

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.31763 and 31764 of 2014

G.Duraisamy ... Petitioner in W.P.No.31763/2014
D.Raman ... Petitioner in W.P.No.31764/2014

Vs.

- 1.The Divisional Forest Officer,
Social Forestry Division,
Vellore.
- 2.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai - 600 015.
- 3.State of Tamil Nadu, rep. by its
The Principal Secretary to Government,
Forest Department,
Fort St.George,
Secretariat,
Chennai - 600 009.
- 4.The Accountant General of Tamil Nadu,
Teynampet,
Chennai 600 018. ... Respondent in W.P.No.31763/2014

- सत्यमेव जयते
- 1.The District Forest Officer,
Coimbatore Division,
Coimbatore - 640 018.
 - 2.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai - 600 015.
 - 3.Govt. of Tamil Nadu, rep. by its
The Principal Secretary to Government,
Forest Department,
Fort St.George,
Secretariat,

Chennai - 600 009.

4.The Accountant General of Tamil Nadu,
Teynampet,
Chennai 600 018. ... Respondents in W.P.No.31764/2014

Prayer in W.P.No.31763 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to count half of the service rendered by the petitioner as plot watcher on daily wage basic from 20.01.1983 till 06.08.2009, along with regular service rendered by him as plot watcher (supernumerary post) of from 07.08.2009 till the date of his retirement on 30.04.2013 as qualifying service and sent the revised proposal to the fourth respondent and to grant pension to the petitioner with all consequential monetary benefits.

Prayer in W.P.No.31764 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to count half of the service rendered by the petitioner as plot watcher on daily wage basic from 01.11.1981 till 23.08.2004, along with regular service rendered by him as Forest Watcher from 24.08.2004 till the date of his retirement on 30.06.2007 as qualifying service and sent the revised proposal to the fourth respondent and to grant pension to the petitioner with all consequential monetary benefits.

For Petitioners : Mr.P.Ganapathy

For Respondents : Mr.M.Elumalai for R1 to R3
Additional Government Pleader (F)

सत्यमेव जयते

COMMON ORDER

These writ petitions have been filed seeking a mandamus to direct the respondents 1 to 3 to count half of service rendered by the petitioners on temporary basis along with the regular service rendered by them till the date of their retirement as qualifying service for the purpose of conferment of pension and consequently, send pension proposal to the fourth respondent to authorize the same with all consequential benefits.

2.The case of the petitioners is that they joined in service as Plot Watchers in the Forest Department on 20.01.1983 and 01.11.1981 respectively. As per G.O.Ms.No.64, Environment

and Forest Department, dated 08.03.1999, the names of the petitioners were included in the Statewide Seniority list and subsequently, they were appointed as plot watcher (supernumerary post) and Forest Watcher in the regular time scale of pay on 07.08.2009 and 24.08.2004 respectively. Thereafter, the petitioners' services were regularised and they retired from service on 30.04.2013 and 30.06.2007 respectively. Under the said circumstances, the petitioners sent a representation to the first respondent to send his pension proposal to the fourth respondent by counting 50% of his temporary service along with regular service. But the same has not been considered so far. Hence, the petitioners are before this Court.

3.Today, when the matters were taken up for consideration, the learned Additional Government Pleader appearing for the respondents submitted that the issue at hand is no longer res integra, in view of the decision of the Full Bench of this Court rendered in WA.No.158 of 2016 etc. batch on 03/12/2019, wherein, in paragraph 45, it has been held 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 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."

4. In the light of the aforesaid decision, this Court is of the opinion that no further order is required to be passed in these writ petitions, as the services of the petitioners were regularised on 07.08.2009 and 24.08.2004 respectively, i.e., after the cut off date of 01.04.2003 for determining the qualifying service for pension. Therefore, the present writ petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

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Social Forestry Division, Vellore.
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Panagal Building,
Saidapet, Chennai - 600 015.
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4. The Accountant General of Tamil Nadu,
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5. The District Forest Officer,
Coimbatore Division,
Coimbatore - 640 018.

+2cc to Special Government Pleader (F) SR.No.04479, 3848

W.P.Nos.31763 and 31764 of 2014

PL(CO)

GMV(03/05/2021)