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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.7572 OF 2015

S.Saravanan
Plantation Protection Watcher,
Forest Extension Center,
275, G.S.T. Road,
Chengalpattu, Kancheepuram District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
   Rep. by its Principal Secretary to Government,
   Environment and Forest Department,
   Fort St.George,
   Chennai - 9.

2. Principal Chief Conservator of Forest
   and Head of Forest Force,
   Panagal Building,
   Saidapet,
   Chennai - 15.

3. Mr.Rajendiran,
   Forest Extension Officer,
   Forest Extension Center,
   Chengalpattu,
   Kancheepuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in Letter No.3340/FR.2/2014-8, dated 06.02.2015 by the first respondent and to quash the same with consequential direction to the respondents to regularize the petitioner's service in the regular time scale of pay as per G.O.Ms.No.202 E & F Department dated 18.12.2013 with effect from the date of his juniors regularisation and with consequential benefits.

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For Petitioner : M/s.K.Jenitha

For Respondents : Mr.T.Chezhiyan, [R1 & R2]
Additional Government Pleader
No Appearance for R3

ORDER

The petitioner herein, was temporarily engaged as Mazdoor in the Forest Extension Centre, Chengalpattu, from 01.04.1999 to 31.09.2000 and thereafter, from 21.10.2000, he was re-engaged in the Forest Extension Centre on temporary basis. The Chief Conservator of Forest in his proceedings dated 11.06.2010, had recommended the name of the petitioner for regularisation, since he had completed more than 10 years of service. The petitioner's claim was rejected through the impugned order dated 06.02.2015, by following the decision of the Hon'ble Supreme Court of India in the case of 'State of Karnataka Vs. Uma Devi and others' reported in 'AIR 2006 SC 1806' and stating that regularisation of the petitioner's service retrospectively, on completion of 10 years of service is not feasible for compliance. The said order is under challenge in the present Writ Petition.

2. The issue involved in the present Writ Petition has been dealt with by this Court in various Writ Petitions as well as the Writ Appeals and in one order passed by the Hon'ble Division Bench of this Court in W.A.No.887 of 2010, the pre-requirement of 10 years of continuous service in the post of Plot Watchers was dealt with and consequently, the respondents were directed to regularise the services, even without insisting for the pre-requirement of 10 years of 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 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.

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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 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

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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 inspite 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.””

3. The aforesaid extract is self-explanatory. When service of similarly placed Plot Watchers were directed to be regularised, the petitioner herein, whose name was recommended by the Chief Conservator of Forest, on the ground that he has completed 10 years of service, stands on a better footing.

4. In view of G.O.Ms.No.95 Environment and Forest Department dated 07.08.2009, which has been relied on by the Hon'ble Division Bench in the aforesaid decision, the petitioner herein, would be entitled for such a regularisation.

5. Accordingly, the impugned order dated 06.02.2015 passed by the first respondent, is quashed. The petitioner is at liberty to make a representation to the second respondent herein, enclosing a copy of this order as well as the relevant service certificates to establish that he has completed 10 years of service. On receipt of such a representation, the second respondent herein, shall pass appropriate orders in favour of the petitioner herein, by including his name in the Statewide

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Seniority List and accordingly, regularise his service in the regular time scale of pay as per G.O.Ms.No.202 E & F Department, with effect from the date of his immediate junior's regularisation, together with all service and attendant benefits, within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government of Tamil Nadu,
   Environment and Forest Department,
   Fort St.George,
   Chennai - 9.

2. The Principal Chief Conservator of Forest
   and Head of Forest Force,
   Panagal Building,
   Saidapet,
   Chennai - 15.

+1cc to M/s.K.Jenitha, Advocate, S.R.No.26456

+1cc to the Special Government Pleader(Forest), S.R.No.26634

+1cc to the Special Government Pleader, S.R.No.26360

W.P.No.7572 of 2015

SKM(CO)
RLP(11/05/2022)

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