



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.182 of 2018
and CMP No.1260 of 2018

1. Rep by its Secretary
The State of Tamil Nadu,
Forest Department,
Fort St. George,
Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 600 015.
3. The District Forest Officer,
cum Deputy Director,
Pollachi Forest Division,
Anaimalai Tiger Reserve,
Pollachi.
4. The Accountant General,
Anna Salai, Chennai.

.... Appellants/Respondents

V. Manickam

.... Respondents/Petitioner

Prayer: Writ Appeal filed under clause 15 of Letter Patents Act, filed praying to set aside the final order dated 03.09.2014 in W.P.No.5047 of 2014 passed by this Court. Writ of mandamus directing the respondents to count half of the temporary service from 1.11.1984 to 26.6.2011 along with permanent service from 27.6.2011 to 31.12.2013 as qualifying service for the purpose of pension and other retirement benefits and pay all pensionary benefits and pension and arrears of pension to the petitioner.

For Appellants : Mr.R.Neelakandan
State Government Counsel

For Respondent : No appearance



JUDGMENT

(delivered by MRS.PUSHPA SATHYANARAYANA.J.,)

The writ appeal is directed against the order passed by the learned Single Judge in W.P.No.5047 of 2014 dated 03.09.2014.

2. Despite service of notice, the respondent has not entered appearance either in person or through counsel.

3. Learned State Government Counsel points out that though in many matters, where services were regularised and 50% of the services rendered by the persons were ordered to be counted for the purpose of pension, in this case, it may not be possible.

4. A perusal of the bio-data Sheet produced before this Court shows that the writ petitioner, V.Manickam had served as Forest Watcher from 01.11.1984 to 30.09.1985 for eleven (11) months and once again, from 01.12.1985 to 11.09.1989 for a period of four years nine months and ten days (4 years, 9 months and 10 days). He was not engaged thereafter by the Department. However, his services were regularised on 27.06.2011 on a supernumerary post and he retired on 31.12.2013 after putting in a service of two years and six months (2 years and 6 months). Considering the total qualifying service for the purpose of pension, it is only four years and ten months (4 years and 10 months) that is available to the credit of the writ petitioner, he does not have the qualifying service for the grant of pension. Hence, the writ petitioner is not entitled for the same.

5. Even, as per the Full Bench decision of this Court in the case of State of Tamil Nadu represented by Secretary to Government and others vs R.Kaliyamoorthy, (2019) 6 CTC 705, where it has been specifically held that those who are appointed on or before 01.04.2003, but regularised only after the said cut-off date, are not entitled for the pensionary benefits. The relevant portion reads as follows:

" 45. In the light of the above, we answer the reference as follows:-

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and



WEB COPY

Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a)(i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

7. In view of the above, the writ petitioner is not entitled for the benefits sought for. The appeal deserves to be allowed and accordingly, the writ appeal is allowed and the order passed by the learned Single Judge is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/--

Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

sr



To

1. Rep by its Secretary
The State of Tamil Nadu,
Forest Department,
Fort St. George,
Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 600 015.
3. The District Forest Officer,
cum Deputy Director,
Pollachi Forest Division,
Anaimalai Tiger Reserve,
Pollachi.
4. The Accountant General,
Anna Salai, Chennai.

+1cc to the Government Pleader, S.R.No.34097

W.A.No.182 of 2018

RK(CO)
CT(06/08/2021)