



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WEB COPY

W.P. (MD)No.22403 of 2017

K.Raju

... 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,
Panagal Building, Saidapet,
Chennai.
- 3.The Conservator of Forest,
Megamalai Conservation Division,
Theni-625 531.
- 4.Divisional Forest Officer,
Varusanadu Soil Conservation Division,
Theni- 625 531.
- 5.The Principal Accountant General of Tamil Nadu,
Office of the Accountant General,
Teynampet, Chennai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to sanction and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from 01.08.1986 to 01.09.2014 as Plot Watcher on a daily wage basis along with regular service rendered from 01.09.2014 till 31.08.2017, with all consequential benefits.

For Petitioner : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

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

For R5 : Mr.P.Gunasekaran



ORDER

This Writ Petition is filed by the petitioner for a direction to the respondents to sanction and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from 01.08.1986 to 01.09.2014 as Plot Watcher on a daily wage basis along with regular service rendered from 01.09.2014 till 31.08.2017, with all consequential benefits.

2. The case of the petitioner is that he 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. Thereafter, he was promoted as Forest Watcher on 1.9.2014 in the regular scale of pay and retired from service as Forest Watcher on 31.8.2017. After retirement, as the petitioner was not given pensionary benefits, he sent a representation dated 4.11.2017 to the respondents praying for grant of pension taking into account 50% of service rendered by the petitioner on a daily wages basis along with regular service. Since the same was not considered, the present writ petition has been 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 as a Plot Watcher from 01.08.1986 to 01.09.2014 along with regular service rendered by him as a Forest Watcher from 01.09.2014 till 31.08.2017.

4. Per contra, the learned Special Government Pleader appearing for the respondents 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 has entered into service in the year 1986 as Plot Watcher and he was promoted as Forest Watcher in the year 2014 and thereafter, he was retired from service in the year 2017. 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 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.

6. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Forest and Environment Department,
Fort St.George, Chennai-600 009.
- 2.The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai.
- 3.The Conservator of Forest,
Megamalai Conservation Division,
Theni-625 531.
- 4.The Divisonal Forest Officer,
Varusanadu Soil Conservation Division,
Theni- 625 531.



5.The Principal Accountant General of Tamil Nadu,
Office of the Accountant General,
Teynampet, Chennai.

+1 CC to M/s.SPL GP (SR-10593[F] dated 11/03/2021)

WP (MD) No.22403 of 2017
10.03.2021

AS (24.05.2021) 4P 7C