



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 01.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.25907 of 2015
and M.P.Nos.1 and 2 of 2015 and
W.M.P.No.3231 of 2020

1.G.Ramalingam
2.E.Muniyan

...Petitioners

Vs

1.The State of Tamilnadu Rep by
The Secretary to Government,
Environment & Forests (F2) Dept.,
Secretariat, Chennai 9.

2.The Principal Chief Conservator of Forests,
1, Jeenias Road,
Panagal Building,
Saidapet, Chennai 15.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent in connection with the order passed by him in Ref. No.LL2/4843/2014 dated 01.12.2014 signed on 09.07.2015 and quash the same and direct the respondents to extend the benefits of G.O.Ms.No.95, E & F(V2) Department, dated 07.08.2009 with effect from the completion of 10 years.

For Petitioner : Mrs.K.Jenitha

For Respondents : Mr.E.Vijayanand,
Additional Govt. Pleader (Forest)

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2.The petitioners herein, who were appointed as Plot Watchers in 1982 and 1995, are aggrieved by the inaction of the respondents in omitting to include their names in the Statewide Seniority List. In connection with the order passed by this



Court, directing the respondents to consider the petitioners representation, the impugned order dated 01.12.2014 came to be passed, stating that as per the records of the District Forest Officer, the petitioners have not completed 10 years of service and therefore, their names cannot be included in the Statewide Seniority List. Incidentally, pursuant to the orders passed in the case of similarly placed candidates, the Government in G.O.Ms.No.202, Environment and Forest Department, dated 18.12.2013, directing to include 243 persons who were on daily wages, in the Statewide Seniority List and to appoint them as supernumerary Plot Watchers, in the special time scale of pay, with effect from the date of the order. Following G.O.Ms.No.202, the proposal of the Principal Chief Conservator of Forests was accepted and G.O.2D.No.4, Environment and Forest Department, dated 12.02.2021, also came to be passed, whereby one similarly placed person was included in the Statewide Seniority List and appointed as supernumerary Plot Watcher, in the special time scale of pay, with effect from 18.12.2013.

3.The learned counsel appearing for the petitioners submitted that the petitioners herein have also completed 10 years of service, in support of which, the petitioners have produced the relevant Service Certificates issued by the respondents. Hence, they would be entitled to the benefits of G.O.Ms.No.202 and G.O.2D.No.4, dated 12.02.2021.

4.The learned Special Government Pleader appearing for the respondents reiterated the averments made in the impugned order, as well as the counter affidavit and submitted that, since the petitioners herein had not completed 10 years of service, their names were not included in the Statewide Seniority List and therefore, their names were not included in the Statewide Seniority List.

5.The reasoning adopted by the second respondent in the impugned order is not justifiable. When the aggrieved plot Watchers had earlier approached this Court, through the Association of Employees, a Division Bench of this Court in W.A.No.887 of 2010 and W.P.No.9750 of 2010, had considered this aspect with regard to the pre-requirement of 10 years of continuous service in the post of plot Watchers and directed the respondents to regularise the services as per the State Wide Seniority List, without insisting for the pre-requirement of 10 years service period. The relevant portion of the order reads as follows:-

"32. The amendments made to the Tamil Nadu Forest Subordinate Service Rules on the basis of the Government Order in G.O.Ms.Nos.64 & 65 were not brought to the notice of the learned Judge and as



WEB COPY

such, the learned Judge directed the individual employees to place the details of their services with the Forest Department, including the break in service, so that cumulatively, if they satisfy the requirement of ten years of continuous service as per G.O.Ms.No.95 dated 7 August 2009, they could be considered for absorption. The question of prescribing further condition of ten years of continuous service does not arise, in view of the currency of the Government Order in G.O.Ms.Nos.64 and 65, and the amendment made to the Tamil Nadu Forest Subordinate Service Rules.

33. In fact, the break in service was caused only on account of the indifferent attitude of the Rural Development Department in refusing to accept the transfer of service made by the Government as per order in G.O.Ms.No.592 dated 16 August 1989. Therefore, the individual employees were not responsible for the so called break in service. They were put on compulsory wait and ultimately, the Government issued orders in G.O.Ms.Nos.64 and 65 to prepare the seniority list so as to accommodate all these plot Watchers in the regular service.

