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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18373 of 2021

(Through Video Conferencing)

P.Anburajan

...Petitioner

Vs

1. The State of Tamilnadu,
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: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to appoint petitioner in the cadre post of Forest Watcher by giving the benefit of relaxation of height rule with effect from the date of petitioner's junior's appointment in the post of Forest Watcher on 24.01.1995 by considering petitioner's representation dated 16.09.2020 in the light of the order passed in W.P.No.9708 of 2014 dated 12.09.2014, W.P.No.25274 of 2014 dated 17.09.2014, W.A.No.1703 of 2014 dated 20.01.2015, SLP (Civil) No.12056 of 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 consequential benefits.

For Petitioner : Mr.K.Jenitha
For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.



2.It is noticed that an order dated 12.09.2014 came to be passed in W.P.No.9708 of 2014 in the case of M.Kanniyappan Vs. The State of Tamil Nadu and others. The operative portion of the aforesaid order reads as under:-

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6.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 04.02.2012, wherein similar issue was considered by this Court and the respondents were directed to consider the regularization 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 posed in regular post of Forest Watcher and the petitioner is also working in the Forest Department as Plot Watcher 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.

7.Considering the same, the respondents are directed to consider the case of the petitioner as Forest Watcher and it is also made clear that the petitioner is entitled for monetary benefits of that appointment only from the date on which he joins duty. As far as the fixation of pay is concerned, the petitioner is entitled from the date on which his junior was promoted till he actually joins 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 fixation is given taking into account the fact that after serving for long number of years in the respondent Department, if appointment is directed to be given with effect from today, the petitioner may not get pensionary and other benefits, even to a certain extent



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also, on his retirement. Hence, the respondents are directed to complete the exercise of giving appointment orders to the petitioner 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.

3.The Departmental Appeal against the above order in W.A.No.1703 of 2014 was dismissed by the Division Bench of this Court by its order dated 20.01.2015 and further appeal in S.L.P.No.12056 of 2015 before the Hon'ble Supreme Court was also dismissed by an order dated 05.07.2016.

4.It is submitted that a similar order was also passed in W.P.Nos.25271 to 25278 of 2014 vide order dated 17.09.2014 in the case of K.Murugan and others Vs. Government of Tamil Nadu and others the learned counsel has today also placed reliance on a recent order dated 27.07.2021 of this Court in W.P.No.15474 of 2021 in M.Saraswathi and others Vs. The State of Tamil Nadu and another wherein, under similar circumstances, noting the decision of the Hon'ble Division Bench of this Court and that of the Hon'ble Supreme court, the respondents were directed to appoint the petitioners therein as Forest Watchers by relaxing the Rules if necessary as was done in the case of one Sivanesan vide G.O.(2D) No.56, Environment and Forest Department, dated 06.09.2006.

5.The fact of the case indicates that the petitioner was appointed as a Plot Watcher on 20.12.1983. During the interregnum, several orders were issued, as a result of which, the petitioner was absorbed into service as Mali and not given further appointment as a Forest Watcher. The next avenue of petitioner for a Plot Watcher is either Forest Watcher or Mali. The orders which were passed during the interregnum were either relaxed or quashed.

6.Considering the fact that under similar circumstances, the respondents are directed to relax the Rules if it is necessary as was done in the case of Sivanesan by G.O.(2D) No.56, Environment and Forest Department, dated 06.09.2006, this Writ Petition is disposed in terms of the above cited orders with a direction to the respondents to notionally appoint the petitioner as a Forest Watcher with effect from the date on which his immediate juniors were appointed to the post of Forest



Watcher. This exercise shall be carried out by the respondents within a period of eight weeks from the date of receipt of a copy of this order. No costs.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamilnadu,
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.

+1CC to Mr.K.Jenitha, Advocate, Sr.No.44825

W.P.No.18373 of 2021

BP (CO)
K.RK. (29.11.2021)