



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA
and

THE HONOURABLE Mr. JUSTICE KRISHNAN RAMASAMY

W.A.No.396 of 2013

P.Kasi

...Appellant

Vs.

1. State of Tamil Nadu
Represented by Secretary to Government
Environment and Forest Department
Secretariat, Chennai 9
2. The Principal Chief Conservator of Forests
Chennai - 15
3. The Conservator of Forests
Vellore Circle, Vellore
4. The Deputy Conservator of Forests
Afforestation Division
Tiruvannamalai

...Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 25.08.2011 passed in W.P. No.15348 of 2009.

Prayer in W.P. No.15348 of 2009:

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records of the second respondent relating to Pro.No.AB3/17241/2006, dated 31.8.2007 and quash the same and to direct the respondents herein to reinstate the petitioner as Plot Watcher and to include the name of the petitioner in the statewide seniority list of Plot Watchers / Social Forestry Workers in the appropriate place in accordance with his turn with reference to the date of his initial appointment i.e., 01.11.1985 and to regularly appoint the petitioner to the post of Forest watcher with effect from the date of his initial appointment, i.e. 01.11.1985 as forest watcher of his immediate junior with all consequential service and monetary benefits.



For Appellant : Mr.M.Ravi
For Respondent : Mr.C.Jayaprakash
Government Advocate

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JUDGMENT

The writ petitioner in W.P. No.15348 of 2009 has preferred the above appeal against the order of dismissal of the writ petition.

2. The appellant was initially engaged in the services of a Plot Watcher in Cheyyar Afforestation Range, Tiruvannamalai Division with effect from 1.12.1985. After 10 years of service on 21.03.1995, he was disengaged from the service along with seven other persons due to the financial cut imposed by the Swedish International Development Authority Project, who was funding the scheme.

3. Subsequently, the Government order in G.O. Ms. No.592, Environment and Forest Department, dated 16.09.1989 provided that the revenue realised from the sale of social forestry plantation to be shared between Forest Department and the Panchayat on 40:60 basis. The said scheme was handed over to the Panchayat and it was ordered that 500 Plot Watchers and 600 Village Social forestry workers will be disbanded in the year 1989-90 and their services will be utilised by the Panchayat under the social forestry scheme. Though numerous plot watchers, who were relieved from the services like the appellant herein, approached the Rural Development Department, the Panchayat unions did not engage them and they could not be provided regular employment. The Forest Department also did not give them any work.

4. In such circumstances, several of the workers approached the Tamil Nadu State Administrative Tribunal, which issued a direction to the Government to consider their appointment as forest watcher in any vacancy that may arise in the department. Accordingly, G.O. Ms. No.64, Environment and Forest Department, dated 8.3.1999 was issued by which a Statewide seniority list of plot watchers and village social forestry workers were prepared for the purpose of appointing them in any future vacancies. Yet another Government order in G.O. Ms. No.65 Environment and Forest Department dated 08.03.1999 was issued to include those workers who were transferred to the Rural Development Department in the Statewide seniority list. On the basis of the said combined seniority list, the plot watchers and the village social forestry workers were engaged in the department.



5. When they were offered to become nursery persons in self employment scheme, they were not willing to become nursery persons. Therefore, yet another priority list was prepared qualifying those who had completed 58 years as on 01.04.1994 to be absorbed in the regular post in various departments and to maintain a seniority list at the divisional level. The appellant herein was also one of the persons in the Tiruvannamalai social forestry division, whose services were disengaged as a plot watcher and was also refused to give an option to work under the self employment scheme.

6. While so, the Government had issued G.O. Ms. No.332, Environment and Forest Department, dated 22.12.1994 fixing the general minimum qualification for the said post. Challenging the fixing of the minimum qualification, the Administrative Tribunal was moved and an order of interim stay was obtained. In view of the stay, those who were appointed as forest watchers, could not join the duty. The appellant herein also filed a writ petition in W.P. No.20041 of 2007 seeking a mandamus from this court to direct the authorities to dispose of his several representations dated 17.01.2005 till 24.1.2007. The same was allowed directing the authorities to consider the representations of the appellant herein.

7. Pursuant to the said direction, the second respondent, namely Principal Chief Conservator of Forests, Chennai, had passed an order on 31.08.2007, as follows:

....

