

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :15.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.6583 of 2013
and
M.P.No.1 of 2013

K.Elumalai

..Petitioner

- Vs -

1. The Principal Chief Conservator of Forest,
Panagal Maaligai,
Saidapet, Chennai-600 015.
 2. The Divisional Forest Officer,
Modern Nursery
Dharmapuri forest Range,
Dharmapuri Division and District.
- ..Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the order in Ref.No.LL1/39196/2009 dated 2.7.2012 on the file of the first respondent, quash the same and consequently direct the respondents to include the name of the petitioner in the State wide seniority list drawn for consideration of his claim for permanent absorption in the post of Forest Watcher.

For Petitioner : Mr.Chellapandian, Senior Counsel for
Mr.S.Mani.

For Respondents: Mr.M.Elumalai, A.G.P.,

ORDER

This Writ petition was filed by the petitioner, to call for the records pertaining to the order in Ref.No.LL1/39196/2009 dated 2.7.2012 on the file of the first respondent, quash the same and consequently direct the respondents to include the name of the petitioner in the State wide seniority list drawn for consideration of his claim for permanent absorption in the post of Forest Watcher.

2. The case of the petitioner is that he was appointed as Plot Watcher on daily wage basis from among the names of the

candidates sponsored by the Employment Exchange in the year 1979. The grievance of the petitioner is that even after rendering 22 years of service on daily wage basis, his services have not been regularised, for which he made representation on 28.03.2007, requesting to include his name in the State wide seniority list. However, the first respondent rejected the claim of the petition, vide order dated 16.01.2009 on the ground that he was not continuously engaged in the Forest Department and that there was a break in service. Aggrieved by the said rejection, the petitioner filed writ petition in W.P.No.14368 of 2009 before this Court and this Court by order dated 16.01.2009, quashed the first respondent's order and directed the 1st respondent herein to include his name in the State wide seniority list prepared as per G.O.Ms.No.64, Environment and Forest Department dated 6.3.1999. It is the further case of the petitioner that as per the direction of this Court order dated 4.11.2011, the petitioner made a fresh representation, which was again rejected by the 1st respondent by his order dated 2.7.2012. Challenging the same the present petition was filed with the above prayer.

3. It is the submission of the learned counsel appearing for the petitioner submitted that the petitioner has rendered more than 22 years of service on daily wage basis and is entitled to have his name included in the State wide seniority list. Though, this Court, on the earlier occasion had directed the first respondent to consider the petitioner's representation in the light of G.O.Ms.NO.64 Environment and Forest Department dated 6.3.1999, the first respondent rejected his representation by way of passing the impugned order, without properly appreciating the Government Order, which order is wholly unsustainable. Accordingly he prays for allowing the prayer sought for by the petitioner in this writ petition.

4. On the above contention, this Court heard the learned Special Government Pleader appearing for the respondent and perused the counter and the other materials placed before this Court.

5. A perusal of the materials available on record reveal that though the petitioner claimed that he has rendered more than 22 years of service on daily wage basis, however, during the period from September 1994 to June 1997, there is a break in service of the petitioner for a period of 8 months and from November 1999 to March 2001 there is a break of about 4 months. However, barring the above, no other records, supporting the case of the petitioner to show that he was in continuous employment as plot watcher has been placed by the petitioner to substantiate his claim. In the absence of any proof to substantiate his claim that he has worked continuously as plot

watcher for ten years, the claim of the petitioner to the benefit of G.O.Ms. 95 E&F department, dated 7.8.2009, cannot be acceded to. Mere assertion of the petitioner that he has worked for a period of 22 long years without tabling any material to substantiate the same would not in any way advance the case of the petitioner for a favourable consideration of his claim at the hands of this Court. This Court, in the above backdrop, does not find any error in the impugned order of rejection passed by the 1st respondent.

6. For the reasons aforesaid, the relief as sought for by the petitioner cannot be granted. Accordingly the present writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. However there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Chief Conservator of Forest,
Panagal Maaligai,
Saidapet, Chennai-600 015.

2. The Divisional Forest Officer,
Modern Nursery
Dharmapuri forest Range,
Dharmapuri Division and District.

+lcc to Mr.S.Mani, Advocate, S.R.No.34272

+lcc to the Speical Government Pleader(Forest), S.R.No.34405

W.P. NO.6583 of 2013

KK(CO)

RV(02/12/2020)

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