

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.5218 of 2021

N.Amirtha Nathan

... Petitioner

-vs-

- 1.The Principal Chief Conservator of Forest,
Having office at Panagal Maligai,
Saidapet, Chennai-600 015.
- 2.The District Forest Officer,
Nilgiris.
- 3.The Accountant General of Tamil Nadu,
Office at DMS compound,
Teynampet, Chennai-600 018. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to count half of the service rendered by the petitioner as Plot Watcher on daily wage basis from 01.03.1985 to 06.02.1995 along with the regular service till the date of retirement as qualifying service accordance with rule of 11(4) of Tamil Nadu Pension Rules, 1978 and to send the revised proposal to the third respondent, grant pension to the petitioner with all consequential monetary benefits by considering his representation dated 11.06.2020.

For Petitioner : Mr.T.Sellapandian

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

WEB COPY O R D E R

This Writ petition is filed, seeking a direction to respondents to count half of the service rendered by the petitioner as Plot Watcher on daily wage basis from 01.03.1985 to 06.02.1995 along with the regular service till the date of retirement as qualifying service in accordance with Rule 11(4) of Tamil Nadu Pension Rules, 1978 and to send the revised proposal to the third respondent and to grant pension to the

petitioner with all consequential monetary benefits by considering his representation dated 11.06.2020.

2.Mr.M.Elumalai, learned Additional Government Pleader takes notice for the respondents. By consent, final orders are passed in the Writ Petition at the admission stage.

3. It is the case of the petitioner that he was appointed as Plot Watcher on 01.03.1985 in the Forest Department on daily wage basis. As per the State Wide Seniority List prepared by respondents 1 and 2, the petitioner's name was found in serial No.4044. Thereafter, the petitioner was brought into regular time scale of pay as Forest Watcher with effect from 27.01.2014 and he was regularised with effect from 07.02.1995. Subsequently, he was retired from service on 30.06.2020 on attaining the age of superannuation and now he is getting pension only from regular service, but, not taking into account the daily wage service. Since the petitioner is entitled for conferment of pension by counting half of the service rendered by him according to Rule 11(4) of Tamil Nadu Pension Rules, he submitted a representation dated 11.06.2020 to the respondents. As there was no response from the respondents, the petitioner 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 2nd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 2nd respondent herein to consider the representation preferred by the petitioner dated 11.06.2020, 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 60 days from the date of receipt of a copy of this order;

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 2nd 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 11.06.2020 and this order, to the 2nd respondent forthwith;

v) The 2nd 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/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vum

To

1.The Principal Chief Conservator of Forest,
Having office at Panagal Maligai,
Saidapet, Chennai-600 015.

2.The District Forest Officer,
Nilgiris.

3.The Accountant General of Tamil Nadu,
Office at DMS compound,
Teynampet, Chennai-600 018.

+1 cc to the Special Government Pleader sr74130

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