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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A. No.1769 of 2018
and
C.M.P. No.14208 of 2018

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Forest and Environment Department
Fort St. George, Chennai - 600 009
2. The Principal Chief Conservator of Forests
Panagal Maaligai, Saidapet
Chennai - 600 015
3. The District Forest Officer
District Forest Office
Nilgiris North Division, Ooty
4. The Forest Range Officer
Mannarkudi Range
Mannarkudi, Thiruvavoor (D.T.)
5. The Principal Accountant General of Tamil Nadu
Accounts and entitlement
Office at Accountant General
Teynampet, Chennai - 18.

... Appellants/Respondents

vs

K.M.Muniyappan

... Respondent/Petitioner

Prayer: Writ Appeal filed under clause 15 of the Letters Patent against the order dated 09.09.2014 made in W.P. No.18848 of 2014.

Prayer in W.P. No.18848 of 2014:

Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 4th respondent in his proceeding No. Na. Ka. No. 829 / 2014 / PA dated 21.04.2014 quash the same



and consequently direct the 1st to 3rd respondents to count half of the service rendered by the petitioner from the date of joining in service as plot watcher i.e. on 01.11.1979 to 04.01.2007 along with regularised service rendered by the petitioner as Mali from 05.01.2007 to 28.02.2013 as qualifying service and sent the revised proposal to the 4th and 5th Respondents as to grant pension with all consequential benefits and arrears with interest.

For Petitioner : Mr.R.Neelakandan
State Government Counsel

For Respondent : Mr.K.Naveenkumar

JUDGMENT

(delivered by PUSHPA SATHYANARAYANA, J.)

Challenge in this writ appeal is to the order of the writ court dated 09.09.2014 made in W.P. No.18848 of 2014. The appellants herein are the respondents before the writ court and the respondent herein is the writ petitioner.

2. The respondent, who is the writ petitioner, was appointed as a Plot Watcher in the services of the Forest department on 01.11.1979 and his services were regularised on 05.01.2007 and he retired on 28.02.2013. As his services were regularized after 28 years, he prayed for counting of 50% of the temporary services rendered by him along with his remaining service for the purpose of calculating the pension and retiral benefits by filing a writ of mandamus in W.P. No.18848 of 2014. The said writ petition was allowed, in terms of G.O. Ms. No.408, Finance (Pension) Department, dated 25.08.2009 and directed the appellants herein to extend the benefit of the said GO to the petitioner for the purpose of pension. Paragraphs 4 and 5 of the said order are extracted hereunder:

" 4. A perusal of the impugned order would go to show that half of the service period spent as daily wage was not taken into account in the case of the petitioner, because, according to the impugned order, the above said Government Order is applicable only to those employees who were brought into the regular service on or before 01.04.2003. Similar orders passed came to be considered in a number of writ petitions in W.P. (MD) No.5174 of 2008 dated 30.6.2008, 7263 and 7264 of 2008 dated 16.12.2008, 10447/2008 dated 16.7.2009 and 1375/2010 dated 3.3.2010 and W.P.



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No.25293/2010 dated 30.11.2010. In all these writ petitions, this court has taken a view that even though the employee was taken into the regular service subsequent to 1.4.2003, still, the benefit of the Government Order should be extended to him. In view of the same, I hold that the petitioner is entitled for the benefits of the said Government Order.

5. In the result, the writ petition is allowed and the respondents are directed to extend the benefits of the G.O. Ms. No.408 to the petitioner for the purpose of pension. In any event, consequential order shall be passed, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed."

3. It is also to be noted that the said issue of counting 50% of the temporary services rendered by a person for computing the pensionary benefits is no longer res integra in view of the recent judgment of the Full Bench of this court in the Government of Tamil Nadu and Ors. vs. R. Kaliyamoorthy reported in (2019) 6 CTC 705.

4. However the learned Government Pleader representing the appellants would state that the order passed by the learned single Judge was implemented and given effect vide G.O.(3D) No.5 Environment and Forests (FR2-2) Department dated 12.02.2016.

5. In view of the above, the writ appeal is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Asr

To

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



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

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3. The District Forest Officer,
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Mannarkudi Range,
Mannarkudi, Thiruvavoor (D.T).

5. The Principal Accountant General of Tamil Nadu
Accounts and entitlement
Office at Accountant General
Teynampet, Chennai - 18.

+1cc to the Special Government Pleader, S.R.No.34113

W.A. No.1769 of 2018 and
C.M.P. No.14208 of 2018

CP(CO)
RLP(06/08/2021)