

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.835 of 2021

P.Ganesan

... Petitioner

-vs-

1. The State of Tamil Nadu
Rep. by its Principal Secretary,
Environment and Forest (FR2) Department,
Secretariat, Fort St.George,
Chennai-600 009.
 2. The Principal Chief Conservator of Forests,
No.15, Jeenis Road,
Panagal Building, Saidapet,
Chennai-600 015.
 3. The District Forest Officer,
Namakkal District,
Namakkal.
 4. The Accountant General of Tamil Nadu,
Office of the Accountant General,
Office at Teynampet,
Chennai-600 018.
- ... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to count half of the service rendered by the petitioner as Plot/Forest Watcher from 01.04.1982 till 31.08.2003 along with regular service rendered by him as Forest Watcher from 27.09.2003 till 31.07.2017 as qualifying service for the purpose of conferment and grant of pension to him in the light of the order passed in W.P.No.8206 of 2011 dated 19.04.2011 with all consequential monetary and service benefits by considering his representation dated 26.10.2020.

For Petitioner : Mr.A.Thiyagarajan

For R1 to R3 : Mr.S.Prabhu
Addl. Govt. Pleader

For R4 : Mr.V.Vijayshankar

O R D E R

The petitioner has filed this writ petition seeking a direction to the respondents 1 to 3 to count half of the service rendered by the petitioner as Plot/Forest Watcher from 01.04.1982 till 31.08.2003 along with regular service rendered by him as Forest Watcher from 27.09.2003 till 31.07.2017 as qualifying service for the purpose of conferment and grant of pension to him in the light of the order passed in W.P.No.8206 of 2011 dated 19.04.2011 with all consequential monetary and service benefits by considering his representation dated 26.10.2020.

2. Mr.S.Prabhu, learned Additional Government Pleader takes notice for R1 to R3 and Mr.V.Vijayshankar, learned counsel for R4. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the petitioner, he worked as Plot/Forest Watcher on daily wage basis from 01.04.1982 till 31.08.2003 without any break in service on payment of monthly salary and he was absorbed into regular service as Forest Watcher with effect from 27.09.2003 in the time scale of pay of 2610-60-3150-65-3540. It is the case of the petitioner that though he attained the age of superannuation on 31.07.2017, he has not been paid any pensionary benefits so far. It is further case of the petitioner that as per Rule 11(2) of the Tamil Nadu Pension Rules, 1978 and in the light of the judgment of this Court in W.P.No.8206 of 2011, which has been confirmed by the Hon'ble Division Bench of this Court in W.A.No.2728 of 2012 as well as Apex Court in SLP (C) Nos.14838 & 14839 of 2012 and 16119 & 16120 of 2012, 50% of the service of the petitioner from 01.04.1982 to 26.09.2003 has to be counted as qualifying service for his pension and the said order was implemented by the Government by issuing G.O.Ms.No.183 Environment and Forest Department dated 18.07.2012. In this regard, the petitioner made a representation dated 26.10.2020 to the 3rd respondent for consideration of his case favourably. Since the said representation did not evoke any response, he is before this Court.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representation preferred by the petitioner dated 26.10.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of three months from the

date of receipt of a copy of this order, in the light of G.O.Ms.No.183 Environment and Forest Department dated 18.07.2012, if the same is applicable to the case of the petitioner;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 05.01.2021 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
State of Tamil Nadu
Environment and Forest (FR2) Department,
Secretariat, Fort St.George,
Chennai-600 009.

2. The Principal Chief Conservator of Forests,
No.15, Jeenis Road,
Panagal Building, Saidapet,
Chennai-600 015.

3. The District Forest Officer,
Namakkal District,
Namakkal.

4. The Accountant General of Tamil Nadu,
Office of the Accountant General,
Office at Teynampet,
Chennai-600 018.

+1cc to Mr.A.Thiyagarajan, Advocate, S.R.No.2310.

+1cc to the Government Pleader(Forest Cases), S.R.No.2014.

W.P.No.835 of 2021

PL(CO)
CSR 01.04.2021



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