



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

WEB COPY

W.P. (MD) No. 9318 of 2015

and

M.P. (MD) No. 2 of 2015

1. M. Kauppiyah
2. M. Muniyandi
3. M. Rajeshwari
4. P. Dhanabalan
5. A. Santhosam
6. Veeman
7. P. Jeyaraman

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Environment and Forest,
Secretariat,
Chennai-600 009.

2. The Principal Chief Conservator of Forests,
No.15, Jenis Road,
Panagal Buildings,
Saidapet,
Chennai-600 015.

3. The Divisional Forest Officer,
Social Forest Division,
District Collector Campus,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in his letter No.14867/FR2/2014-2 dated 05.11.2014 and quash the same as illegal and consequently direct the respondents to pay a regular scale of pay to the petitioner payable to the Post of Forest Watcher as monthly salary or at least the salary paid to the employees whose services were regularized in the same department by the Government Order G.O.Ms.No.84 Environment and Forest (FR-5) dated 09.08.2007 with effect from the date of completion after 10 years of service with all other benefits.



For Petitioners
For Respondents

: Mr.K.Seemaraj
: Mr.S.Dhayalan
Government Advocate

ORDER

The order of the first respondent, dated 05.11.2014 is sought to be quashed. A direction is sought for to grant regular time scale of pay to the writ petitioners payable to the post of Forest Watcher.

2.The impugned order states that as per G.O.Ms.No.95 (Environment and Forests) (FR-2) Department, dated 07.08.2009, the petitioners have already been brought under the Super numerical post of Plot Watcher in the time scale of pay of Rs.2500-5000+Grade Pay of Rs.500 and granted the time scale of pay of the Government as per the policy decision, which was applied to more than 300 is similarly placed Plot Watcher and Village Social Forest Worker. The writ petitioners were already brought under special time scale of pay with reference to the Government Orders and on par with the similarly placed persons. The present writ petition is filed seeking regularization of the services with retrospective date. This Court is of the considered opinion that the concession of special time scale of pay was already extended to the writ petitioner and they were treated on par with other similarly placed Plot Watcher in the Forest Department.

3.Under these circumstances, regularization with retrospective effect cannot be granted in view of the legal principles settled by the constitution bench of the Hon'ble Supreme Court of India in the case of ***the Secretary, State of Karnataka and others .vs. Umadevi(3) and others reported in (2006) 4 Supreme Court Cases 1.*** Regularization or permanent absorption cannot be claimed in violation of the recruitment rules in force. All appointments and regularizations are to be granted strictly in accordance with the rules in force.

4.In the present case, considering the length of the service, the Government had taken a policy decision and granted the benefit of special time scale of pay for Plot Watchers, who all are similarly placed to the writ petitioner as well as to the writ petitioners, in view of the fact that the special time scale of had already been granted to the writ petitioners, no further concession can be shown so as to grant retrospective regularization or otherwise. The concession already given to the writ petitioners on par with the Plot Watchers is admitted and therefore, no further consideration is required in this writ petition.



5. In view of the above, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
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Saidapet,
Chennai-600 015.
 3. The Divisional Forest Officer,
Social Forest Division,
District Collector Campus,
Virudhunagar,
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- + 1 CC to The Special Government Pleader SR.No.68857

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