



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM:

THE HONOURABLE DR JUSTICE ANITA SUMANTH

W.P. (MD) No.12108 of 2018

C.S.Palaniyandi

... Petitioner

Vs.

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

2.The Principal Chief Conservator of Forests,
Chennai - 600 015.

3.The Forest Extension Officer,
Forest Extension Centre,
Ponnakudi,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing 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 from 01.08.1982 to 23.01.1995 as Plot Watcher on daily wage basis along with regular scale of pay service rendered by the petitioner from 24.01.1995 till 28.02.2014 with all consequential benefits.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.D.Sadiq Raja

Additional Government Pleader

O R D E R

The petitioner had been appointed as a Plot Watcher in the Forest Department on 01.08.1992. While this was so, the service of the juniors of the petitioner came to be regularized with effect from 24.01.1995 in preference to the petitioner. Other similarly prejudiced employees approached this Court by way of a batch of Writ Petitions seeking regularization of their services on par with their juniors as Forest Watchers, and for all consequential monetary benefits.

2. The batch of Writ Petitions in W.P.No.1006 of 2014 came to be allowed on 10.01.2014, this Court directing regularization of the petitioners' services on par with their juniors with all



attendant benefits.

3. Proceedings bearing Ref.No.111/5604/2014 dated 23.09.2016 states, at at unnumbered paragraph No.2 as follows:

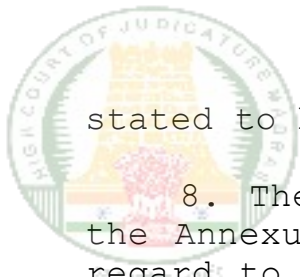
The District Forest Officer is requested to take immediate action in regularize the services of the petitioners on par with their juniors as Forest Watcher, further in the reference cited the Government have issued orders to fix the pay of 56 writ petitioners (Various Writ Petition) mentioned in the Government Letter Annexure. The District Forest Officer is requested to fix the pay on par with their immediate juniors with their juniors with their juniors with monetary benefit from the date of issue of Government Order.

4. Annexure of the above Proceedings enumerates details of 56 writ petitioners and the name of this petitioner, C.S.Palaniyandi, figures in serial No.56. The Annexure contains the following heads: 'S.No.' 'Name of the Petitioner', 'W.P. No.s', 'Date of engagement as Plot Watchers/VSFW', 'Seniority No. as per G.O.Ms.No.64, Environment and forests (FR.2) Department, dated 08.03.1999', 'Subsequent appointment as Forest Watcher/Forest Guard', 'Dates of passing SSLC' and 'Whether possess physical Qualification as per TNFSS' (Tamil Nadu Forest Subordinate Services). In regard to the petitioner, the last column, relating to the possession of physical qualification, contains the endorsement 'Yes'.

5. Despite communication dated 23.09.2016 to the effect that the orders dated 09.09.2016 are to be implemented, the State has been dragging its fact, neither regularizing the petitioner's service nor paying over the benefits due to him. In fact, the aforesaid order dated 23.09.2016 had itself been passed only after the petitioner approached this Court alleging contempt of order dated 09.09.2016. Thus, this Writ Petition.

6.A perusal of order dated 23.09.2016 leaves me in no doubt that order dated 09.09.2016 is liable to be implemented forthwith and no serious objection or defense has been put forth in this regard. The communication is in itself categoric to the effect that there is no impediment whatsoever to the implementation of order dated 09.09.2016.

7. The sole defence put forth in the counter is that the petitioner does not have height required for the post of Forest Watcher since, as against the eligible height of 163 cms, the petitioner is only 157 cms tall. This submission need only be



stated to be rejected.

8. The allegation of short fall is a matter of doubt, as in the Annexure accompanying letter dated 23.09.2016, column No.7 in regard to physical qualifications categorically confirms that the petitioner does possess the required physical qualification for appointment to the post of Forest Watcher. That apart, falling short of height by a few centimeters could hardly be of any relevance in a service that has spanned nearly 25 years, from 1992 onwards, particularly, when the petitioner faces no allegation of incompetence or inadequacy in rendition of service. This argument is liable to be rejected, and I do so emphatically.

9. In this regard, I may also refer to a judgment passed in W.A.No.1703 of 2014, *State of Tamil Nadu, rep. by its Secretary to Government and 2 others Vs. M.Kanniyappan* wherein, by order dated 20.01.2015, a Division Bench of this Court accepts the appointment of Plot Watchers, referring to an order in W.P No.6327 of 2005 dated 04.12.2012 in *P.Subramani Vs. the Principal Chief Conservator of Forest, Chennai and 3 others*. In the latter case, a similar situation of short fall in height had arisen, that has been brushed aside.

10. This Writ Petition is allowed. Mandamus as sought for by the petitioner is issued. The exercise of regularization and paying over of all benefits shall be completed within a period of four(4) weeks from today. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

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,

The Government of Tamilnadu,

Environment and Forest Department,

Fort St. George, Chennai - 600 009.

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



2.The Principal Chief Conservator of Forests,
Chennai - 600 015.

3.The Forest Extension Officer,
Forest Extension Centre,
Ponnakudi,
Tirunelveli.

+1 CC to M/s.S. SIVAKUMAR, Advocate (SR-34889[F] dated 17/11/2021)
+1 CC to M/s.SPL GP (SR-35187[F] dated 19/11/2021)

W.P. (MD) No.12108 of 2018
17.11.2021

SK(CO)
SB(13.12.2021) 4P 6C