

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2020

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP.No.21293 of 2014

1.M.Eswaran

... Petitioners

2.B.D.Yesaiyan

vs

1.Government of Tamil Nadu, ... Respondents

rep. by its Additional Principal
Secretary to Government,
Forest and Environment Department,
Fort St. George,
Chennai 600 009.

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

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 entire records which culminated in passing the order in Government Letter No.4071/Forest-2/2014-5, dated 24.03.2014, quash the same and consequently direct the 1st Respondent to fix the seniority of the Petitioners in the cadre of Forest Watcher from the date on which they were appointed as Field Man Grade-II in the erstwhile Cinchona Department and sanction the service benefits as conferred to the Forest Guards appointed from various categories in the light of the proposal submitted by the 2nd Respondent in Ref.No.AB2/26101/2010, dated 31.10.2011 and in the light of G.O.Ms.No.128, Environment and Forest (F2) Department dated 04.08.2005, within a time limit.

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

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

ORDER

Petitioners have come up with the above Writ Petition
praying for the issuance of a writ of Certiorarified mandamus, to call for the entire records which culminated in passing the order in Government Letter No.4071/Forest-2/2014-5, dated 24.03.2014, quash the same and consequently direct the 1st Respondent to fix the seniority of the Petitioners in the cadre of Forest Watcher from the date on which they were appointed as Field Man Grade-II in the erstwhile Cinchona Department and sanction the service benefits as conferred to the Forest Guards appointed from various categories in the light of the proposal submitted by the 2nd Respondent in Ref.No.AB2/26101/2010, dated 31.10.2011 and in the light of G.O.Ms.No.128, Environment and Forest (F2) Department dated 04.08.2005, within a time limit.

Letter No.4071/Forest-2/2014-5, and for a consequential direction to the 1st Respondent to fix their seniority in the cadre of Forest Watcher from the date on which they were appointed as Field Man Grade-II in the erstwhile Cinchona Department and sanction the service benefits as conferred to the Forest Guards appointed from various categories in the light of the proposal submitted by the 2nd Respondent in Ref.No.AB2/26101/2010, dated 31.10.2011 and in the light of G.O.Ms.No.128, Environment and Forest (F2) Department, dated 24.08.2005.

2. According to the Petitioners, they were initially appointed on daily wage basis in Chinchona Department through Employment Exchange on 01.10.1977. After completion of 10 years of service, they were brought into regular time scale of pay in the cadre of Field Man Grade II on 13.07.1988 and 04.07.1988, respectively, in Chinchona Department. While so, the Government of Tamil Nadu took a policy decision to abolish Chinchona Department and accordingly, it passed an order vide G.O.Ms.No.221, Environment and Forest Department, dated 03.04.1990 ordering winding up of the erstwhile Chinchona Department with effect from 01.04.1990 and amalgamating the same with Tamil Nadu Tea Plantation Corporation Limited.

3. Unwilling to be deputed to the Tamil Nadu Tea Plantation Corporation Limited, employees of the erstwhile Cinchona Department filed O.A.No.4487 of 1993 before the Tamil Nadu Administrative Tribunal. The Tribunal ordered that, the staff working in the erstwhile Chinchona Department should be repatriated to the parent Department viz. Forest Department. On the basis of the said order, the Government issued G.O.Ms.No.275, Environment and Forest Department, dated 06.11.1996 and ordered that, the 199 staff are to be absorbed in the Forest Department with effect from 06.11.1996 and their seniority were fixed from the date of issuance of the said order.

4. As against that portion of the order fixing the seniority from the date of issuance of G.O.Ms.No.275, Environment and Forest Department, dated 06.11.1996, Original Application Nos.1423 of 1998 and 8271 of 1998 have been filed before the Tamil Nadu Administrative Tribunal by some of the employees who were working as Supervisor and Field Man Grade - I in the erstwhile Chinchona Department and sought for notional seniority from the date of their initial appointment in the erstwhile Chinchona Department. The Tribunal, by an order dated 29.11.2001, allowed the Original Applications and issued appropriate direction thereof.

