



W.P(MD)No.9704 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9704 of 2018

and

W.M.P(MD)No.8949 of 2018

1.Muthu
2.Sasikumar

... Petitioners

Vs.

1.The Secretary to Government,
Department of Environment of Forest,
Secretariat,
Fort St.George,
Chennai – 9.

2.The Principal Chief Conservator of Forests,
No.15, Panagal Building,
Saidapet,
Chennai – 15.

3.The Wild Life Warden,
Megamalai Wild Life Division,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the first respondent in Letter No.17578/FR-2II/2017-2 dated 11.10.2017 and quash the same and consequently, direct the respondents herein to regularize Petitioners' service in



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the post of Watchers working under the third respondent within the time stipulated by this Court.

For Petitioners : Mr.S.Vinodh

For Respondents : Mr.R.Raghavendran
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The petitioners seek relief of regularisation of their services in the post of Watcher. According to the petitioners, they joined the Forest Department as Protection Watchers in the years 2000 and 2006 respectively. In the year 2011, the petitioners gave a representation for regularisation by invoking G.O(Ms)No. 64 Environment and Forests (FR2) Department dated 08.03.1999. The petitioners filed W.P(MD)No.21095 of 2016 before this Court and this Court vide order dated 04.11.2016 directed the Department to consider their representations. Pursuant to the said direction, the impugned order dated 11.10.2017 came to be passed rejecting their request. Questioning the same, the writ petition has been filed.

3. The learned counsel appearing for the petitioners took me through the contents of the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.



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4. The respondents have filed counter affidavit and the learned Government Advocate took me through its contents. He submitted that the impugned order does not call for any interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. The basic premise on which the impugned order is resting is that the petitioners have not completed 10 years of active service in daily wages capacity. This stand taken in the impugned order is clearly contradicted by the stand of the Forest Department as it is evident from the communication dated 01.12.2015 sent by the Forest Range Officer, Gudalur Forest Range. The said officer who is the competent authority to speak on the petitioners' service has clearly stated that the petitioners have been serving with effect from 16.03.2001 and 01.02.2006 respectively. As rightly pointed out by the learned counsel for the petitioner, reference to G.O(Ms)No.74 Personnal and Administrative Reforms (F) Department dated 27.06.2013 is not correct. The relevant Government Order that is applicable is G.O(Ms)No.64 Environment and Forest (FR2) Department dated 08.03.1999. The said Government Order came up for consideration in W.P(MD)No.2942 of 2011 dated 19.09.2011. A learned Judge of this Court had observed that when the details have been furnished by the



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concerned Range Officer within whose control, the petitioners have worked for more than 10 years and no specific materials have been placed before the Court by the authorities to rebut such details, the Court can always *qua* adverse inference against the Department.

7. In this view of the matter, the writ petitions were allowed and direction for regularisation was also passed. The order passed by a learned Single Judge was also confirmed by the Hon'ble Division Bench vide judgment dated 03.04.2013 in W.A(MD)No.204 of 2013. I am inclined to adopt the very same approach. I am satisfied that the details furnished by the jurisdictional Range Officer support the case of the petitioners that they have put in 10 years of service in daily wages capacity. I, therefore, set aside the impugned order and direct the respondents to regularise the service of the petitioner with effect from the date on which they completed 10 years of service in daily wages capacity.

8. This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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