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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	17.03.2020
Pronounced On	19.05.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.13333 of 2010

1.K.Selvarasu
2.K.Kuppusamy
3.V.Govindaraj
4.M.Ganesan
5.S.Mathivanan

... Petitioners

Vs.

1.State of Tamil Nadu
rep. by Secretary, Forests Department,
Fort St. George, Chennai.
2.Chief Principal Conservator of Forests,
Pangal Maligai, Saidapet,
Chennai.
3.The District Forest Officer,
Mohanoor Road, Old. Collector Bungalow,
Nammakal.
4.The Conservator of Forests,
Anaimalai Tiger Project,
Pollachi.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to extend the benefit of the order in W.P.No.15561 of 2006 dated 10.03.2006 to the petitioners by considering the representation dated 17.03.2008 given by the petitioners.

For Petitioners :No appearance

For Respondents :Mr.S.Prabhu,
A.G.P. (Forest).



O R D E R

Heard the learned Additional Government Pleader (Forest) appearing for the respondents. There is no representation for the petitioners.

2. From the reading of the order sheet, it is noticed that Mr.K.Vasudevan the learned for the petitioners is no more and Mr.K.M.Ramesh appeared on behalf of the petitioners on 21.10.2019 and undertook to file a change of vakalat. He has however neither filed vakalat nor is present today. Therefore, I take up this writ petition for final disposal.

3. This Writ Petition has been filed, to direct the respondents to extend the benefit of the order in W.P.No.15561 of 2006, dated 10.03.2006, to the petitioners by considering the representation dated 17.03.2008 given by the petitioners.

4. The petitioners were appointed as Forest Watchers as per their seniority in the state wide seniority list prepared by the Government in accordance with G.O.Ms.No.64, Environment and Forests Department, dated 08.03.1999 and as per the common order dated 22.11.2002 in O.A.Nos.15, 160, 165 etc., and 8191 of 1999. They are now working as Forest Watchers.

5. As per the said G.O.Ms.No.64, dated 08.03.1999, the Principal Chief Conservator of Forest shall draw up a state wide seniority list consisting of all Plot Watchers and Social Forestry Workers in the State on daily wages basis and that the said Plot Watchers and Social Forestry Workers in the list, are to be appointed on regular service in the category of Forest Watcher or Mali by relaxing the rules, relating to age and methods of appointment. The list containing 5,442 persons engaged as Plot Watcher from 08.09.1960 to 01.02.1993, was drawn by the Principal Chief Conservator of Forests and selection and appointment as Forest Watcher was made strictly in accordance with the seniority of the list.

6. The appointments were made to the post of Forest Watcher upto Sl.No.3126 in state wide seniority list for the persons whose height is 163 cms and appointments were made for the persons whose height is less than 163 cms, upto Sl.No.706 to the post of Mali, Office Assistant, Office Watchman and Driver.

7. According to the petitioners, the 1st respondent passed G.O.Ms.No.332, dated 22.12.1994 relating to mode of recruitment of Office Assistants and Watchman in favour of the Plot Watchers and Village Social Forestry Worker. The said G.O. prescribed certain qualification for appointing the temporary



Plot Watchers and Village Social Forestry Workers. As per the G.O. the petitioners were fully qualified for the said post. Based on the said G.O. the respective Conservator of Forests has passed an order appointing certain Village Social Forestry Workers and Plot Watchers as permanent Forest Watchers.

8. It is further submitted that though the petitioners were fully qualified for the post of Forest Watcher as per the said G.O.Ms.No.332, they were not appointed as permanent Forest Watcher and the 2nd respondent adopted certain methods and issue an order of appointment to 250 temporary Plot Watchers/Social Forestry Workers as permanent Plot Watchers/Social Forestry Workers for the reasons best known to him. Those persons are far juniors to the petitioners. Immediately, the petitioners made several representations to the 2nd respondent requesting to appoint them as permanent Plot Watcher as per G.O.Ms.No.332, dated 22.12.1994.

