

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
W.P.No.6801 of 2021

P. Muthu Vinayagam

... Petitioner

..Vs..

1. 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 - 600 105. ... Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to regularise the service of the petitioner as Forest Watcher from 24.01.1995 notionally for purpose of getting pension 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 by considering the representation dated 19.12.2019.

For Petitioner : Mr.T.Sellapandian

For Respondents: Mr.S.Prabhu
Additional Government Pleader

ORDER

This writ petition has been filed, seeking a direction to the respondents to regularise the service of the petitioner as Forest Watcher from 24.01.1995 notionally for purpose of getting pension 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 by considering the representation dated 19.12.2019.

2. Mr.S.Prabhu, learned Additional Government Pleader takes notice for respondents. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that he was appointed on daily wage basis in the Forest Department as Plot Watcher. As per Tamil Nadu Forest Service Rules, the qualification required for holding the post of Forest Watcher is ability to read and write. Against this Rule, the Government issued G.O.Ms.No.332 Forest Department whereby imposed a new condition to pass SSLC for holding the regular post of Forest Watcher. As per the above Government order, 425 SSLC qualified persons were appointed as Forest Watcher and those who do not possess SSLC qualification were excluded whereby juniors have marched over the seniors. Aggrieved by this, the unqualified SSLC daily wage plot watchers challenged the G.O.Ms.No.332 dated 22.12.1994 before the Tribunal by filing O.A.No.197 of 1995 and obtained interim stay. By virtue of the interim stay before giving effect some of the persons were brought on regular time scale of pay as Forest Watcher and some of them could not join the post because of grant of interim stay by the Tribunal. Such persons continued to hold the post without any disturbance.

4. It is further averred that during the pendency of Original Application before the Tribunal the Government in order to wriggle out of the situation, issued G.O.Ms.No.64 Forest Department and restored the qualification of "ability to read and write" as prescribed in the Rule instead of SSLC. Petitioner was brought into time scale of pay in the cadre post of Forest Watcher, after rendering more than two decades of painful service on daily wage basis. Similarly placed persons like the petitioner filed W.P.No.15561 of 2006 and the same was allowed on 10.03.2008 and W.P.No.23374 of 2008 was allowed on 30.10.2009. Against the said orders W.A.No.690 of 2008 and W.A.No.607 of 2010 have been filed and they were dismissed by the Division bench of this Court. Government implemented the above said orders passed by this Court and given regular time scale of pay to the writ petitioners thereon on par with their juniors with effect from 24.01.1995 onwards. Hence the petitioner has submitted a representation dated 19.12.2019 to the respondents to regularise his service on par with his juniors, since no action has been taken by the respondents the petitioner has filed the present writ petition.

5. It is seen that the petitioner was appointed as Plot Watcher on daily basis in the Forest Department and he has all of a sudden woken up from Slumber and has approached this Court belatedly seeking the relief of regularisation of his service with effect from 24.01.1995. The petitioner has also cited some orders passed by this Court in W.P.No.15561 of 2006

dated 10.03.2008, W.A.No.690 of 2008 dated 13.10.2009 and W.P.No.23374 of 2008 dated 30.10.2009, W.A.No.607 of 2010 dated 29.03.2010 and also as well as the proceedings of the second respondent dated 07.01.2011. This Court is of the view that at this distant point of time the direction sought for by the petitioner cannot be blindly issued to the respondents and it is for the respondents to consider the request of the petitioner in respect of his regularisation. Since the petitioner has submitted a representation dated 19.12.2019 which is said to be pending with the respondents for a suitable decision, this writ petition is disposed of with the following directions.

i) A direction is issued to the respondents herein to consider the representations preferred by the petitioner dated 19.12.2019 if the petitioner is found to be eligible 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 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 respondents 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 representations dated 19.12.2019 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representations, 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 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 petitioner, later on, will not take a plea that the petitioners are not aware of the order. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

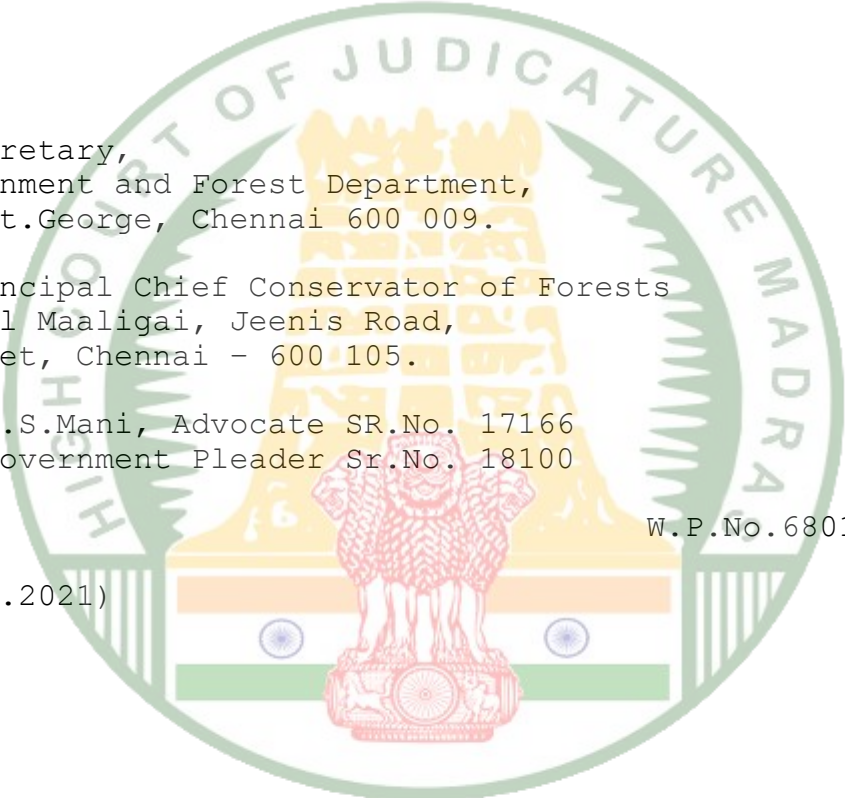
dpq
To

1. The Secretary,
Environment and Forest Department,
Fort St.George, Chennai 600 009.
2. The Principal Chief Conservator of Forests
Panagal Maaligai, Jeenis Road,
Saidapet, Chennai - 600 105.

+1cc to Mr.S.Mani, Advocate SR.No. 17166
+1 cc to Government Pleader Sr.No. 18100

W.P.No.6801 of 2021

UM(CO)
A.SK(13.07.2021)



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