



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2019

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THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD) No.17654 of 2017

P.Thangaraj

...Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Forest and Environment Department,
Fort St.George,
Chennai - 9.

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai 600 015.

3.Deputy Director,
Tiger Project,
Ambai - 627 401,
Tirunelveli District.

4.Accountant General,
Pay and Accounts Section,
Teynampet,
Chennai - 18.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent in connection with the impugned order of rejection passed by him in his proceedings in Na.Ka.No.P2/4722/2015 dated 28.10.2015 and quash the same as arbitrary and ultravires and consequently direct the respondents to consider the petitioner's case for sanction of pensionary and consequential benefits on par with the petitioner's junior in the light of the judgment passed in W.P.Nos.302/2012 etc., dated 04.06.2012 within the time limit that may be stipulated by this Court.

For Petitioner :Mr.K.Gurunathan
for Mr.G.Thalaimutharasu



For R4

:Mr.P.Gunasekaran
Standing Counsel**ORDER**

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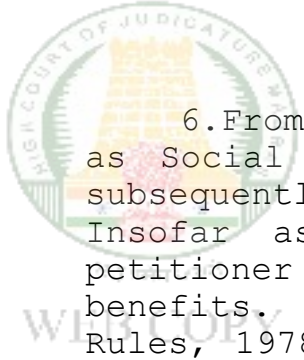
This writ petition has been filed to quash the order dated 28.10.2015 passed in Na.Ka.No.P2/4722/2015 by the third respondent and to direct the respondents to consider the petitioner's case for sanction of pensionary and other consequential benefits.

2.Mr.A.Muthukaruppan, learned Additional Government Pleader takes notice for the respondents 1 to 3 and Mr.P.Gunasekaran, learned Standing Counsel takes notice for the fourth respondent. By consent, this writ petition is taken up for disposal at the admission stage itself.

3.According to the petitioner, he was inducted into the Forest Department on 01.04.1982 as Social Forestry Worker on consolidated pay and his service was regularized on 03.01.2005. On attaining the age of superannuation, the petitioner was retired from service on 31.08.2015 and for about 33 years, the petitioner has rendered his service in the said department.

4.The learned counsel for the petitioner would submit that insofar as the petitioner's service in consolidated pay is concerned, half of the service has not been considered and by order dated 28.10.2015, the third respondent has not granted with the pensionary benefits to the petitioner by stating that the petitioner's service was regularised only on 03.01.2005 and not before 01.04.2003. Now, the grievance of the petitioner is that the said order dated 28.10.2015 passed by the third respondent is not in accordance with law and the same is liable to be quashed as per Rule 11 (4) of the Tamil Nadu Pension Rules, 1978. It is further stated that as per Rule 11(4), the petitioner is entitled for sanction of pensionary and other benefits. Hence, the petitioner is before this Court with the above prayer.

5.In reply, the learned Additional Government Pleader would submit that initially the petitioner was appointed as Social Forestry Worker and he was not engaged in any sanctioned post. According to G.O.Ms.No.259, Finance (Pension) Department, dated 06.08.2003, the petitioner is not governed by the Tamil Nadu Pension Rules, 1978 and that the daily wages service rendered by him cannot be counted for pension purpose. Further, Rule 11(2) of the Tamil Nadu Pension Rules, 1978, is applicable only to the Government Employees, who are appointed prior to 01.04.2003, but the petitioner's service was regularised only on 03.01.2005. Hence, the petitioner is not entitled for sanction of pensionary and other consequential benefits.



6. From the records, it is seen that the petitioner was engaged as Social Forestry Worker on consolidated pay on 01.04.1982 and subsequently, he was brought into regular service on 03.01.2005. Insofar as the half service of the consolidated pay of the petitioner is concerned, he has not granted with pensionary benefits. However, as per Rule 11(4) of the Tamil Nadu Pension Rules, 1978, the half of the service rendered by the petitioner in consolidated pay shall be counted for retirement benefits along with regular service. But, in the said impugned order dated 28.10.2015, no reason has been stated for rejecting the claim of the petitioner.

7. In the absence of any reason for rejecting the claim of the petitioner, this Court has no hesitation to quash the impugned order dated 28.10.2015 passed by the third respondent. Accordingly, the impugned order dated 28.10.2015 passed in Na.Ka.No.P2/4722/2015 by the third respondent, is hereby quashed. The petitioner is directed to make a fresh representation along with necessary documents and a copy of this order before the second respondent to seek his claim as prayed in the writ petition within a period of 15 days from the date of receipt of a copy of this order and on such representation, the second respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of four months thereafter.

8. With the above direction, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Secretary to Government,
Forest and Environment Department,
Fort St. George,
Chennai - 9.
2. The Principal Chief Conservator of Forest,
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3. Deputy Director,
Tiger Project,
Ambai - 627 401,
Tirunelveli District.



+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-76706[F] dated 22/07/2019)

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-76997[F] dated 23/07/2019)

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W.P. (MD) No.17654 of 2017
19.07.2019

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JM/05.08.2019/4P-7C