



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.21210 of 2017

Povunthai

... Petitioner

Vs.

1. The Government of Tamil Nadu
rep by its Principal Secretary to Government,
Forest and Environment Department,
Fort St.George, Chennai-600 009.
2. The Principal Chief Conservator of Forests,
No.1, Jennis Road,
Panagal Building, Saidapet,
Chennai-600 015.
3. The District Forest Officer,
Tirunelveli Forest Range,
Tirunelveli.
4. The Social Forest Officer,
Sivagiri, Tirunelveli District.
5. The Accountant General of Tamil Nadu,
Office of the Accountant General,
Annasalai, Teynampet,
Chennai-600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to count half of the service rendered by the petitioner's husband viz., Muthusamy as a Plot Watcher from 01.05.1987 to 30.07.2014 along with regular service rendered by the petitioner's husband as a Forest Watcher from 30.07.2014 to 26.06.2016 as qualifying service for pensionary benefits and send the revised proposal to the 5th respondent to grant pension with all consequential monetary benefits within the stipulated period.

For Petitioner : Mr.G.Marimuthu

For R1 to R4 : Mr.M.Muthugeethayan
Special Government Pleader



For R5

: Mr.P.Gunasekaran

ORDER

This Writ Petition is filed for a direction to the respondents 1 to 4 to count half of the service rendered by the petitioner's husband viz., Muthusamy, as a Plot Watcher from 01.05.1987 to 30.07.2014 along with regular service rendered by the petitioner's husband as a Forest Watcher from 30.07.2014 to 26.06.2016 as qualifying service for pensionary benefits and send the revised proposal to the fifth respondent to grant pension with all consequential monetary benefits.

2.The case of the petitioner is that her husband was appointed as a Plot Watcher in the Forest Department on daily wage basis and he was continuously engaged by the respondents without any break. During the year 2008-2009, the Forest Department has prepared a State-wide Seniority List of Plot Watchers to appoint/promote them as Forest Watcher in the time scale of pay. Thereafter, the petitioner's husband was promoted as a Forest Watcher in the regular time scale of pay and subsequently, he was retired from service in the year 2016. Further the petitioner has averred that as per Tamil Nadu Forest Subordinate Service Rules, to receive pension for 10 years of net qualifying service. Rule 11(2) of the Tamil Nadu Pension Rules, to count half of the service rendered by the petitioner's husband on daily wages along with regular service at the time of calculating the qualifying service period. Therefore, the petitioner's husband is eligible to receive the retirement benefits by calculating the earlier service rendered by him on daily wages. In order to avail such a benefit, the petitioner has made a representation, dated 12.10.2017. So far no order has been passed. Hence, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that this Court may issue a direction to the respondents to count half of the service rendered by the petitioner's husband as a Plot Watcher from 01.05.1987 to 30.07.2014 along with regular service rendered by him as a Overdose Plot Watcher from 30.07.2014 to 20.06.2016.

4.Per contra, the learned Special Government Pleader appearing for the respondents 1 to 4 submitted that the issue that arose in the present writ petition is no longer *res integra* and there are two conflicting decisions rendered by the Division Bench of this Court and that the matter was referred before the Full Bench of this Court in W.A.Nos.158 of 2016 etc., Batch, dated 03.12.2019 and the above question was answered. The person, who was firstly appointed on or after 01.04.2003, is not entitled for pension. The relevant portion of the judgment of the Full Bench of this Court is as follows:



"4. Such a reference came to be made by the Division Bench on noticing that there are two conflicting decisions rendered by the Division Benches of this Court. In one of the judgments rendered by the Division Bench of the Madurai Bench of this Court in W.A(MD)Nos.587, 605, 606 and 1024 of 2014 on 03.12.2014, it was held that persons, who were absorbed and/or regularized to service after 01.04.2003 were not entitled to count half of the past service rendered by them for the purpose of conferment of pensionary benefits along with the service rendered by them after regularization. Another Division Bench of the Madurai Bench of this Court, in its judgment dated 09.09.2015, in W.A(MD)No.760 of 2013 held that such persons, whose service came to be regularized after 01.04.2003 were entitled and/or eligible to count half of the services rendered by them on daily wage basis prior to their regularization, for the purpose of conferment of pensionary benefits. Thus, this contrary view taken by two Division Bench of this Court has led to the present reference to his Full Bench."

5. The facts in the present case are not in dispute. Admittedly, the petitioner's husband has entered into service in the year 1987 as Plot Watcher and his service was regularized as Forest Watcher in the time scale of pay in the year 2014 and thereafter, he was retired from service in the year 2016. On a perusal of the Full Bench decision (cited supra), it is seen that the Government Servants, who are appointed on or after 01.04.2003 are not entitled for pension. In the present case, the petitioner's husband's service was regularized only in the year 2014 and hence, he was not entitled to get such a benefit. Hence, the relief sought for in the writ petition cannot be granted. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (RTI)

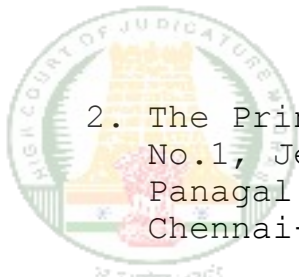
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Sub Assistant Registrar (CS)

To

1. The Principal Secretary to Government of Tamil Nadu,
Forest and Environment Department,
Fort St. George, Chennai-600 009.



2. The Principal Chief Conservator of Forests,
No.1, Jennis Road,
Panagal Building, Saidapet,
Chennai-600 015.

3. The District Forest Officer,
Tirunelveli Forest Range,
Tirunelveli.

4. The Social Forest Officer,
Sivagiri,
Tirunelveli District.

5. The Accountant General of Tamil Nadu,
Office of the Accountant General,
Annasalai, Teynampet,
Chennai-600 018.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-9325[F] dated
08/03/2021)

W.P. (MD)No.21210 of 2017

05.03.2021

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