



W.P.No.18260 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON:27.10.2022

ORDER PRONOUNCED ON:29.11.2022

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.18260 of 2012
and M.P.No.2 of 2012

K.Govindasamy

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by
Secretary,
Forest Department,
Fort St.George, Chennai.

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

3.The Forest Ranger,
CPP Range,
Thiruvannamalai.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Letter No.14955/Forest-2/2010-1 dated 02.09.2010 passed by the first

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respondent herein and quash the same and further direct the respondents to appoint the petitioner as Plot Watcher with all monetary benefits.

For Petitioner : Mr.K.M.Ramesh
For Respondents : Mr.T.Arunkmar
Additional Government Pleader

ORDER

The Writ petition is filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Letter No.14955/Forest-2/2010-1 dated 02.09.2010 passed by the first respondent herein and quash the same and further direct the respondents to appoint the petitioner as Plot Watcher with all monetary benefits.

2. The brief facts of the case relevant for considering the issue raised in the writ petition are as follows:

The petitioner joined as Plot Watcher in the respondent department on 01.09.1983 and was posted to the third respondent range where he worked till 31.01.1996. The petitioner served for more than 13 years and while the petitioner was working, the third respondent passed G.O.Ms.No.592 transferring the petitioner to Rural Development Department. According to the petitioner, the Rural



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Development Department did not accommodate the petitioner as also similarly transferred Plot Watchers, and so the first respondent passed G.O.Ms.No.65 dated 08.03.1999 to accommodate persons like the petitioner who were put on compulsory wait. The first respondent in the said G.O. directed the second respondent to include the names of the Plot Watchers who were transferred to the Rural Development Department in the statewide seniority list prepared as per G.O.Ms.No.64. Accordingly the petitioner's name was placed in Serial No.2967 in the statewide seniority list. While the petitioner was waiting for permanent appointment, the first respondent passed G.O.Ms.95 dated 07.08.2009 sanctioning 3058 posts of plot watchers. In the said G.O., the second respondent was directed to provide appointment to plot watchers who had put in 10 years of continuous service. Though the petitioner had put in 10 years of service he was not given appointment, hence he filed writ petition in W.P.No.23186 of 2009, this Hon'ble Court vide order dated 23.03.2010, directed the petitioner's therein to place the details of their services including break in service, so that cumulatively, if they satisfied 10 years of service as per G.O.Ms.No.95 dated 07.08.2009, they could be considered for absorption. The first respondent therein was further directed to verify the same and consider the request as per the seniority list and



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give them the benefit of G.O.Ms.No.95 dated 07.08.2009. The first respondent therein was directed to pass orders within 12 weeks. In pursuance to the said order the petitioner made a representation along with his service particulars to the first respondent and the first respondent vide impugned order dated 02.09.2010 rejected the petitioner's representation. Aggrieved by the same, the petitioner filed the above writ petition.

3. The third respondent filed counter denying all the contentions raised by the petitioner in his affidavit. The case of the respondent was that the petitioner joined as protection and tending mazdoor watcher in Thiruvannamalai Crash Plantation Range of Vellore Crash Plantation Division from 01.09.1983 to 31.12.1994 and 01.08.1995 to 31.01.1996. The petitioner had left the service voluntarily on 01.02.1996. The respondent further submitted that the petitioner had worked in the department only on daily wages and he was not engaged when there was no work in the department and further his services were utilised in the protection of Forest Plantation. The respondent further submitted that the petitioner was not transferred to the panchayat Union, but was working in the plantation. The respondent admitted that state wide seniority list was prepared by



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the Chief conservator of Forests as per G.O.Ms.No.64, Environment and Forest

Department dated 08.03.1999, based on the instructions issued in G.O.Ms.No.65

dated 08.03.1999. The respondent submitted that the plot watcher's were brought

under state wide seniority list during 1999 according to the date of their joining

service. According to the respondent, G.O.Ms.No.95/2009 dated 07.08.2009,

was passed by the Government to absorb Forest watcher's in the lower most

regular staff category in the Forest Department from the state wide seniority list.

The respondent did not deny the inclusion of the petitioners name in the seniority

list at Serial No.2967 but only stated that the petitioner was not working at the

time of preparation of state wide seniority list. The respondent further submitted

that the petitioner was not working as plot watcher continuously and hence the

petitioner was not absorbed in the supernumerary post as per G.O.Ms.No.95

dated 07.08.2009. On the above said submissions the respondent prayed for

dismissal of the writ petition.

