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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

C O R A M

THE HON'BLE MR.JUSTICE C.SARAVANAN

Writ Petition No.20543 of 2021
(Through Video Conferencing)

V.Lakshmanan
Plot Watcher,
North Kottamedu,
Sholavaram Taluk,
Vellore District.

...Petitioner

Vs.

1. The Government of Tamil Nadu
Rep. by its Principal Secretary to Government,
Forest and Environment Department,
Fort St. Charge, Secretariat,
Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Jeenies Road,
Panagal Building,
Saidapet, Chennai - 15.
3. The Conservator of Forests,
Vellore Forest Region,
Vellore, Vellore District.
4. The District Forest Officer
Vellore Forest Division,
Vellore, Vellore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the Respondents to include the Petitioner's name (V.Lakshmanan) in the Statewide Seniority List of Plot Watchers/Social Forestry Workers in the Forest Department and appointing him as Forest Watcher on par with similarly persons and consequential service benefits as granter to other similarly placed persons.

For Petitioner : Mr.M.R.Jothimanian

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



O R D E R

The Petitioner was appointed as a Plot Watcher on 15.11.1991. Considering the light of Plot Watchers who were appointed on temporary basis, the Government had earlier issued G.O.Ms.No.64, Environment and Forest (F.R.II) Department, dated 06.03.1999 and G.O.Ms.No.95 Environment and Forest (F.R.II) Department, dated 07.08.2009. As per these Government orders, those Plot Watchers and Government employees who were working with the Department for a period of more than 10 years were eligible to regularize in the supernumerary posts. The Government order in G.O.Ms.No.95 dated 07.08.2009 was further clarified by the Office of the second Respondent on 18.09.2009 vide a letter bearing reference No.eh/fh/vz;/ vk;/vy;.2/-3329-2009/ wherein it was stated that even in cases of those persons who could not complete 10 years of continue service, but on account of the fact that their services were not retained on account of positive things and their services shall be reckoned for the purpose of regularizing their service on the supernumerary posts. It is the case of the Petitioner that some of the Junior of the Petitioner have been regularized. It is the further case of the Petitioner that the Respondents have regularized the service of some of the junior of the Petitioner over looking the legitimate rights of the Petitioner in terms of G.O.Ms.No.95 dated 07.08.2009 as clarified by the second Respondent on 18.09.2009 by G.O.Ms.No.202 dated dated 18.12.2003.

2. The learned counsel for the Petitioner submits that an identical situation as in the case of the Petitioner, this Court by an order dated 10.07.2017 in the case of P.Rajendran vs. The Government of Tamil Nadu and others in W.P.No.20854 of 2012 had granted relief to the Petitioner therein with the following observations:-

'6.Rebutting the averments contained in the counter affidavit, a reply statement has been filed on behalf of the petitioner that discontinuance of his service from 1989 till 1st April 2002 was not due to the conduct of the petitioner but it was only because of the fact of non-availability of funds and the project and therefore, such break ought to have been condoned and the services ought to have been construed to be as continuous with effect from the date when he was originally appointed in 1984. Learned counsel appearing for the petitioner would specifically draw this Court's attention to the proceedings of the second respondent dated 18.09.2009, in which, in para 1, it is clearly stated that the persons whose



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services had been discontinued due to paucity of funds, such break had to be condoned and need not be considered as ineligible for the purpose of completion of ten years of service. In view of the proceedings which clearly stipulates that such break in service shall not be considered as one of break in service for the purpose of counting the completion of ten years of service as contemplated in the above said Government Orders, the petitioner's services ought to have been regularised as was done in the case of similarly placed persons. Learned counsel appearing for the petitioner would also draw this Court's attention to para 6 of the G.O.Ms.No.95 Environment and Forest (FR.2) Department dated 07.08.2009 wherein more than 3000 daily wage employees were working as Plot Watchers have been brought on the regular time scale by creating supernumerary posts from the date of issue of the Government Order. Therefore, he would pray for allowing the writ petition as otherwise the petitioner would be deprived of his right to seek parity in the matter of regularisation of his services.

7.This Court has considered the rival submission of the learned counsels after perusing the records and the pleadings.

8.While considering the objections putforth by the respondents, this Court is of the view that the discontinuance of the petitioner for the period from 1989 till 01.04.2002 was not due to the conduct of the petitioner or his absence on his own volition but because of the non-availability of funds and the project. This fact which was highlighted in the reply statement has not been disputed by the respondents. In the said circumstances, the contention of the respondents that the petitioner did not complete ten years of service cannot be countenanced both on facts and in law. That being the case, the claim of the petitioner squarely falls within the frame work of G.O.Ms.No.95 Environment and Forest (FR.2) Department dated 07.08.2009 and also other Government Orders, which are referred to supra. While holding so, this Court has no hesitation to grant the mandamus sought for in the writ petition.

9.In the said circumstances, there shall be a direction to the respondents to include the name of the petitioner in the state wide



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seniority list and regularise the services by appointing him as Forest Watcher by creating a supernumerary post in case of non-availability of vacancy in terms of G.O.Ms.No.95 Environment and Forest (FR.2) Department dated 07.08.2009 with all other attendant and consequential benefits as granted to other similarly placed persons. The said exercise shall be initiated and completed by the respondents within a period of three months from the date of receipt of a copy of this order.''

The learned counsel for the Petitioner further submits that the above order was also followed in the following two cases in W.P.No.15782 of 2019 dated 05.09.2019 and W.P.No.124 of 2013 dated 15.07.2020.

3. Appearing on behalf of the Respondents, the learned counsel appearing for the Respondents on instructions submit that the Respondents will consider the representation of the Petitioner dated 12.12.2020 and pass an appropriate orders on merits and in accordance with law within a period of 12 weeks.

4. Recording the submissions made by the learned counsel for the Respondents, this Writ Petition is disposed of by directing the Respondents to consider and pass an appropriate order of the Petitioner's representation dated 12.12.2020 on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. While disposing the representation of the Petitioner, the Respondents shall consider G.O.Ms.No.95 Environment and Forest (FR.2) Department dated 07.08.2009, clarification dated 18.09.2009 and the subsequent regularization of Petitioner's junior in G.O.No.202 dated 18.12.2013 and the decisions cited above.

5. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. Principal Secretary to Government,
The Government of Tamil Nadu
Environment and Forest Department,
Fort St. Charge, Secretariat,
Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1 Jeenis Road, Panagal Building
Saidapet, Chennai - 15.
3. The Conservator of Forests,
Vellore Forest Region,
Vellore, Vellore District.
4. The District Forest Officer
Vellore Forest Division,
Vellore, Vellore District.

+1cc to Mr.M.R.Jothimanian, Advocate, S.R.No.49537

+1cc to the Special Government Pleader (Forest), S.R.No.49871

W.P.No.20543 of 2021

PM(CO)
RGA(05/10/2021)