



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WP.No.15474/2021 & WMP.No.16408/2021

[Video Conferencing]

1.M.Saraswathi
2.S.Logasundari
3.K.Chandra
4.M.Amirtha Bai
5.S.Chandra
6.V.Marimuthu
7.R.Venkatasamy
8.M.Selvaraj
9.V.Kalimuthu
10.E.Sambasivam
11.A.Yogappan
12.M.Tamilvendhan
13.B.Kannan

.. Petitioners

Vs.

1.The State of Tamil Nadu
rep.by its Secretary to Government
Environment and Forest Department
Fort St George, Chennai 9.

2.The Principal Chief Conservator of Forest
Panagal Building, Saidapet, Chennai-15.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the respondents to appoint the petitioners in the cadre post of Forest Watcher by giving the benefit of relaxation of height rule with effect from the date of their juniors appointment in the post of Forest Watcher on 24.01.1995 by considering their representation dated 10.08.2020 in the light of the order passed in WP.No.9708/2014 dated 12.09.2014, WP.No.25274/2014 dated 17.09.2014, WA.No.1703/2014 dated 20.01.2015, SLP [Civil] No.12056/2015 dated 05.07.2016, and Ref.No.LL2/31604/2014 dated 10.02.2020 and also G.O.[Ms] No.49, Environment and Forests [FR2-II] Department dated 01.09.2020 with all consequential benefits within time frame.



For Petitioners : Mr.K.Jenitha
For R1& R2 : Mr.C.Kathiravan
Government Advocate

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ORDER

1. By consent, the writ petition is taken up for final disposal and disposed of by this order.
2. Mr.C.Kathiravan, learned Government Advocate accepts notice on behalf of the respondents 1 and 2.
3. The present writ petition is filed seeking a mandamus directing respondents 1 and 2 to appoint the petitioners in the cadre post of Forest Watcher by giving the benefit of relaxation of height rule with effect from the date of their juniors appointment in the post of Forest Watcher on 24.01.1995 by considering their representation dated 10.08.2020 in the light of the order passed in WP.No.9708/2014 dated 12.09.2014, WP.No.25274/2014 dated 17.09.2014, WA.No.1703/2014 dated 20.01.2015, SLP [Civil] No.12056/2015 dated 05.07.2016, and Ref.No.LL2/31604/2014 dated 10.02.2020 and also G.O.[Ms] No.49, Environment and Forests [FR2-II] Department dated 01.09.2020 with all consequential benefits within time frame.
4. By an order dated 07.08.2009, the services of the petitioners were regularised as Plot Watchers. The petitioners are eligible for further promotion as Forest Watchers, but, they were not considered for the post and therefore, Writ Petitions have been filed to direct the respondents to regularise the service of petitioners in the cadre of Forest Watcher on par with their Juniors by relaxing the height rule.
5. The learned counsel for the petitioners submitted that in similar circumstances, this Court passed an order in W.P.No.6327 of 2005, dated 4.12.2012, directing the respondents therein to consider the case of the petitioners for regularisation as Forest Watcher, without disqualifying him on the ground of height.
6. Learned Government Advocate appearing for the respondents submitted that the petitioners do not possess minimum physical standard prescribed under the Subordinate service Rules viz. 163cms height for appointment to the post of Forest Watcher and therefore, no relaxation can be given to the petitioners. The learned Government Advocate also submitted that nearly 3000 employees are having such defect



and their services were not regularised as Forest Watcher and therefore, the petitioners cannot be given regularisation as Forest Watcher.

7. Heard the submissions made by the learned counsel appearing on either side and perused the materials placed on record.
8. I am unable to accept the submissions made by the learned Government Advocate. It is seen from the order passed in W.P.No.6327 of 2005 dated 4.2.2012, wherein similar issue was considered by this Court and the respondents were directed to consider the regularisation of services of the petitioner as Forest Watcher. As per G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999, Plot Watchers who have been served in the Forest Department for long number of years, are directed to be posted in regular post of Forest watcher and the petitioners are also working in the Forest Department as Plot Watchers for a long period. Further, it is seen from the above Judgment that relaxation was given in respect of some of the persons and appointed them as Forest Watchers. In the Judgment rendered in W.P.No.10349 of 2012 also, the same issue was considered and the respondents were directed to regularise the appointment of the petitioner as Forest Watcher in that writ Petition. The above cited judgments have also been followed in the subsequent decisions made in WP.No.9708/2014 dated 12.09.2014, WP.No.25274/2014 dated 17.09.2014, WA.No.1703/2014 dated 20.01.2015, SLP [Civil] No.12056/2015 dated 05.07.2016 and Ref.No.LL2/31604/2014 dated 10.02.2020 and also G.O.[Ms] No.49, Environment and Forests [FR2-II] Department dated 01.09.2020.
9. Considering the same, the respondents are directed to consider the case of the petitioners and appoint them as Forest watcher and it is also made clear that the petitioners are entitled for monetary benefits of that appointment only from the date on which they join duty. As far as fixation of pay is concerned, the petitioners are entitled from the date on which their juniors were promoted till they actually join the post and pay can be fixed notionally. This direction with regard to pay fixation is given taking into account the fact that after serving for long number of years in the respondent Department and if appointment is directed to be given with effect from today, the petitioners may not have pensionary and other benefits, even to a certain extent also, on their retirement. Hence, the respondents are directed to complete the exercise of giving appointment orders to the petitioners within a period of eight weeks from the date of receipt of a copy of this order. If any relaxation of the Rule is necessary as



was done in the case of Sivanesan by G.O.(2D) No.56, Environment and Forest Department dated 06.09.2006, the respondents are directed to take appropriate steps and to get relaxation of the Rules.

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10. With the above direction and observation, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Fort St George, Chennai 9.

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai-15.

+lcc to Special Government Pleader (SR No.36395)

WP.No.15474/2021

SRA (CO)
PR (18/08/2021)