



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.55 to 59 of 2022

S.Pandiammal	... Petitioner in WP(MD)No.55 of 2022
C.Senthamarai	... Petitioner in WP(MD)No.56 of 2022
R.Ponnammal	... Petitioner in WP(MD)No.57 of 2022
M.Vijayasamy	... Petitioner in WP(MD)No.58 of 2022
Mrs.M.Indhiradevi	... Petitioner in WP(MD)No.59 of 2022

Vs.

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

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

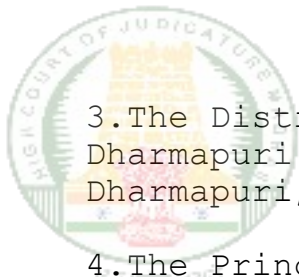
3.The District Forest Officer,
Kodaikanal Forestry Division,
Kodaikanal, Dindigul District.

4.The Principal Accountant General of Tamil Nadu,
Teynampet,
Chennai-18.

... Respondents in WP(MD)No.55 of 2022

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

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



3.The District Forest Officer,
Dharmapuri Forestry Division,
Dharmapuri, Dharmapuri District.

4.The Principal Accountant General of Tamil Nadu,
Teynampet,
Chennai-18.

... Respondents in WP(MD)No.56 of 2022

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

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

3.The District Forest Officer cum Deputy Director,
Arignar Anna Zoological Park,
Vandalur,
Chennai-600 048.

4.The Principal Accountant General of Tamil Nadu,
Teynampet,
Chennai-18.

... Respondents in WP(MD)No.57 of 2022

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

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

3.The District Forest Officer,
Ramanathapuram Forest Division,
Ramanathapuram District.

4.The Principal Accountant General of Tamil Nadu,
Teynampet,
Chennai-18.

... Respondents in WP(MD)No.58 of 2022



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

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

3.The District Forest Officer,
Dindigul Forestry Division,
Dindigul, Dindigul District.

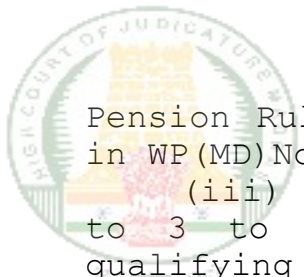
4.The Principal Accountant General of Tamil Nadu,
Teynampet,
Chennai-18.

... Respondents in WP(MD)No.59 of 2022

Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court

(i) to issue a Writ of Mandamus, directing the respondents 1 to 3 to count the petitioner's husband's service in full as qualifying service by absorbing the Forest Watcher service on completion of ten years notionally from 01.04.1993 to till the date of Petitioner's husband died on 12.08.2012 similar to Junior in the light of G.O.Ms.No.22, P& AR Department dated 28.02.2006 and the order made by the District Educational Officer, Paramakudi in Na.Ka.No.2648/A1/2008 dated 30.04.2012 and also in the light of decision of the Hon'ble Supreme Court in C.A.No.6798 of 2019 dated 02.09.2019 alongwith half of contingencies service paid from 01.04.1983 to 31.03.1993 for the purpose of old pension by considering the petitioner's representation dated 29.12.2021 and to send pension proposal to the fourth respondent to authorize the same with all consequential arrear benefits with interest as per the Pension Rules, within the time frame as fixed by this Court(Prayer in WP(MD)No.55 of 2022).

(ii) to issue a Writ of Mandamus, directing the respondents 1 to 3 to count the petitioner's husband's service in full as qualifying service by absorbing the Supernumerary Forest Watcher service on completion of ten years notionally from 01.07.1997 till the date of Petitioner's husband retired on 30.04.2019 similar to Junior in the light of G.O.Ms.No.22, P& AR Department dated 28.02.2006 and the order made by the District Educational Officer, Paramakudi in Na.Ka.No.2648/A1/2008 dated 30.04.2012 and also in the light of decision of the Hon'ble Supreme Court in C.A.No.6798 of 2019 dated 02.09.2019 along with half of contingencies service paid from 01.07.1987 to 30.06.1997 for the purpose of old pension by considering the petitioner's representation dated 05.10.2021 and to send pension proposal to the fourth respondent to authorize the same with all consequential arrear benefits with interest as per the



Pension Rules, within the time frame as fixed by this Court(Prayer in WP(MD)No.56 of 2022).

