



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 16.02.2022
CORAM
THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No. 1812 of 2018 &
C.M.P. No. 17567 of 2019

1. Government of Tamil Nadu,
rep. by its Secretary,
Environment and Forest Dept.,
Fort St.George, Chennai - 600 009.
 2. The Principal Chief Conservator of Forests,
Office at Panagal Maaligai,
Saidapet, Chennai - 600 015.
 3. The District Forest Officer,
Thiruvannamalai Forest Division,
Thiruvannamalai,
Vellore Circle. ..Appellants
- Vs.
- C. Chandran ..Respondent

Prayer: Writ Appeal as against the order dated 23.09.2014 made in
W.P. No. 25898 of 2014.

PRAYER IN WP.No.25898 OF 2014 Writ Petition filed under Article
226 of the Constitution of India for the issuance of Writ of
Mandamus, directing the respondents to include the name of the
petitioner in the State Wide Seniority list in the appropriate
place, so as to enable him to get appointment as Plot Watcher
(Supernumerary Post) as per G.O.M.No.95, Environment and Forest
Department, dated 07.08.2009, with all consequential benefits.

For Appellants :: Mr.E. Vijay Anand,
Addl. Govt. Pleader (Forest)
For Respondent :: Mr.M. Sudhakaran for
M/s. Karan & Uday

J U D G M E N T
S. VAIDYANATHAN, J. AND MOHAMMED SHAFFIQ, J.

The Writ Appeal is filed questioning the order dated
23.09.2014 made in W.P. No. 25898 of 2014.



2.The writ petition was filed by the respondent herein for issue of a Writ of Mandamus directing the appellants herein to include the name of the respondent/writ petitioner in the State Wide Seniority List in the appropriate place, so as to enable him to get appointment as Plot Watcher (Supernumerary Post) as per G.O.Ms. No. 95, Environment and Forest Department dated 07.08.2009 with all consequential benefits. The learned Single Judge, on the submission made by the learned counsel for the writ petitioner that the issue was covered by the order dated 01.12.2009 in W.P. No. 21067 of 2009, and further confirmed in writ appeal, which fact was not refuted by the learned Government Advocate appearing for the Forest Department, allowed the writ petition and granted the relief as prayed for.

3.It is represented by the learned Additional Government Pleader for the appellants that the writ petitioner did not complete 10 years of service eventhough he had joined the service in the year 1985. According to the appellants, the actual number of days worked by the writ petitioner was not brought to the notice of the Court and eventhough it appears from the pleadings that the writ petitioner has completed 15 years of service by removing the break in service, in terms of the G.O.Ms. No.95 dated 07.08.2009, the writ petitioner has not completed requisite period of 10 years of service so as to grant him regular time scale of pay by including his name in the State Wide Seniority List.

4.In response, learned counsel for the respondent/writ petitioner would submit that the writ petitioner has made a categorical averment in the first paragraph of the writ petition that he has completed 15 years of service and completed 5 years of service on daily wage basis on 31.03.1990 and thereafter, from 01.04.1990, he continued in daily wage employment as a Plot Watcher till 25.07.1999 for about 9 years.

5.However, the learned Additional Government Pleader for the appellants would submit that he is willing to place materials before us so that he may be permitted to file a review before the learned Single Judge and the details of service rendered by the writ petitioner could be considered by the learned Single Judge.

6.According to the respondent/writ petitioner, the writ petitioner joined service of the Forest Department in 1985 and almost, four decades have gone by eversince joining service. The litigation should attain finality and the plea which has not been raised/argued before the Writ Court cannot be pressed into service at this distance of time.



7. Since the learned Additional Government Pleader for the appellants has sought for a relief that he may be permitted to file a review, without expressing any opinion on the merits of the submissions made by both parties, the writ appeal is disposed of with liberty to the appellants file a review petition and the same shall be filed within a period of 30 days from the date of copy of this order is made ready. As the learned Single Judge, who passed the impugned order has already retired, in the event of review application being filed, Registry is to obtain necessary orders from the Hon'ble Chief Justice to post the review application before the Portfolio Judge concerned. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Environment and Forest Dept.,
Fort St. George,
Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Office at Panagal Maaligai,
Saidapet, Chennai - 600 015.
3. The District Forest Officer,
Thiruvannamalai Forest Division,
Thiruvannamalai,
Vellore Circle.

Copy To

The Section Officer,
Judicial Section,
High Court, Madras.

+1cc to Mr. Karan & Uday, Advocate SR.No.10571
+1cc to the Special Government Pleader SR.No.10412

W.A. No. 1812 of 2018

MT(CO)
GN(24/03/2022)