4. The learned counsel for the petitioner submitted that in the impugned

order itself the respondent had admitted that the petitioner's name was included at

S.No.2967 of the state wide seniority list though allegedly due to mistake. The



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counsel therefore submitted that once the petitioner's name was included in the state wide seniority list, then he was entitled for permanent appointment as per G.O.Ms.No.95 dated 07.08.2009 and the order of the Hon'ble Division Bench of this Court in W.A.No.887 of 2010. According to the petitioner, the contentions of the respondent that the petitioner was not working since 1996 and that he had not put in 10 years of continuous service and as such not entitled to the benefit of G.O.Ms.95 dated 07.08.2009 is untenable. The Hon'ble Division Bench had categorically held that, the condition of 10 years continuous service stipulated in G.O.Ms.No.95 was not tenable and hence directed the respondents to implement the order on the basis of the state wide seniority list, without insisting on 10 years continuous service. The petitioner therefore prayed that the writ petition may be allowed.

5. In contra, the learned Additional Government Pleader submitted that the petitioner had voluntarily left service on 01.02.1996 itself and that the petitioner was engaged as a daily wager in the Thiruvannamalai Crash plantation Range of Thiruvannamalai, Crash plantation Division. The petitioner was not working at the time when the Chief conservator of Forest, Chennai prepared the state wide



seniority list. The counsel further submitted that, those who were assigned state wide seniority number were appointed in supernumerary post as per G.O.Ms.95 dated 07.08.2009 and as the petitioner was not working as a plot watcher continuously he was not absorbed in the supernumerary post. On the said submissions the learned counsel prayed that the writ petition may be dismissed.

6. I have heard the learned counsel for both sides and I have perused the materials on record.

7. The short point for consideration in this writ petition is whether the petitioner is entitled to the benefit of G.O.Ms.No.95 dated 07.08.2009 and in consequence thereof to permanent appointment. The petitioner's specific case is that, his name was included in the state wide seniority list prepared in 1999 in Serial No.2967. This specific stand of the petitioner was not denied in the counter affidavit in the earlier writ petition or in the counter to the present writ petition. The only contention of the respondent is that the petitioner was not in service, when state wide seniority list was prepared. It is admitted by the respondents in the impugned order that the petitioner had worked from 01.09.1983 to



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31.12.1994, 01.01.1995 to 31.07.1995 and 01.08.1995 to 31.01.1996 and that the petitioner's name was included at S.No.2967 though by mistake. In the absence of any corroborative evidence to show that the inclusion of the petitioner's name in the state wide seniority list was by mistake, the same cannot be accepted. If really the petitioner's name was included by mistake, then the respondents would have taken immediate steps to rectify the same. But it is seen from the records that the petitioner's name continues to find a place in the state wide seniority list at S.No.2967. I am therefore of the view that the respondents stand in the impugned order that the petitioner's name was included in the state wide seniority list by mistake cannot be accepted. The next objection of the respondent is that the petitioner has not put in 10 years of continuous service and therefore G.O.Ms.No.95 dated 07.08.2009 is not applicable to the petitioner. I am of the view that the said stand of the respondent in the counter affidavit is itself contumacious. In the order in W.A.No.887 of 2010 dated 29.04.2011, the Hon'ble Division Bench on an appreciation of the relevant G.O's (i.e) G.O.Ms.No.64, 65 and 95, concluded that the only essential requirement for appointment was inclusion in the state wide seniority list. Having found as above, the Hon'ble Division Bench directed the respondents to implement the order in G.O.Ms.No.95

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dated 07.08.2009, on the basis of state wide seniority list without insisting on 10 years continuous service. When the Hon'ble Division Bench has categorically concluded on a cumulative reading of the relevant G.Os. that the only essential requirement for appointment was inclusion of the name in the state wide seniority list, the respondents are barred from raising the objection that 10 years continuous service is also mandatory. In the light of the Hon'ble Division Bench judgment and on the facts of the case, I am of the view that the petitioner is entitled to the relief claimed on basis of inclusion of his name in the state wide seniority list at Serial No.2967. As held above, the respondents have not proved that the petitioner's name was included by mistake and so the irresistible conclusion is that the petitioner whose name is included in the seniority list is entitled to the relief claimed.

In the light of all the above, the Writ Petition is allowed. There shall be no order as to costs. Consequently connected M.P is closed.

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N.MALA, J.
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To

- 1.The Secretary,
State of Tamil Nadu,
Forest Department,
Fort St.George, Chennai.
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