9. When their request is pending for consideration, some unqualified persons approached the Tamil Nadu Administrative Tribunal, Chennai Bench, challenging the validity of the said G.O.Ms.No.332, dated 22.12.1994. Even though the said G.O.Ms.No.332, dated 22.12.1994 was quashed, the above said juniors were not reverted and they were allowed to work as Forest Watcher / Social Forestry Workers.

10. It is submitted that G.O.Ms.No.332, Environment and Forests (FR VI) Department, dated 22.12.1994, though cancelled, subsequently in G.O.Ms.No.64, Environment and Forests (FR II) Department, dated 08.03.1999 has resulted in appointment of Juniors as Seniors.

11. It is also submitted that against the unequal method adopted by the respondents one of the qualified person, namely Mr.P.Sundaram, filed W.P.No.15561 of 200 before this Court praying for a direction to include his name in the appropriate place with reference to his seniority and appoint him as Forest Watcher with effect from 13.01.1995 and grant him all consequential benefit. By an order dated 10.03.2008, this Court pleased to pass an order and held as follows:-

Having included the name of his junior and promoted him as Watcher, certainly the petitioner who is senior, even as per the counter affidavit, has got a right for inclusion in the said panel. Hence, the writ petition is allowed as prayed for and the respondents are directed to promote the petitioner with all consequential benefits from the date on which his junior Mr.Ramakrishnan was promoted as a



Watcher and orders to that effect has to be passed within a period of three months from the date of receipt of a copy of this order. No costs.

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12. It is further submitted that the petitioners given a representation to the respondents on 17.03.2008 requesting to extend the benefit of the said order in W.P.No.15561 of 2006. Because the said Mr.Ramakrishnan was far junior to the petitioner and they have passed S.S.L.C Examination and working in the respondents department for the past 28 years. The respondents were simply keeping quiet without extending the benefit of the order.

13. On behalf of the respondents, it is further submitted that no writ petitions have been filed challenging the orders issued in the said G.O.Ms.No.64, dated 08.03.1999. As such, the petitioners are not entitled to seek for regularisation of their service as per G.O.Ms.No.332, dated 22.12.1994 and hence, this Writ Petition is devoid of merits and the same is liable to be dismissed.

14. It is also submitted that against the order in W.P.No.15561 of 2006, the 2nd respondent filed an appeal before the Division Bench of this Court in W.A.No.690 of 2008. The Division Bench of this Court by an order dated 13.10.2009 dismissed the said writ appeal with the following reason:-

A reading of the counter affidavit would unambiguously reveal that Thiru. Ramakrishnan, was junior to the present respondent and, since the name of the respondent was not included in the list, his name was not considered for the post of Watcher. Learned Single Judge, after taking into consideration all these facts, has rightly allowed the writ petition and directed the respondents to promote the present respondent with all consequential benefits.

15. I have considered the arguments advanced by the learned Additional Government Pleader appearing for the respondents and perused the affidavit and the counter affidavit.

16. Since the identical issue was considered by this Court in its order dated 10.03.2008 in W.P.No.15561 of 2006 in the case of P.Sundaram Vs. The Govt. of Tamilnadu and Others, which was also affirmed by the Division Bench of this Court in its order dated 13.10.2009 in W.A.No.690 of 2009, I am of the view, the representation dated 17.03.2008 given by the petitioners, would require a fair consideration by the 1st and 2nd respondents.



17. Accordingly, the 1st and 2nd respondents are directed to consider the representation dated 17.03.2008 of the petitioners and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order after hearing the petitioner through videoconferencing, if situation so warrants on account of Covid19 Pandemic.

18. This Writ Petition thus stands disposed with the above direction. No cost.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, Forests Department,
State of Tamil Nadu,
Fort St. George, Chennai.
2. Chief Principal Conservator of Forests,
Pangal Maligai, Saidapet,
Chennai.
3. The District Forest Officer,
Mohanoor Road, Old. Collector Bungalow,
Nammakal.
4. The Conservator of Forests,
Anaimalai Tiger Project,
Pollachi.

Pre-Delivery Order
in
W.P.No.13333 of 2010

VG-I (CO)
GS(08/07/2020)