

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2968 of 2013

1. R.Murugaiah
 2. M.Karpagavadivu
 3. R.Thirumalai Ammal
- ... Petitioners

vs.

1. State of Tamil Nadu,
rep. by its Secretary,
Forest Department,
Fort St. George,
Chennai.
 2. The Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet, Chennai.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order in Ref.No.LL2/12355/2010, dated 15.03.2012 passed by the 2nd Respondent herein and quash the same, insofar as the Petitioners are concerned, and further direct the Respondents to appoint the Petitioners as Plot Watchers as per G.O.Ms.No.95, dated 07.08.2009.

For Petitioners : Mr.K.M.Ramesh,
for K.Vasudevan

For Respondents : Mr.M.Elumalai,
Addl. Government Pleader

O R D E R

Petitioners have come up with this Writ Petition seeking to quash the order passed by the 2nd Respondent in Ref.No.LL2/12355/2010, dated 15.03.2012, insofar as they are concerned, and for a direction to the Respondents to appoint them as Plot Watchers as per G.O.Ms.No.95, dated 07.08.2009.

2. According to the Petitioners, they were appointed as Plot Watchers on temporary basis on 10.04.1985, 01.02.1984 and 21.04.1984, respectively. Petitioners along with others were transferred to the Rural Development Department as per the policy decision of the Government vide G.O.Ms.No.592. As the Rural Development Department refused to accept the transfer and that, the Respondents also did not accommodate the Petitioners, they were put under compulsory wait for posting and they were not paid salary during the said period.

3. While so, as per G.O.Ms.No.65, names of Petitioners were included in the Statewide seniority list as Serial Nos.4128, 3317 and 3497, respectively. Thereafter, the 1st Respondent passed G.O.Ms.No.95, dated 07.08.2009, sanctioning 3058 posts of Plot Watchers. Though the Petitioners and other similarly placed persons were included in the Statewide seniority list, as they did not have ten years of service, due to the compulsory wait period, they could not be made permanent in the sanctioned posts.

4. In this regard, the President of Tamil Nadu Social Forestry Employees Transferred to Rural Development Department Sangam filed W.A.No.887 of 2010 before this Court, and this Court vide judgment dated 29.04.2011 allowed the Writ Appeal and directed the Respondents to appoint the members of the Petitioner Sangam as per Statewide seniority list. The said judgment was complied with and appointments were given to the members of the Sangam.

5. Though, the Petitioners made a representation to the Respondents to appoint them as per G.O.Ms.No.95, the 2nd Respondent, without considering the judgment rendered in W.A.No.887 of 2010, passed the impugned order, stating that, G.O.Ms.No.95, dated 07.08.2009, is not applicable to the Petitioners, as they have not completed ten years of service. The said impugned order is under challenge in the present Writ Petition.

6. Learned counsel for the Petitioners submitted that, though the 1st Petitioner viz. R.Murugaiah was accommodated as per the impugned order, the 2nd and 3rd Petitioners herein were not accommodated on the ground that, they did not fulfill the requisite physical qualification. He further submitted that, the 2nd and 3rd Petitioners may be permitted to make appropriate representation in respect of their grievance before the Authority concerned and appropriate orders may be passed on their representation.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. Facts in issue are not in dispute. As per G.O.Ms.No.95, Environment and Forests (FR-2) Department, dated 07.08.2009, out of 3058 persons available in the Statewide seniority list, those who have rendered service of more than ten years were to be appointed as Plot Watchers in the supernumerary post created with special scale of pay of Rs.2500-5000 with a grade pay of Rs.500/- and their services be regularized from the date of issuance of the order.

9. It is stated in the impugned order that, the 1st Petitioner viz. R.Murugaiah, whose name is found in S.No.2 in the Statewide seniority list, shall be appointed as Forest Watcher, vide Office Letter No.LL2/3333/11, dated 29.02.2012, subject to physical and other qualification as per Tamil Nadu Subordinate Service Rules. As far as Petitioners 2 and 3 are concerned, their names were not considered for appointment as Forest Watchers as they did not possess required physical qualification (i.e. height of 163 cm and above for male and 150 cm and above for female). However, it is stated in the impugned order that, the Petitioners who do not possess the requisite qualification will be considered for the post of Mali/Office Assistant/Watchman, according to their seniority.

10. In view of the foregoing, this Court is of the view that, when a particular qualification is prescribed for entry into Government service, the same cannot be relaxed by an order of this Court. Hence, this Court does not find any reason to interfere with the order impugned in this Writ Petition. However, the aggrieved Petitioners are at liberty to make a fresh representation to the Respondents in respect of their grievance and on receipt of the same, the Respondents shall consider the same and pass appropriate orders in accordance with law.

In fine, the Writ Petition stands dismissed with the above observation. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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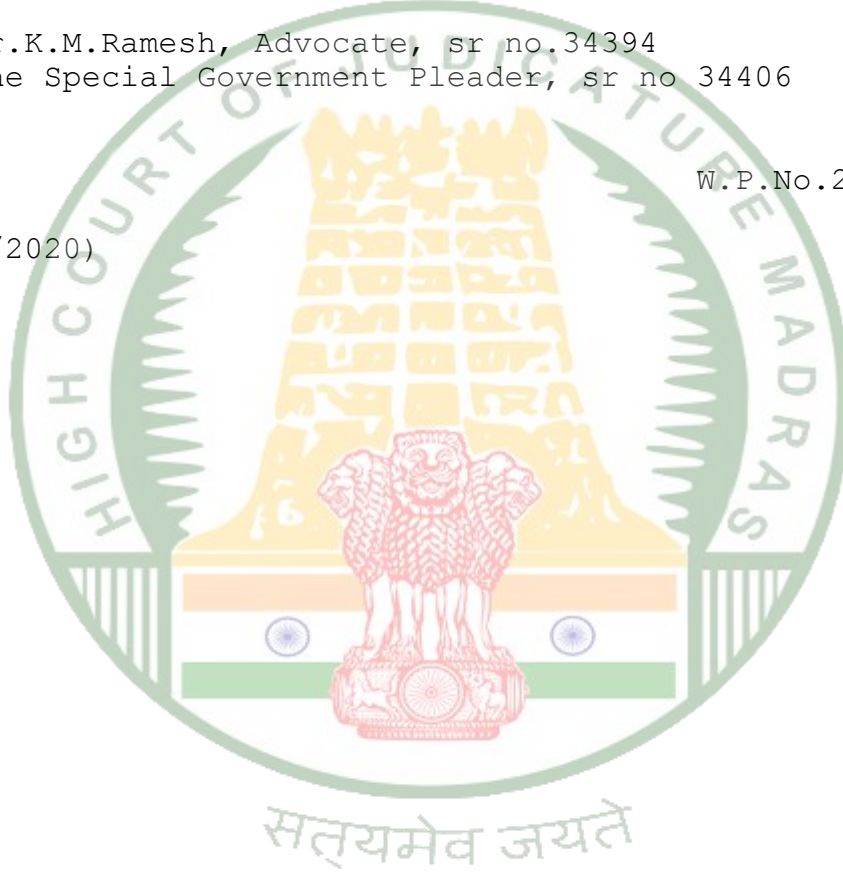
1. The Secretary,
State of Tamil Nadu,
Forest Department,
Fort St. George, Chennai.
2. The Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet, Chennai.

+1cc to Mr.K.M.Ramesh, Advocate, sr no.34394

+1cc to The Special Government Pleader, sr no 34406

W.P.No.2968 of 2013

CP (CO)
RMP (02/12/2020)



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