(iii) to issue a Writ of Mandamus, directing the respondents 1 to 3 to count the petitioner's husband's service in full as qualifying service by absorbing the Animal Keeper service on completion of ten years notionally from 01.04.1997 till the date of retirement on 31.12.2020 similar to Junior in the light of G.O.Ms.No.22, P& AR Department dated 28.02.2006 and the order made by the District Educational Officer, Paramakudi in Na.Ka.No.2648/A1/2008 dated 30.04.2012 and also in the light of decision of the Hon'ble Supreme Court in C.A.No.6798 of 2019 dated 02.09.2019 alongwith half of contingencies service paid from 01.04.1987 to 31.03.1997 for the purpose of old pension by considering the petitioner's representation dated 06.10.2021 and to send pension proposal to the fourth respondent to authorize the same with all consequential arrear benefits with interest as per the Pension Rules, within the time frame as fixed by this Court(Prayer in WP(MD)No.57 of 2022).

(iv) to issue a Writ of Mandamus, directing the respondents 1 to 3 to count the petitioner's service in full as qualifying service by absorbing the Supernumerary Forest Watcher service on completion of ten years notionally from 16.01.1995 till the date of retirement on 29.02.2016 similar to Junior in the light of G.O.Ms.No.22, P& AR Department dated 28.02.2006 and the order made by the District Educational Officer, Paramakudi in Na.Ka.No.2648/A1/2008 dated 30.04.2012 alongwith half of contingencies service paid from 16.01.1985 to 15.01.1995 for the purpose of old pension by considering the petitioner's representation dated 26.01.2021 and to send pension proposal to the fourth respondent to authorize the same with all consequential arrear benefits with interest as per the Pension Rules, within the time frame as fixed by this Court(Prayer in WP(MD)No.58 of 2022).

(v) to issue a Writ of Mandamus, directing the respondents 1 to 3 to count the petitioner's husband's service in full as qualifying service by absorbing the Supernumerary Forest Watcher service on completion of ten years notionally from 01.09.1991 till the date of Petitioner's husband died on 14.02.2012 similar to Junior in the light of G.O.Ms.No.22, P& AR Department dated 28.02.2006 and the order made by the District Educational Officer, Paramakudi in Na.Ka.No.2648/A1/2008 dated 30.04.2012 and also in the light of decision of the Hon'ble Supreme Court in C.A.No.6798 of 2019 dated 02.09.2019 alongwith half of contingencies service paid from 01.09.1981 to 31.08.1991 for the purpose of old pension by considering the petitioner's representation dated 29.12.2021 and to send pension proposal to the fourth respondent to authorize the same with all consequential arrear benefits with interest as per the Pension Rules, within the time frame as fixed by this Court(Prayer in WP(MD)No.59 of 2022).

For Petitioner : Mr.C.Prabakaran

<https://hcservices.ecourts.gov.in/hcservices> For Respondents : Mr.S.Saji Bino, Spl G.P.



For RR1 to 3
Mr. P.Gunasekaran for R4.

COMMON ORDER

Heard Mr.C.Prabakaran, learned counsel appearing for the petitioners and Mr.S.Saji Bino, learned Special Government Pleader appearing for the respondents.

2. These Writ Petitions have been filed seeking for issuance of a Mandamus, directing the respondents 1 to 3 to count the petitioners' husband's service in W.P.(MD) Nos.55 to 57 & 59 of 2022 and the petitioner's service in W.P.(MD) No.58 of 2022 in full as qualifying service by absorbing the Supernumerary Forest Watcher and Animal Keeper etc., services on completion of ten years notionally from the date of appointment till the date of retirement, similar to their Juniors in the light of G.O.Ms.No.22, P& AR Department dated 28.02.2006 and the order made by the District Educational Officer, Paramakudi in Na.Ka.No.2648/A1/2008 dated 30.04.2012.

3.By consent of both parties, these writ petitions are taken up for final disposal at the admission stage itself.

