamandalam

5.The Deputy Director,
Mudhumalai Tiger Reserve,
Uthagamandalam

+3ccs to Mr.I.Kannapatel, Advocate SR.No. 91721,91724,91723
+1 cc to Spl Government Pleader Sr.No. 92147

W.P.Nos.31208, 31211,
31213 & 31210 of 2019

A.SK(12/12/2019)



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