



WEB COPY

W.P.(MD) No.19006 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.19006 of 2020

Kaliyammal

...Petitioner

Vs

1.The Government of Tamilnadu,
Rep by its Secretary,
Forest and Environment Department,
Secretariat, Chennai-600 009.

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

3.The Forest Range Officer,
Puliyangudi,
Tenkasi District.

...Respondents

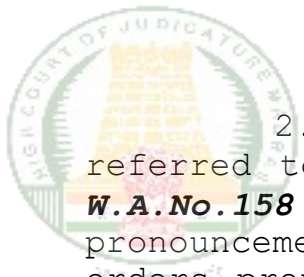
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to fix and disburse pension and other retirement monetary benefits to the petitioner by counting half of the service rendered by the petitioner's husband late Seeniappan from 01.04.1987 to 06.08.2009 as Plot Watcher on daily wage basis along with regular scale of pay service rendered by the petitioner's husband from 07.08.2009 till 10.03.2013 with all consequential benefits.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.S.Dhayalan
Government Advocate

O R D E R

The grievance of the petitioner is that the respondents had not counted half of the service rendered by her husband Late Seeniappan from 01.04.1987 to 06.08.2009 as Plot Watcher on daily wage basis along with regular scale of pay service rendered by her husband Late Seeniappan from 07.08.2009 till 10.03.2013, while fixing and disbursing pension.



2.The issue with regard to the petitioner's entitlement was referred to by a **Hon'ble Full Bench** in a batch of Writ Appeal in **W.A.No.158 of 2016 etc., dated 03.12.2019.** For an authoritative pronouncement, the Hon'ble Full Bench had gone into the depth of the orders pronounced by this Court as well as the Hon'ble Apex Court and accordingly, had answered the reference by spelling out the entitlement of these Forest Watcher for the purpose of counting 50% of the past service.

3.Paragraph No.46 of the order of the Hon'ble Full Bench reads thus:-

'.....

46.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 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.The aforesaid observations spelling out the entitlement of the petitioner is self explanatory. As such, if at all the petitioner's husband fall in any one of the categories referred to by the Hon'ble Full Bench, it would be appropriate for the petitioner to approach the first respondent herein with the necessary representations substantiating her claims for counting of her husband past service and consequential revision of the pensionary benefits.

5.In the light of the above observations, the petitioner herein is granted liberty to give a fresh representation in the light of the judgment delivered by the **Hon'ble Full Bench** in the batch of Writ Appeal in **W.A.No.158 of 2016 etc., dated 03.12.2019** in the case of **The Government of Tamil Nadu, rep., by Secretary to Government, Public Works Department, Secretariat, Chennai and others Vs., R.Kaliyamoorthy**. The petitioner shall endeavour to give such a representation to the first respondent atleast within a period of four weeks from the date of receipt of a copy of this order. On receipt of such representations, the first respondent herein shall consider it in the light of the aforesaid Judgement passed by the Hon'ble Full Bench, dated 03.12.2019, as well as the observations made in this order, atleast within a period of three months there from.

6.The Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary,
Government of Tamilnadu,
Forest and Environment Department,
Secretariat, Chennai-600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



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

3.The Forest Range Officer,
Puliyangudi,
Tenkasi District.

+1cc to SPL GP Sr.No.1665

Order made in
W.P. (MD) No.19006 of 2020
20.01.2021

VB (04.02.2021) 4P 5C