5. As the said order was not implemented by the Department, one of the Applicants before the Tribunal filed W.P.No.27907 of 2004 before this Court, seeking to implement the order dated 29.11.2001. This Court, by an order dated 08.10.2004, directed the Respondents to implement the order

dated 29.11.2001 passed by the Tribunal. On the basis of the order dated 08.10.2004 passed by this Court in the said Writ Petition, the Government issued G.O.Ms.No.128, Environment and Forest Department, dated 04.08.2005, by which, it ordered to fix notional seniority of the persons covered by the order dated 29.11.2001 of the Tribunal, from the date on which they joined the erstwhile Cinchona Department and the *inter se* seniority was also ordered to be fixed in the cadre of Selection Grade Forest Guard (Supervisor) and Forest Guard (Field Man Grade-I).

6. Pursuant thereto, the Petitioners herein were also absorbed in the Forest Department and promoted as Forest Guard on 02.08.2002 and 08.08.2002, respectively. Thereafter, the Petitioners submitted a representation to the 2nd Respondent on 26.04.2010, requesting to re-fix their seniority in the cadre of Forest Watcher from the date on which, they were initially appointed as Field Man Grade II in the erstwhile Chinchona Department. Considering their request, the 2nd Respondent forwarded a proposal dated 31.10.2011 to the Government, specifically recommending the claim made by the Petitioners. Since no action was forthcoming, the 2nd Respondent sent another proposal dated 31.01.2012 to the Government.

7. As no orders were passed by the 1st Respondent, Petitioners filed W.P.No.11332 of 2013 in respect of their grievance. By an order dated 31.10.2011, the said Writ Petition was disposed of, directing the 1st Respondent to consider the proposals submitted by the 2nd Respondent on 31.10.2011 in terms of G.O.Ms.No.128, Environment and Forest Department, dated 04.08.2005, within a period of twelve weeks. As the said order of this Court was not complied with, Petitioners filed Contempt Petition No.15 of 2014. Thereafter, the 1st Respondent passed the impugned order vide Government Letter No.4071/Forest-2/2014-5 dated 24.03.2014, rejecting the claim of the Petitioners. Challenging the same, the present Writ Petition is filed.

8. Learned Senior Counsel appearing for the Petitioners contended that, when the service of similarly placed persons like the Petitioners who were also working in the erstwhile Chinchona Department have been re-fixed, there is no specific reason mentioned in the impugned order as to why the claim of the Petitioners alone was not considered by the 1st Respondent. He submitted that, the Petitioners may be permitted to make a fresh representation to the 1st Respondent as regards grant of monetary benefits in respect of the service rendered by them in the erstwhile Chinchona Department, and the 1st Respondent may be directed to pass appropriate orders on such representation.

9. Learned Additional Government Pleader appearing for the Respondents, with reference to the counter Affidavit filed by the Respondents, submitted that, based on the direction of

the Government in Letter dated 24.03.2014, their seniority were fixed in the post of Forest Watcher Grade II from the date of joining in the post of Forest Watcher Grade II and hence, there is no merit in the present Writ Petition.

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

11. As the seniority of the Petitioners was fixed in the post of Forest Watcher Grade II from the date of their joining in the post of Forest Watcher Grade II based on the direction of the Government vide Letter dated 24.03.2014, this Court is of the view that, there is no merit in the present Writ Petition.

12. However, having regard to the submissions made by the learned counsel on either side, **this Court directs the Petitioners herein to make a detailed representation to the 1st Respondent herein in respect of their grievance within a period of two weeks from the date of receipt of a copy of this order.** On receipt of such representation, the 1st Respondent shall consider the same and pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

The Writ Petition is dismissed with the above direction.
No costs.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

(vsi2/aeb)

To

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

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

+1 C.C. to MR.S.MANI Advocate SR.NO.37990

W.P.No.21293 of 2014

SSI (CO)

<https://hcservices.courts.gov.in/hcservices/>

011 (17.12.2020)