IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.6613 of 2013

G.Mani ... Petitioner

Vs.

1.Government of Tamil Nadu,
Rep by its Secretary,
Environment and Forest Department
Fort St. George,
Chennai-600 009.

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

2.The District Forest Officer,
Vellore District,
Vellore. .. 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 entire records which culminated in issuing the proceedings in Na.Ka.No.L.L.2138818/12 dated 07.12.2012 on the file of the second respondent, quash the same and consequently direct the respondents to give regular time scale appointment to the petitioner as Plot Watcher (supernumerary) post as per seniority maintained by the respondent and in the light of G.O.Ms.No.95, Environment and Forest Department dated 7.8.2009 with all other consequential service and monetary benefits within a time limit that may be fixed by this Court.

For Petitioner : Mr.Sellapadian for
Mr.S.Mani
For Respondents: Mr.M.Elumalai, A.G.P.,

WEB COPY

ORDER

The present Writ Petition has been filed by the petitioner, to call for the entire records culminated in issuing the proceedings in Na.Ka.No.L.L.2138818/12 dated 07.12.2012 on the file of the second respondent, quash the same and consequently

https://hcservices.ecourts.gov.in/hcservices/

direct the respondents to give regular time scale appointment to the petitioner as Plot Watcher (supernumerary) post as per seniority maintained by the respondent and in the light of G.O.Ms.No.95, Environment and Forest Department dated 7.8.2009 with all other consequential service and monetary benefits within a time list that may be fixed by this Court.

2. It is the case of the petitioner that he was appointed as Plot Watcher on 1.1.1979 on daily wage basis in the Forest Department, he worked as such till 31.08.2000, i.e, for a period of about 21 years and thereafter his services were not continued. In the meanwhile, the Government issued orders, to rehabilitate those who were working for long number of years on contract basis in the Forest Department and, therefore, a State wide seniority list was drawn. Though during the period from 1979 to 2000, he was continuously engaged by the respondents on daily wage basis, however his name was not included and even his name was not considered for employment.

2.1.The grievance of the petitioner is that instead of regularisation based on the State wide seniority, on the contrary he was ousted from service during the year 2000 for want of funds, however the persons whose names found place in the State wide seniority list below him were regularised in their service. Thereafter the petitioner requested the respondents to reinstate him in service and requested to confer him all consequential benefits, however there was no order or reply forthcoming. Therefore, he filed W.P.No.2574 of 2005 before this Court, praying for a direction to the respondent to give appointment to the post of Forest Watcher with retrospective effect on par with his immediate junior in the list of candidates allotted to the division of the Conservator of Forest, Coimbatore for appointment from the State level seniority list of plot watchers which was communicated in the proceedings dated 28.02.2003 with immediate effect and to give all other service benefits to him and the said writ petition was partly allowed by this Court on 11.04.2008 wherein it was observed by this Court that it is incumbent on the part of the Principal Chief Conservator of Forest to appoint him as Forest Watcher and accordingly directed him to give a representation to the Principal Chief Conservator of Forest, Chennai and on receipt of the same the the Principal chief Conservator of Forest, Chennai was directed to pass appropriate orders in the light of the order dated 26.02.2008 on his file, within a period of 4 weeks.

2.2.Accordingly the petitioner has submitted his detailed representation to the second respondent herein and since there was no response, therefore on 20.9.2012, he submitted a reminder representation for which the second respondent passed the

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

impugned order dated 7.12.2012, stated that his representation was already rejected on 2.6.2008 on the ground that he was not in service from 1.9.2000 and therefore, no further order is required to be passed. Aggrieved by the said order dated 7.12.2012, the present writ petition was filed.

3.Learned counsel appearing for the petitioner submitted that though the petitioner was holding the post of Plot watcher on temporary basis he was stopped from such engagement from 2000 for want of funds and at the time of issuance of Government Order on 8.3.1999, the petitioner was very much holding the post of Plot Watcher on daily wages, which is evident from the certificate issued in his favour, even G.O.Ms.NO.64, E&F, department dated 8.3.1999 and G.O.Ms.No.95, E&F department dated 7.8.2009 do not impose any pre condition and it only states that those who were engaged on casual/daily wage basis in the Forest Department and Social Forestry Department are to be included in the State wide seniority list to be prepared by the second respondent, therefore the petitioner is entitled to have his employment status regularised as per the above mentioned government order dated 8.3.1999. He further submitted that at the time of filing the petitioner's age was 50 years, and pursuant to the order of this Court dated 11.4.2008, his name was included in the seniority list drawn during the year 1999 in serial No.469 and therefore, on the basis of G.O.Ms.No.95, dated 7.8.2009, he is entitled for conferment of regularisation of service and the non consideration of the same by the second respondent in the impugned order is unsustainable. Accordingly, he prays for allowing the petition.

4.Learned Additional Government Pleader appearing for the respondents did not dispute the facts as stated in the affidavit, however referring his counter affidavit filed on behalf of the respondents, submitted that though this Court granted permission to make a representation for securing his seniority in the State Wide Seniority list, his name was included in the list drawn in the year 1999, and since 2000 onwards he was not in duty, his name was not considered for employment in the Forest Watcher Department by applying the relevant G.O. However the petitioner did not challenge the earlier rejection order dated 2.6.2008 passed by the first respondent and without challenging the said order, filing this writ petition is impermissible. Accordingly he prays for dismissal of the petition.

5. This Court heard the submissions of the learned counsel appearing on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. In fact the Government issued orders from time to time in order to

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

remove the difficulties and keeping in view of the long pending demands of the staff, who were suffering without getting any benefit of regular permanent job even after working for several years on daily wage basis and order was passed to prepare the State wide seniority list, and further those who had rendered service of more than 10 years to be appointed as Plot Watchers in the Supernumerary post created with a special scale of pay of Rs.2500-5000 with the grade pay of Rs.500 and their service be regularized from the date of issuance of the order.

7.In the instant case, based on the earlier order of this Court, the petitioner's name was included in the State wide seniority list, however the petitioner was ousted from service during the year 2000 for want of funds, which cannot be put against the petitioner to deny him the employment. Moreover, the petitioner has served for more than 21 years, the services of the petitioner was not regularized and instead of making him permanent, on the contrary he was ousted from service for want of funds, though his name was found in State wide seniority list as No.469. However, it is rightly pointed out by the learned Additional Government Pleader appearing for the respondent, that due to administrative reasons thereafter from 2000 onwards the petitioner was not on the rolls of the respondent. Only based on the said scenario, the impugned order of rejection was passed.

8.Though the above facts are not in dispute, as is seen from the materials available on record, however, the respondents having rejected the representation of the petitioner vide the impugned order, the course open to the petitioner is to challenge the said order of rejection and filing the present writ petition cannot be sustained. Without challenging the said order of rejection, the prayer sought for by the petitioner for the relief cannot be acceded to.

9. In the above backdrop, while dismissing the present writ petition as not maintainable, however, this Court grants liberty to the petitioner to work out his remedies in a manner known to law by taking appropriate steps before the appropriate forum.

10.With the above observation, this present writ petition is dismissed. However there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

jrs

To

1. The Secretary,
   Government of Tamil Nadu,
   Environment and Forest Department
   Fort St. George,
   Chennai-600 009.

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

3.The District Forest Officer,
   Vellore District, Vellore.

+1cc to the Government Pleader, S.R.No. 35082

W.P. NO.6613 of 2013

UM(CO)
GN(10/12/2020)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/