4. The case of the petitioner in W.P.(MD) No.58 of 2022 and the husbands of the petitioners in W.P.(MD) Nos.55 to 57 & 59 of 2022 is that they were appointed as Plot Watchers in the Forest Department on daily wage basis and they were continuously engaged by the respondents without any break. During the year 2008-2009, the Forest Department has prepared a State-wide Seniority List of Plot Watchers to appoint/promote them as Forest Watcher in the time scale of pay. Thereafter, the petitioner and the petitioners' husbands were promoted as Forest Watchers in the regular time scale of pay and subsequently, they were retired from service. According to the petitioners, as per Tamil Nadu Forest Subordinate Service Rules, they are entitled to receive pension for 10 years of net qualifying service. Rule 11(2) of the Tamil Nadu Pension Rules, provide for counting half of the service rendered by them on daily wages along with regular service at the time of calculating the qualifying service period. Therefore, the petitioners' husbands and the petitioner are eligible to receive the retirement benefits by calculating the earlier service rendered by them on daily wages. In order to avail such a benefit, they have made respective representations, which invoked no response. Hence, the present writ petitions are filed.

5.The learned counsel appearing for the petitioners submitted that this Court may issue a direction to the respondents to count half of the service rendered by the petitioner in WP (MD) No.58 of 2022 and the husbands of the petitioners in WP (MD) Nos.55 to 57 &



59 of 2022 as Plot Watchers along with regular service rendered by them as Forest Watchers.

6.Per contra, the learned Special Government Pleader appearing for the respondents 1 to 4 submitted that the issue that arose in the present writ petitions is no longer res integra. There are two conflicting decisions rendered by the Division Bench of this Court in this regard. 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. This contrary view taken by two Division Bench of this Court has led to the reference to the Full Bench.

7.The Full Bench accordingly answered the reference in W.A.Nos.158 of 2016 etc., Batch, dated 03.12.2019, holding that the persons, who were appointed on or after 01.04.2003, are not entitled for pension. The relevant portion of the judgment of the Full Bench of this Court as found in para 45(iv) is as follows:

45. In the light of the above, we answer the reference as follows:-

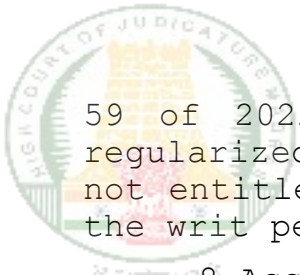
(i) to (iii)

(iv) (iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v)"

8.The facts in the present case are not in dispute. Admittedly, the petitioners' husbands and the petitioner in WP (MD) No.58 of 2022 have entered into service in the year 1987 as Plot Watchers and their services were regularized as Forest Watcher in the time scale of pay during the years 2009 and 2016 and thereafter, they retired from service. 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 services rendered by the petitioners' husbands in W.P. (MD) Nos.55 to 57 &



59 of 2022 and the petitioner in WP (MD) No.58 of 2022 were regularized only during the years 2009 and 2016 and hence, they are not entitled to get such a benefit. Hence, the relief sought for in the writ petitions cannot be granted.

8. Accordingly, the Writ Petitions are dismissed. No costs.

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Sd/-

Assistant Registrar (P&A)

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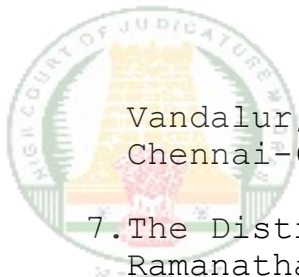
Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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Teynampet,
Chennai-18.
- 5.The District Forest Officer,
Dharmapuri Forestry Division,
Dharmapuri, Dharmapuri District.
- 6.The District Forest Officer cum Deputy Director,
Agriculture, Government of Tamil Nadu,
Agricultural Park,



Vandalur,
Chennai-600 048.

7.The District Forest Officer,
Ramanathapuram Forest Division,
Ramanathapuram District.

8.The District Forest Officer,
Dindigul Forestry Division,
Dindigul, Dindigul District.

+1 CC to M/s.SPL.GP (SR-576[F] dated 06/01/2022)

W.P (MD) Nos.55 to 59 of 2022
05.01.2022

MGJ(23.03.2022) 8P 10C