



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.24915 of 2019

S.Palanichamy

... Petitioner

vs.

1.Government of Tamilnadu
rep.by its Principal Secretary to Government
Forest & Environment Department
Fort St.George, Chennai

2.Principal Chief Conservator of Forest
No.1, Jeans Road, Panagal Building
Saidapet, Chennai

3.Divisional Forest Officer
Social Forest Scheme
Madurai

4.District Forest Officer
Theni Forest Division
Theni

5.Principal Accountant General of Tamilnadu
Office of Accountant General
Teynampet, Chennai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to fix and disburse pension to the petitioner by counting half of the service rendered by the petitioner from 01.04.1986 to 06.08.2009 as plot watcher on a daily wage basis along with regular service rendered from 31.08.2009 till 31.05.2019.

For Petitioner : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

For Respondents : Mr.M.Ramesh, Government Advocate for R1 to R4
Mr.P.Gunasekaran for R5

O R D E R

The relief sought for in this writ petition is to direct the respondents to disburse pension to the petitioner by counting half of the service rendered by him from 01.04.1986 to 06.08.2009 as Plot Watcher on a daily wage basis along with regular service rendered by him from 31.08.2009 till 31.05.2019.

2. The petitioner was appointed as Plot Watcher on temporary basis. Subsequently, his services were regularized during



2009 in the sanctioned post. Thus, the petitioner submitted a representation for counting 50% of the temporary service rendered by him for the purpose of calculating qualifying period for pensionary and terminal benefits.

3. The issues regarding counting of 50% of service with reference to the amended Rule 11(4) of the Tamil Nadu Pension Rules, 1978 were considered by the Full Bench of this Court in the case of **Government of Tamil Nadu and others vs. R.Kaliyamoorthy**, reported in **2019 (6) CTC 705** and the relevant portion of the said decision is extracted hereunder:

"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 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 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 above decision of the Full Bench and with reference to Rule 11(4) of the Tamil Nadu Pension Rules, 1978, the case of the petitioner is to be considered and a decision is to be taken by the respondents as expeditiously as possible by taking note of the eligibility and other aspects of the matter by verifying the service records of the petitioner. The respondents are directed to take a decision without causing any undue delay. The petitioner is directed to send a copy of the representation along with other service particulars to the respondents forthwith enabling them to consider the case of the petitioner.

5. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

- 1.The Principal Secretary to Government,
Forest & Environment Department,
Government of Tamilnadu,
Fort St.George, Chennai.
- 2.The Principal Chief Conservator of Forest,
No.1, Jeans Road, Panagal Building,
Saidapet, Chennai.
- 3.The Divisional Forest Officer,
Social Forest Scheme, Madurai.
- 4.The District Forest Officer,
Theni Forest Division,Theni.

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-22172[F] dated 28/04/2022)

+1 CC to M/s.SPL. GP (SR-22943[F] dated 29/04/2022)

W.P. (MD) No.24915 of 2019

28.04.2022

RD(11.05.2022) 3P 7C

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