34. The Government Order in G.O.Ms.No.65 dated 8 March 1999 was issued on account of the failure on the part of the Rural Development Department to accommodate the transferred Social Forest Workers and Plot Watchers. The Government found that only a portion of the employees were given job in the Rural Development Department and the rest of those persons were constantly applying to the Forest Department to give them job opportunities. Therefore, it was only to accommodate such workers, Government Order in G.O.Ms.No.65 dated 8 March 1999 was issued. While issuing the said order, the Government was fully convinced that plot Watchers were not working as on that date on account of the failure on the part of the Rural Development Department to accommodate them. It was only under the said circumstances, the Government directed inclusion of the Social Forest Workers and Plot Watchers, who were transferred to the Rural Development Department, in the Statewide Seniority List. Therefore, the only requirement is, inclusion of name in the Statewide Seniority List. Admittedly, the Statewide Seniority List was prepared in accordance with the Government Orders in G.O.Ms.Nos.64 & 65 dated 6 March 1999 and 8 March 1999 respectively. Such of those employees whose names were included in the Statewide Seniority List got a right to claim appointment. None of the



WEB COPY

Government Orders regarding preparation of Statewide Seniority List and the amended service regulations contain the requirement of ten years of continuous service. The very source of appointment is from the Statewide Seniority List. The Tamil Nadu Forest Subordinate Service Rules is very specific that only after appointing Social Forest Workers and Plot Watchers in its entirety, fresh appointment would be made. Therefore, the employees in the waiting list were justified in making a demand for appointment without insisting on ten years of continuous service. This aspect was not considered by the learned Single Judge. Therefore, we are of the view that the order dated 23 March 2010 in W.P.No.26529 of 2009 is liable to be set aside.

35. The name of the petitioner in the writ petition in W.P.No.9750 of 2010 was included in the list as per Serial No.5275. The case of individual employees like the writ petitioner cannot be rejected merely on the ground that they have not completed ten years of service in spite of the factum of their name being included and shown in the Statewide Seniority List. Therefore, we are of the considered view that the Government was not justified in imposing a fresh condition of ten years of continuous service. Accordingly, we quash the stipulation regarding ten years of continuous service as a condition precedent for appointment as plot Watchers as incorporated in G.O.Ms.No.95 dated 7 August 2009 as invalid and inoperative, in view of the prevailing Government Orders in G.O.Ms.Nos.64 & 65 dated 6 March 1999 and 8 March 1999 respectively and Rule 2-B and 2-C of Tamil Nadu Forest Subordinate Service Rules.

DISPOSITION:-

36. The respondents are directed to implement the order in G.O.Ms.No.95 dated 7 August 2009 on the basis of the Statewide Seniority list without insisting ten years of continuous service. Such exercise shall be completed within a period of three months from the date of receipt or production of a copy of this judgment."

6. The aforesaid extract is self-explanatory. Thus the reasoning adopted by the respondents that the petitioners have not completed 10 years of their service and therefore, are not entitled for inclusion in the Statewide Seniority List cannot be sustained.



7. In the light of the above observations, the impugned order made in Ref. No. LL2/4843/2014 dated 01.12.2014, is quashed. The petitioners herein have also liberty to make representation to the 2nd respondent, together with a copy of this order, as well as the Service Certificates, to establish that they have completed 10 years of service. On receipt of such a representation, the 2nd respondent shall pass appropriate orders in favour of the petitioners herein, by including their names in the Statewide Seniority List and appoint them as Supernumerary Plot Watchers in the special time scale of pay, with effect from 18.12.2013 onwards. Such orders shall be passed, within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vkr

To

1. The Secretary to Government,
Environment & Forests (F2) Dept.,
Secretariat, Chennai 9.

2. The Principal Chief Conservator of Forests,
1, Jeenis Road,
Panagal Building,
Saidapet, Chennai 15.

+1cc to the Special Government Pleader (Forest), S.R.No.6619

W.P.No.25907 of 2015
and M.P.Nos.1 and 2 of 2015 and
W.M.P.No.3231 of 2020

GPL (CO)
SB(23/02/2022)