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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2021

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

W.A.NO.2072 OF 2018 AND
C.M.P. NO.16338 OF 2018

- 1.The Government of Tamil Nadu
Rep. by its Secretary, Environment & Forest Department
Fort St. George
Chennai - 9
 - 2.The Principal Chief Conservator of Forests of Tamil Nadu
Panagal Building, Saidapet
Chennai - 600 015
 - 3.The District Forest Officer
Namakkal District
Namakkal
- .. Appellants

Vs.

- 1.Alagarasan
 - 2.S.Ponnusamy
 - 3.P.Mani
 - 4.R.Ponnusamy
 - 5.S.Yuveneswaran
- ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 12.09.2014 made in W.P.No.23647/2013 on the file of this Court.

Prayer in W.P.No.23647/2013:-

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, to direct the respondents to appoint the petitioners in the cadre post of Forest Watcher by giving relaxation with respect to height or age if any or in the alternative consider the petitioners for appointing them in the cadre post of Mali Record Clerk or Office Assistant on the basis of their representation dated 10.04.2013 within a time limit .



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For Appellants : Mr.R.Neelakandan
State Government Counsel

For Respondents : Mr.S.Mani

JUDGMENT

[delivered by PUSHPA SATHYANARAYANA, J.]

This intra-court appeal is preferred by the Government against the order passed in W.P. No.23647 of 2013 seeking issuance of mandamus directing the appellants to appoint the petitioner in the cadre post of Forest Watcher by giving relaxation with respect to height by extending the benefit of G.O.(2D) Ms. No.56, Environment and Forest Department dated 06.09.2006.

2. In a similar batch of writ appeals, this Court, by Judgment dated 20.01.2015 in W.A.No.1703 of 2014, had passed the following order:

"There is no dispute that to be a Forest Watcher, one should possess physical requirement of height of 163 cms. and 79 cms. of chest with 5 cms. Expansion. It appears that in the case of the writ petitioner/respondent herein, there is no deficiency in chest measurement. However, there is some deficiency in his height. The appellants have failed to establish as to how the deficiency in his height would substantially affect his performance, especially, when he has been working as Plot Watcher for the last 25 years. The appellants had, indisputably, granted the benefit to other employees. Thus, in the light of the same, we are of the considered view that the order passed by the Writ Court, which is sought to be impugned in the instant appeal, does not warrant interference in the facts of the case. However, we make it clear that the question of law involved in the case on hand is left open to be decided in the appropriate case."

3. The said decision was based on the decision of the Hon'ble Supreme Court in Ghan Sham Sunder and Others vs. State of Punjab and Others, reported in (2004) 9 SCC 508. Admittedly, these writ petitioners were engaged by the department from the year 1985 and they were also regularised on 07.08.2009.



4. Considering the length of service rendered by them they should also be appropriately considered for relaxing the height required for the said post. Accordingly, the benefit of the Judgment in W.A.No.1703 of 2014 is extended to the respondents herein also. In view of the same, the writ appeal preferred by the Government is dismissed. No costs.

s/d
Assistant Registrar(CS IV)

True Copy

Sub-Assistant Registrar

Asr

To

1.The Secretary,
Government of Tamil Nadu
Environment & Forest Department
Fort St. George
Chennai - 9

2.The Principal Chief Conservator of Forests of Tamil Nadu
Panagal Building, Saidapet
Chennai - 600 015

3.The District Forest Officer
Namakkal District
Namakkal

+lcc to M/S.S.Mani, Advocate, SR.No.39809
+lcc to Special Government Pleader, SR.No.39996

W.A.No.2072 of 2018 and
C.M.P.No.16338 of 2018

KV(CO)
PM(09/09/2021)