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W.P.No.2973 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM:

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.2973 of 2021

K.Dhamodharan

...

Petitioner

/vs/

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Environment and Forest Department,
Fort St. George, Chennai – 9.
2. The Principal Chief Conservator of Forest,
Panagal Building, Saidapet,
Chennai – 15.
3. The District Forest Officer,
Vellore Forest Division,
Vellore – 9.
4. The Accountant General of Tamil Nadu,
Office of the Accountant General (A & E),
Teynampet, Chennai – 18.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondents 1 to 3 to count half of service rendered by petitioner as plot watcher on daily wage basis from 05.10.1981 till 06.08.2009 along with regular service from 07.08.2009



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(supernumerary post) and from 10.04.2017 Regular post as Forest Watcher) till the date of his retirement on 31.07.2020 as qualifying service for purpose of granting pension benefits to petitioner and same was sent a proposal to the fourth respondent.

For Petitioner ... Mr.P.Ganapathy

For Respondents ... Mr.T.Arun Kumar
Additional Government Pleader for R1 to R3

Mr.V.Vijayshankar for R4

ORDER

This Writ Petition has been filed for the issuance of a writ of mandamus to direct the respondents 1 to 3 to count half of service rendered by petitioner as plot watcher on daily wage basis from 05.10.1981 till 06.08.2009 along with regular service from 07.08.2009 (supernumerary post) and from 10.04.2017 Regular post as Forest Watcher) till the date of his retirement on 31.07.2020 as qualifying service for purpose of granting pension benefits to petitioner and same was sent a proposal to the fourth respondent.



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2. The learned counsel for the petitioner submitted that the petitioner who worked as a 'Daily wager' with the third respondent from 01.10.1981 to 06.08.2009 was regularized as 'Plot Watcher' with effect from 07.08.2009; the petitioner retired from service on 31.07.2020; since the petitioner has not been given with pensionary benefits, he has filed this petition to direct the respondents 1 to 3 to send a proposal for pension by including the services from 01.10.1981 to 06.08.2009 as a 'Daily wager' so as to qualify him to come under the ambit of pension benefit.

3. The learned Additional Government Pleader submitted that the petitioner and similar other persons have been appointed in pursuant to the G.O.Ms.No. 95 Environment and Forest Department dated 07.08.2009; since the service of the petitioner and several others who worked as daily wagers for several years have not been absorbed, they obtained an order of the Court for absorbing them in regular post; accordingly, G.O.Ms.95 Environment and Forest Department dated 07.08.2009 was passed through which a large number of super numeric posts were created and daily wagers have been absorbed; one such order has been passed in respect of



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the petitioner on 29.08.2009 by appointing him as a 'Plot Watcher'; even though the petitioner claims that his services as a daily wager from 01.10.1981 to 06.08.2009 should be included in his service by regularizing the said period, the same was not done; the petitioner claims 50% of the past service period in order to qualify him to get the pension under the old scheme; however, as per Rule 11(2) of Tamil Nadu Pension Rules, those person who were working in daily wages and who have been absorbed into service on or before 01.04.2003, only will get the benefit; since the petitioner was only absorbed in the year 2009, he has not been given with any pensionary benefits.

4. The learned counsel for the petitioner attracted the attention of this Court to the judgment of this Court in ***A.Velu Vs. The Government of Tamil Nadu Represented by its Principal Secretary and others in W.P.No.29471/2017*** dated 10.03.2020 wherein it is held as under:

“ 6. In such circumstances, the following order is passed:

i) the petitioner may make necessary representation along with supporting documents to the concerned authority under Rule 82 of the Rules for relaxing the relevant rules so as to entitle him for grant of pension;



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ii) *if such application is made, the concerned authority shall immediately consider the claim made by the petitioner for relaxation of the relevant rules for grant of pension taking into account any undue hardship that may be suffered by him in terms of Rule 82 of the Rules;*

iii) *if it is found that the petitioner has not produced any details or supporting documents satisfying the eligibility criteria for the benefits claimed, the deficiencies in that regard shall be informed in writing to him requiring the same to be furnished within a time frame of not less than 15 working days;*

iv) *in the event of the concerned authority not being satisfied with the compliance of the requirements thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the petitioner to explain his position in that regard and the concerned authority shall pass reasoned orders dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken to the petitioner under written acknowledgment; and*

v) *if the petitioner is found entitled to the relaxation of the relevant rules for grant of pension is claimed, it shall be ensured that the eligible amount of arrears of pension is paid within three months from the date of passing of that order, apart from monthly pension for future months on the due dates;”*

5. Since the petitioner's case is also similar nature as of the above order, I feel it is appropriate to dispose this petition in the line of the order passed in W.P.No.29471 of 2017.



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6. Accordingly :

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i) the petitioner may make necessary representation along with supporting documents to the concerned authority under Rule 82 of the Rules for relaxing the relevant rules so as to entitle him for grant of pension;

ii) if such application is made, the concerned authority shall immediately consider the claim made by the petitioner for relaxation of the relevant rules for grant of pension taking into account any undue hardship that may be suffered by him in terms of Rule 82 of the Rules;

iii) if it is found that the petitioner has not produced any details or supporting documents satisfying the eligibility criteria for the benefits claimed, the deficiencies in that regard shall be informed in writing to him requiring the same to be furnished within a time frame of not less than 15 working days;

iv) in the event of the concerned authority not being satisfied with the compliance of the requirements thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the petitioner to explain his position in that regard and the concerned authority shall pass



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reasoned orders dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken to the petitioner under written acknowledgment; and

v) if the petitioner is found entitled to the relaxation of the relevant rules for grant of pension is claimed, it shall be ensured that the eligible amount of arrears of pension is paid within three months from the date of passing of that order, apart from monthly pension for future months on the due dates;

7. In the result, the Writ Petition is disposed on the aforesaid terms.

No costs.

19.10.2023

Index: Yes / No
Speaking order / Non-speaking order
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R.N.MANJULA ,J.

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To:

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