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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3494 of 2021
and
W.M.P.No.3999 of 2021
(Heard through VC)

1. T.Kasi
2. P.Solomon Doss
3. M.Indira
4. P.Rajendran
5. R.Raja
6. T.Viswanathan
7. K.Nagarajan
8. S.Saraswathi
9. P.Kuppan
10. G.Uthiran
11. R.Vedagiri
12. R.Maharajan
13. A.KaruthPandi
14. S.Chandrasekar
15. A.Neelakandan
16. A.Siddik Basha
17. K.Thulasi .. Petitioners

-vs-

1. The Government of Tamil Nadu,
   Rep. by its Secretary,
   Environment and Forest Department,
   Fort St. George,
   Chennai - 600 009.

2. The Principal Chief Conservator of Forests,
   Panagal Maaligai,
   Jeenis Road,
   Saidapet, Chennai - 600 015. .. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to regularize the service of the petitioners as Forest Watcher from 24.01.1995 notionally by taking into account their seniority and qualification on par with their juniors Mr.Karuppan, in the light of the orders passed in W.P.No.15561 of 2006 dated

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10.03.2008, W.A.No.690 of 2008 dated 13.10.2009, W.P.No.23374 of 2008 dated 30.10.2009, W.A.No.607 of 2010 dated 29.03.2010 and proceedings of the 2nd respondent dated 07.01.2011 and confer all consequential benefits.

For Petitioners : Mr.T.Sella Pandian

For Respondents : Mr.S.Prabhu
Additional Government Pleader

O R D E R

The petitioner has come up with this writ petition seeking a direction to the respondents to regularize the service of the petitioners as Forest Watcher from 24.01.1995 notionally by taking into account their seniority and qualification on par with their juniors Mr.Karuppan, in the light of the orders passed in W.P.No.15561 of 2006 dated 10.03.2008, W.A.No.690 of 2008 dated 13.10.2009, W.P.No.23374 of 2008 dated 30.10.2009, W.A.No.607 of 2010 dated 29.03.2010 and proceedings of the 2nd respondent dated 07.01.2011 and confer all consequential benefits.

2. Mr.S.Prabhu, learned Additional Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The facts of the case is that the petitioners were appointed on daily wage basis in the Forest Department as Plot Watchers / Social Forestry Workers. Till the year 1994, the qualification required for holding the post of Forest Watcher is ability to read and write. However, the Government had issued G.O.Ms.No.332, Environment and Forest Department dated 22.12.1994, prescribing SSLC as minimum general educational qualification for holding the regular post of Forest Watcher. The unqualified SSLC daily wage plot watchers challenged G.O.Ms.No.332, Environment and Forest Department before the Tribunal and obtained an interim stay. During the pendency of the Original Application before the Tribunal, the Government had issued G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999, whereby G.O.Ms.No.332 Environment and Forest Department dated 22.12.1994 was superseded. Similarly placed persons like the petitioners have filed a writ petitions before this Court in W.P.No.15561 of 2006 and W.P.No.23374 of 2008 and the same were allowed. Against the said orders, the department preferred W.A.No.690 of 2008 and W.A.No.607 of 2010 and the same were dismissed by the Division Bench of this Court. Pursuant to

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the dismissal of the appeals, the respondents have implemented the orders passed by this Court by passing order dated 15.11.2010 and 07.01.2011 and had given regular time scale of pay to the writ petitioners thereon on par with their juniors with effect from 24.01.1995. Hence, the petitioners have submitted representations dated 05.03.2020 to the respondents to regularize their services on par with their juniors, but no order has been passed on their representations. Hence, the petitioners are before this Court.

5. Even though the petitioners have sought for larger relief, they have restricted the relief to the extent of consideration of the representation in the light of the order in W.P.No.34703 of 2019 dated 13.12.2019 and whether the decision referred to by the petitioners is applicable or not, can be looked into only by the authorities concerned and this Court cannot give any specific direction to that effect.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioners' representation is already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation submitted by the petitioners dated 05.03.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioners and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order.

ii) In case the petitioners are unable to appear for personal hearing, the petitioners are 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 petitioners can avail the opportunity of either personal hearing or filing written submission and not both;

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

iv) The petitioners shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 05.03.2020 and this order, to the respondents forthwith;

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v) The respondents are directed to communicate the decision taken on the representation, to the petitioners 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 petitioners to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioners, 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 petitioners, later on, will not take a plea that the petitioners are not aware of the order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RSI

To

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

2. The Principal Chief Conservator of Forests,
   Panagal Maaligai,
   Jeenis Road,
   Saidapet, Chennai - 600 015.

+17ccs to Mr.S.Mani, Advocate, S.R.No.10864(16/09/2021)
+1cc to the Special Government Pleader, S.R.No.10883

W.P.No.3494 of 2021
and W.M.P.No.3999 of 2021

PMK(CO)
TE (29/04/2021)

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