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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.21244 of 2008

C.Periasamy

...Petitioner

Vs.

1. State of Tamil Nadu
Rep by Secretary to Government
Environment and Forest Department
Secretariat,
Chennai-9
2. The Principal Chief Conservator of Forests
Chennai-600 006
3. District Forest Officer
Tirupattur Division
Tirupattur
Vellore District
4. Forest Range Officer
Chengam,
Thiruvananthapuram District

...Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent impugned order in Na.Ka.No.4246/07 Va dated 24.09.2007 and quash the same consequently directing the respondents to place the petitioner in the State seniority list as per the date of initial appointment on 10.05.1983 and to appoint the petitioner as Forest Watcher as per the G.O.Ms.No.222 dated 10.06.1992 and G.O.Ms.No.64 dated 08.03.1999 applicable to the petitioner with all consequential benefits.

For Petitioner : Mr.J.Saravana Vel
For Respondents : Mr.C.Selvaraj Govt.Advocate

O R D E R

The petitioner was employed as an plot watcher between 10.05.1983 and 01.10.1988. Thereafter, he was not provided employment with District Forest Officer under the pretext that



the scheme has come to an end. But however based on the representation of the daily wage plot watchers and Social Forestry Workers for regularisation, Government issued a G.O.Ms.No.222, Environment and Forests Department dated 10.6.1992, wherein it was ordered that those eligible Plot watchers and Social Forestry Workers who were employed both in territorial as well as Social Forestry Division who are appointed after 08.07.1980 without reference to employment exchange shall be considered for regular employment in the vacancies which may arise in posts like Forest Watchers, Malis, Office Assistants etc, who are otherwise fully qualified for the post and within their age limit on the date of first appointment as Plot watcher or Social Forestry Worker as the case may be.

2. It is not in dispute that on the date of his engagement viz., 10.05.1983 petitioner was fully qualified to hold the post. As per the Government Order he was engaged after 08.07.1980 and therefore his name should have been considered for regularisation regardless of his sponsoring by the employment exchange or any department. But his case was not considered. Therefore, he approached the Tamil Nadu Administrative Tribunal by O.A.No.5540 of 1993. When the matter was pending another Government Order vide G.O.Ms.No.64 Environment and Forest Department dated 08.03.1999 was published wherein the persons who were working on daily wages shall be regularised in the vacancies by relaxing the rules and age qualification. Integrated State wise seniority list was also directed to be prepared. It is pertinent to note that the unqualified persons with respect to educational qualification have obtained the stay from the Tribunal for appointment of Plot watchers and Social Forestry Workers. Therefore, no appointment could be made to these posts for many decades. Therefore, the petitioner was also not engaged by the respondent for a longer time. However, it is the contention of the petitioner that for no fault of petitioner he was not engaged in service. At last his request was rejected on the ground that he was not in service on the date of passing regularisation orders. He would rely on the judgment of this Court in W.P.No.4294 of 2012 dated 04.02.2020, wherein this Court has observed that non employment of Plot watchers for want of funds or want of plan scheme approval and for other reasons, it cannot be taken as refusal to work and fault cannot be attributed to the workers. The Government in their counter affidavit filed before the Tribunal in O.A.No.5540 of 1993 have categorically stated that the petitioner was stopped from duty with effect from 01.10.1988 as per the orders of the District Forest Officer pursuant to the decision to restrict the number of Tending Watcher based on the sanction in the plan scheme approved by the Government. Therefore, it is clear that for want of approval of plan scheme



the petitioner was not engaged. Therefore, no fault can be attributed to the petitioner and he has been languishing in the corridors of Court from the year 1993 till date.

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3. Unfortunately the petitioner attained the age of superannuation and he is 65 years old now. Therefore, this Court is not in a position to give direction to regularize the service of the petitioner nor to grant any terminal benefits as he has not worked from 1988. However, the lethargy on the part of the respondent and also the delay in disposal of the case filed by him from the year 1993 he was deprived of his legitimate rights. Therefore, this is a peculiar case where the petitioner request shall be considered for some monetary compensation. But for the want of plan schemes or funds, he would have continued and earned his wages and got regularized in service. Therefore, considering the long years of waiting from 1993 to 2021 before this Court, the respondents are directed to pay some amount of monetary compensation.

4. Accordingly, the 1st respondent is directed to take into consideration all the above facts and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. The writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

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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-600 006



3. District Forest Officer
Tirupattur Division
Tirupattur
Vellore District

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4. Forest Range Officer
Chengam,
Thiruvananthapuram District.

+lcc to Mr.J.Saravanel, Advocate, S.R.No.34917

W.P.No.21244 of 2008
&
M.P.No.1 of 2008

JPL[co]
NSK 09/09/2021