

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.9815 of 2013

K.Jayavelu

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
rep by its Secretary,
Department of Environment and Forest,
Secretariat, Chennai - 600 009.

2. The Principal Chief Conservator of Forest,
Anna Salai, Saidapet, Chennai - 600 001.

3. The Conservator of Forest,
Fort, Vellore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records relating to impugned Letter No.11932/FR-2/2010-7, dated 28.03.2011, of the first respondent, quash the same and consequently direct the first respondent to absorb the petitioner in the post of Plot Watcher with continuity of service, backwages and other attend benefits.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.S.Prabhu
AGP (Forest)

O R D E R

Writ petition has been filed against the order passed by the first respondent rejecting the petitioner's request to regularise his service as Plot Watcher.

2. The petitioner was appointed as Forest Guard / Plot Watcher between 1980 and 1988 and again between 1999 and 2003. Thereafter, he was not engaged by the Forest Department. In the year 1989 the Government vide G.O.Ms.No.592, Environment and Forest Department, dated 16.09.1989, transferred all the Forest Guards / Plot Watchers to their respective Panchayat Union, but

the Panchayat Union refused to appoint the petitioner. When similarly placed persons like that of the petitioner approached this Court, a direction was issued to the Government to prepare a list of workers and give employment to them as per seniority. Pursuant to the same, the Government issued G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, offering employment to the persons who have completed 10 years of service as Forest Guard / Plot Watcher. Even though the petitioner has completed ten years of service, his name was not included in the seniority list, hence, he approached the respondents to regularise his service, which was not considered. Thereafter, he filed a writ petition before this Court seeking a direction to consider his representation. Pursuant to the order passed by this Court in the said writ petition, the impugned order has been passed rejecting the petitioner's request stating that the petitioner has not completed 10 years of service as per G.O.Ms.No.95, dated 07.08.2009, the record shows that the petitioner was employed only for 7 ½ years, and hence, his service cannot be regularised. Now, challenging the same, the present writ petition has been filed.

3. The third respondent has filed a counter affidavit stating that, the Plot Watcher and the Social Forestry Workers were engaged by the Department in the year 1970, for protection of the plantations raised under Farm Forestry and Social Forestry programmes initiated during 1970s and 1980. Subsequently, the donor agency of the above said programme has withdrawn. The persons who were employed in the scheme were brought under the State seniority list in the year 1999 according to their date of joining service considering their continued and long standing service in the Forest Department and the State Government has decided to absorb them as Forest Watchers, which is the lower most regular staff category in the Forest Department from the above seniority list.

4. According to the respondents, the petitioner has joined as Plot Watcher in Thiruvannamalai Afforestation Range of Thiruvannamalai Afforestation Division on 01.09.1981 and continued upto 31.08.1986. Thereafter, he left the service voluntarily on 01.09.1986. The petitioner was working as a daily wager and he was not engaged when there was no work. Thereafter, the petitioner worked as Plot Watcher in Thiruvannamalai Technical Range of Thiruvannamalai Division from 01.02.1999 to 31.03.2002 and worked as Evaluation Assistant from 18.05.2002 to 30.06.2002. There is no continuity of service. He was not working as Plot Watcher continuously and therefore his name was not included in the State wide seniority list and he was not absorbed in Supernumerary post. As per G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, total number of 3058 persons who have rendered service for more than

10 years as Plot Watchers were appointed in the Supernumerary post. As the petitioner has not completed 10 years of service he is not eligible to be appointed in the Supernumerary post.

5. Heard the learned counsel appearing for the parties and also perused the records carefully.

6. The case of the petitioner is that he was working as Plot Watcher for more than 10 years and therefore he is eligible to be appointed as per G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009. But the said claim was disputed by the respondents and according to the respondents the petitioner has completed only 7 ½ years of service and in the year 1986 voluntarily stopped attending duty, and after a gap of 13 years he again joined duty in the year 2002. The total period of service rendered by the petitioner has only 7 ½ years, hence, according to the respondents, he is not eligible to get the benefit of G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009.

7. Perusal of G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, it could be seen that only persons who have completed 10 years of service were eligible to get the benefit under the said G.O. Even though the petitioner is now claiming that he has completed 10 years of service, absolutely, there is no material available on record to substantiate his claim. Further, on a perusal of the records, it could be seen that the petitioner has only completed 7 ½ years of service and hence he is not eligible to get the benefit of G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009.

8. In the above circumstances, I find no illegality or irregularity in the impugned order passed by the first respondent. There is no merit in the writ petition and the same is liable to be dismissed and accordingly dismissed. No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

1. The Secretary to the Government,
Department of Environment and Forest,
Secretariat, Chennai - 600 009.

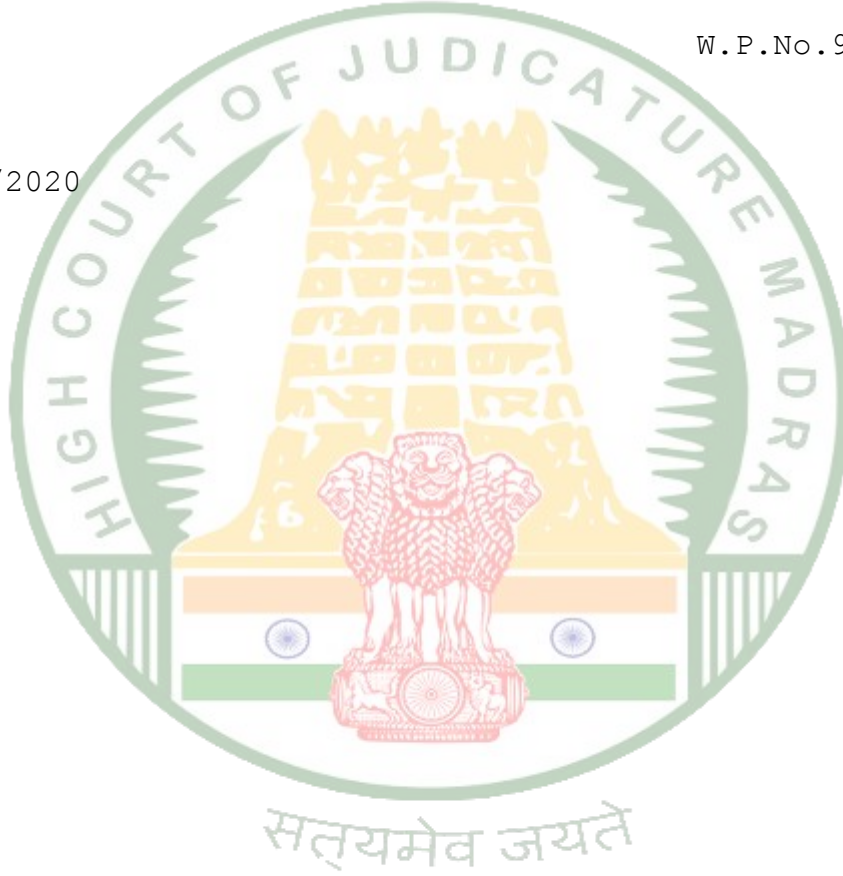
2. The Principal Chief Conservator of Forest,
Anna Salai, Saidapet, Chennai - 600 001.

3. The Conservator of Forest,
Fort, Vellore.

+1cc to Mr.S.T.Varadarajulu, Advocate Sr.20777
+1cc to the Government Pleader Sr.20926

W.P.No.9815 of 2013

mr[co]
srg 30/07/2020



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