



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP (MD) No.5958 of 2019

Viswanathan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by Secretary to the Government,
Forest and Environment Department,
Fort Saint George, Chennai - 600 009.

2.The Principal Chief Conservator of Forces,
Panagal Building,
Chennai - 600 015.

3.The Divisional Forest Officer
Social Forest Division,
Ramanathapuram,
Ramanathapuram District.

4.The Accountant General of Tamil Nadu,
Office of the Accountant General,
Teynampet, Chennai - 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents Nos.1 to 3 to count half of the service rendered by the petitioner as Plot Watcher from 09.03.1983 to 06.08.2009 along with regular service rendered by the petitioner as Forest Watcher from 07.08.2009 to 31.05.2013 as qualifying service for the purpose of conferment of pension and further direction to send a pension proposal of the 4th respondent and further direct the 4th respondent to grant pension based on such proposal with all consequential benefits.

For Petitioner : Mr.P.Muthusamy

For Respondents : Mr.MC.Marichellaiah Prabu,
Nos.1 to 3 Additional Government Pleader

For Respondent : Mr.P.Gunasekaran
No.4

**ORDER**

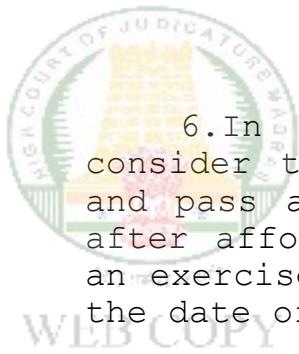
The writ petition has been filed by the petitioner seeking issuance of a writ of Mandamus, to direct the respondents 1 to 3 to count the half of the service rendered by the petitioner as a Plot Watcher from 09.03.1983 to 06.08.2009 along with the regular service as Forest Watcher from 07.08.2009 to 31.05.2013 as a qualifying service and send the revised pension proposal to the fourth respondent and to further direct the fourth respondent to sanction the eligible pension and all other terminal benefits to the petitioner.

2. Heard the learned Counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondent Nos. 1 to 3 and the learned Counsel appearing for the respondent No.4

3. The learned Counsel appearing for the petitioner submitted that the petitioner was initially appointed as Plot Watcher in the Forest Department on 09.03.1983 on daily wage basis and served in the said capacity till 06.08.2009. Subsequently, the petitioner's service was regularised in the post of Forest Watcher by the second respondent vide, order dated 30.08.2009 with effect from 07.08.2009 and the petitioner retired from service on attaining the age of superannuation.

4. The learned Counsel appearing for the petitioner further submitted that the petitioner's pension proposal was not forwarded by the third respondent under the Tamil Nadu Pension Rules, 1978, on the ground that the petitioner has not completed ten years of pensionable service. The learned counsel also submitted that Rule 11 (2) of the Tamil Nadu Pension Rules, 1978, clearly states that for calculating qualifying service, half of the service rendered from contingencies shall be allowed to be counted, and that in the petitioner's case, his services satisfy the conditions contained in Rule 11(2) of the said Rules, as he was appointed on daily wage basis on 09.03.1983; he was promoted and regularized on 07.08.2009; his daily wage pay was calculated and paid only on monthly basis, and he was absorbed in service without any break-in-service. A similar issue was favourably considered by this Court in W.A(MD) No.51 of 2018 and batch of cases. Hence, the petitioner has sent a representation to the respondents for the similar relief. Since the same has not been considered by the respondents, the petitioner has filed the present Writ Petition.

5. The learned Additional Government Pleader appearing for the respondent Nos. 1 to 3 submitted that the petitioner's services had already been regularised. He further submitted that the respondents would consider the representation of the petitioner, on merits and as per law.



6. In view of the above, the respondents are directed to consider the claim of the petitioner, seeking revision of pension and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar (CS)

dsk

To

1. The Secretary to the Government,
Forest and Environment Department,
Fort St George,
Chennai - 600 009.

2. The Principal Chief Conservator of Forces,
Panagal Building,
Chennai - 600 015.

3. The Divisional Forest Officer
Social Forest Division,
Ramanathapuram,
Ramanathapuram District.

4. The Accountant General of Tamil Nadu,
Office of the Accountant General,
Teynampet, Chennai - 600 018.

+1 CC to M/s.P.MUTHUSAMY, Advocate (SR-53810[F] dated 13/03/2019)
+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-54493[F] dated 15/03/2019)
+1CC to the Special Government Pleader SR.No.54006

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ES/30.04.2019/3P/8C