



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.4712 of 2020

V.Mookan

... Petitioner

-vs-

1. The Government of Tamil Nadu,
Rep., by its Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai.
2. The Principal Chief Conservator of Forest,
Chennai.
3. The District Forest Officer,
Theni District.
4. The Divisional Forest Officer,
Interforce Forestry Division,
Kambam Divisional Range,
Kambam, Theni District.
5. The Accountant General of Tamil Nadu,
Office of the Accountant General,
Teynampet, Chennai.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to take into account 50% of services of the petitioner on daily wages basis from 01.04.1981 to 19.10.2003 along with his regular service in the super numerary post of Forest watcher from 20.10.2003 to 30.9.2011 to arrive at the total qualifying service for pension and to grand pensionary benefits to the petitioner.

For Petitioner	:	Mr.T.Bala Rabish for M/s.Polax Legal Solutions
For RR1 to 4	:	Mr.M.Ramesh Government Advocate
For R5	:	Mr.P.Gunasekaran, Advocate.

O R D E R

The petitioner was appointed as Plot Watcher in Kamuthi on 01.04.1981 on daily wage basis temporarily. His services were regularised with effect from 20.10.2003.

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2. The claim of the petitioner is that the daily wage temporary services from 1981 to 2003 is to be taken into consideration under Rule 11(4) of the Tamil Nadu Pension Rules. The petitioner seeks 50% of the counting of the temporary services for the purpose of calculating the qualifying service.

3. The issue raised by the petitioner is no more *res integra*, as the Hon'ble Full Bench of this Court in the case of **State of Tamil Nadu Vs. R.Kaliyamoorthy** reported in **2019 (6) CTC 705** settled the principles on 03.12.2019 and the relevant paragraph is as under:-

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

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(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 W.A.No.158 of 2016 etc., batch their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in 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."

4. In view of the judgment of the Hon'ble Full Bench cited supra, the case of the petitioner is to be considered with reference to his service records and eligibility as per the Tamil Nadu Pension Rules. The petitioner in this regard is at liberty to produce all the service particulars enabling the respondents to consider the same in accordance with the judgment of the Hon'ble Full Bench.

5. With the above observations, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar ()

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/ /2022

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
The Government of Tamil Nadu,
Environment and Forest Department,
Secretariat, Chennai.

2. The Principal Chief Conservator of Forest,
Chennai.

3. The District Forest Officer,
Theni District.

4. The Divisional Forest Officer,
Interforce Forestry Division,
Kambam Divisional Range,
Kambam, Theni District.

5. The Accountant General of Tamil Nadu,
Office of the Accountant General,
Teynampet, Chennai.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-21405[F] dated 26/04/2022)

+1 CC to M/s.SPL.GP. (SR-21199[F] dated 26/04/2022)

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