3) In all the representations mentioned in the reference third cited, the petitioner has stated that he joined in the department during December 1985 and worked up to 20.03.95 as Plot Watcher in Cheyyar Afforestation Range and subsequently stopped from work under self employment scheme and requested to give again work in the department in vacant posts of Plot Watchers considering his family circumstances. The Deputy Conservator of Forests, Afforestation Division, Tiruvannamalai in his report mentioned in the reference third cited has stated that the Writ Petitioner had worked as Plot Watcher in Cheyyar Range of Afforestation Division, Tiruvannamalai from 01.12.85 to March 1995, subsequently since he was the junior most person, he was stopped from work under Self Employment Scheme.

4) It is also informed that based on the earlier representation of the Writ Petitioner, a reply was already given to him vide Principal Chief Conservator of Forests Ref. No.DE2/54667/2000 dated



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22.05.2002 stating that the request of the petitioner to give employment again in the department is not feasible.

5) Under the above circumstances, the petitioner is informed that the Government have banned the appointment of daily wages employees in the department. Therefore, as per existing Government orders/rules in force, it is not possible to give work again to those who have already stopped from work and therefore request of the petitioner to give employment again in this department is not feasible at this juncture.

The above order categorically stated that it was not possible to give work to those persons who were already disengaged from work.

8. It would be apposite to state that the appellant herein did not challenge before the Administrative Tribunal along with others. Secondly, the appellant had refused to give an option to work under the self employment scheme as a nursery person. Thirdly, his name did not find place in the Statewide seniority list prepared pursuant to G.O. Ms. No.65 Environment and Forest Department dated 08.03.1999. The appellant also had not challenged the non inclusion of his name in the seniority list. He has not challenged his termination at any point of time, excepting sending representations from the year 2005, ten years after he was discharged from the services.

9. It is to be noted that in several of the cases, where persons similarly placed as that of the appellant, have challenged before the Administrative Tribunal, where orders have been passed in their favour and they have been either confirmed or modified by this court.

10. The learned counsel for the appellant pressed into service the judgment passed by a Division Bench of this court in W.A. No.549/2010 dated 28.04.2010. The said case was by one of the plot watchers, whose services were also disengaged and whose name was not included in the Statewide seniority list as per G.O. Ms. No.65 Environment and Forest Department dated 08.03.1999. Admittedly, the appellant herein had not challenged the same for inclusion of his name into the seniority list. Therefore, the above judgment will not be of any use to the appellant.

11. The petitioner had been keeping quiet from 1995 when he was relieved from the service with the attitude of wait and watch. He has simply sent a representation in the year 2005 after 10 years and approached this court to dispose of the said



representations in the year 2007. The claim of the petitioner based on the order given in favour of one Mathiazhagan, who was also relieved from the services on the same day, would not entitle the appellant herein, a favourable order, as the said Mathiazhagan had filed a case before this court in W.P. No.11761/2006. Based on the order of this court, he was appointed as plot watcher on temporary basis, with a specific condition that the said order cannot be quoted as a precedent for any other purposes and he cannot seek for promotion. Therefore, the said argument of the learned counsel for the appellant also has to be rejected.

12. From the date of discharge of his service from 1995 till this date, the petitioner had not made a challenge to re-gain his employment. There is no reason stated in the affidavit for the inordinate delay and the appellant is also guilty of delay and laches. Even presuming that the appellant having put in 10 years of services, should have been regularised, the said point was never canvassed in any of the proceedings by the appellant. Therefore, the learned single judge, has rightly discussed all the above said points and dismissed the writ petition. Hence we do not find any infirmity or defect in the well-reasoned order of the learned single Judge and the same deserves to be confirmed. Accordingly, the same is confirmed.

13. Therefore, the writ appeal is dismissed. However, there is no order as to costs.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

Asr
To

1. The Secretary to Government
State of Tamil Nadu
Environment and Forest Department
Secretariat, Chennai 9
2. The Principal Chief Conservator of Forests
Chennai - 15
3. The Conservator of Forests



Vellore Circle, Vellore

4. The Deputy Conservator of Forests
Afforestation Division
Tiruvannamalai

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+1 CC to The Government Pleader Sr 32143, 32662.

W.A.No.396 of 2013

RLD (CO)
LS (28/07/2021)