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W.P.No.5526 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.5526 of 2020
and W.M.P.No.6460 of 2020

1.S.Perumal

2.S.Rajagopal

3.S.Yogeswaran

... Petitioners

Vs.

1.Government of Tamil Nadu,
Rep. by its Secretary,
Environment and Forest Department,
Fort St.George,
Chennai – 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai – 600 015.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned Government Order G.O(Ms)No.198, Environment and Forests (FR2-II) Department dated 22.11.2019 passed by the first respondent and the proceedings in Ref.No.LL2/31604/2014 dated 10.02.2020 respectively issued by the second respondent and quash the same and



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consequently direct the respondents to give appointment as Forest Watcher with effect from the date of their Junior's retrospective appointment i.e., on 24.01.1995 within time frame.

For Petitioners : M/s.K.Jenitha

For Respondents : Mrs.C.Meera Arumugam
Additional Government Pleader

ORDER

The relief sought by the petitioner in this writ petition is to call for the records pertaining to the impugned Government Order G.O(Ms)No.198, Environment and Forests (FR2-II) Department dated 22.11.2019 passed by the first respondent and the proceedings in Ref.No.LL2/31604/2014 dated 10.02.2020 respectively issued by the second respondent and quash the same and consequently direct the respondents to give appointment as Forest Watcher with effect from the date of their Junior's retrospective appointment i.e., on 24.01.1995 within time frame.

2. Learned counsel for the petitioners submitted that the petitioners were appointed as Social Forestry worker on daily wages basis at Manapparai Social Forestry Division in the year 1984 & 1985 respectively. As per



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G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999 their names were included in the Statewide Seniority List in S.Nos.3309, 3587 and 4260 respectively. Thereafter, they were brought under the regular time scale of pay as per G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009. However, they were not brought into the cadre post, but, their juniors were marched over them and they were appointed as Forest Watcher, which is a cadre post. Hence, the petitioners sent a representation dated 24.01.2014 to the respondents seeking to appoint them in the cadre post by giving the benefit of relaxation of height rule with effect from the date of their junior's appointment in the post of Forest Watcher. However, the same was not considered. Hence, they filed a writ petition in W.P.No.25274 of 2014 for direction to the respondents to appoint them in the cadre post of Forest Watcher by giving relaxation with respect to height and the same was allowed by this Court on 17.09.2014.

3. Learned counsel for the petitioners further submitted that the aforesaid order dated 17.09.2014 was not complied by the respondents. Hence, the petitioners filed a Contempt Petition No.1105 of 2015 before this



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Court. Subsequent to the same, challenging the order of this Court dated 17.09.2014, the respondents have preferred a Writ Appeal in the year 2018, which was also dismissed by the Hon'ble Division Bench of this Court. Instead of implementing the order, the respondents filed a Special Leave Petition in SLP.No.26571 of 2019 before the Hon'ble Supreme Court of India and the same was also dismissed on 25.10.2019. At last, the respondents implemented the order dated 17.09.2014 by G.O(Ms)No.138, Environment and Forests (FR2-II) Department dated 22.11.2019. In the said order, persons who were next juniors in the serial of Statewide Seniority List were compared and appointment of the petitioners were fixed with effect from the date of appointment i.e., on 04.12.2010, 18.02.2011 and 05.07.2013.

4. Learned counsel for the petitioners contended that after the order of this Court, juniors who were compared in G.O.Ms.No.138 dated 22.11.2019 have filed writ petition before this Court to issue direction to the respondents to give retrospective appointment with effect from their respective juniors appointment on 24.01.1995 and the same was ordered and they were given retrospective appointment in the post of Forest Watcher with effect from



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24.01.1995, which was not considered in the aforesaid G.O.Ms.No.138 dated 22.11.2019. Then, the second respondent by his proceedings in Ref.No.LL2/341604/2014 dated 10.02.2020 has issued for appointment orders and there also it was mentioned that the petitioners were given appointment with effect from 2010 and 2011. Aggrieved over the said proceedings dated 10.02.2020 and G.O.Ms.No.138 dated 22.11.2019, the petitioners have come forward with the present writ petition.

5. Learned Special Government Pleader appearing for the respondents has filed a written instruction vide Ref.No.LL2/12737/2020 dated 21.09.2023 by the Principal Chief Conservator of Forests, Guindy, Chennai. For better appreciation, the relevant paragraphs are extracted hereunder:

“13. Further, on perusal of the Govt Lr.No.3978/FR.2 (ii)/2016-3, Dt.09.09.2016, Govt. Lr.No.19683/FR.2 (ii)/2016-4, Dt.03.03.2017, Govt.Lr.No.9988/FR-2 (ii)2016-3, Dt.16.03.2017 & Govt. Lr. No.8496/FR.2(ii)/2018-3, Dt.27.09.2018, G.O.(2D)No.08, E&F Dept. dated 21.01.2019 & G.O.(2D)No.23, E,CC&F Dept. dated 04.03.2022 as mentioned in the typed-set filed by the petitioners, the juniors mentioned in the Government letters possess desired qualification to the post of Forest Watcher as per the rule 5 of the Tamil Nadu Forest Subordiante Service Rules and they are already serving as



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Forest Watcher.

14. But, in this case of petitioners, they not possess the required physical & Educational Qualifications as per the rule-5 of Tamil Nadu Forest Subordinate service rules. Meanwhile, the Government have considered the length of service rendered by the petitioners for this department and has already taken decision to regularize their service & appointed them as Forest Watchers vide G.O(Ms)No.138, E&F(FR.2(ii)) Dept, dated 22.11.2019 & G.O(Ms)No.49, E&F(FR.2(ii)) Dept, Dated 01.09.2020 & G.O(2D)No.06, E&F(Fr.2(ii)) Dept, Dated 16.03.2021

15. In the W.P.No.5526 of 2020, W.P.No.3233 of 2021 & W.P.No.14942 of 2021, the petitioners have worked in various categories like Supernumerary Plot Watcher, Night Watchmen, Mali & Forest Watcher. According to the rules in force and as per the Tamil Nadu Forest Subordinate Service Rules, those who possess the desired eligibility criteria, will be appointed as Forest Watcher.

16. Further, it may also be submitted to Hon'ble High Court that, the petitioners may submit a fresh representation. Based on the eligibility of the petitioners and if the petitioners juniors are provided with the same relief, the same will be considered for present writ petitioners on merits and in accordance with law."

6. Heard the learned counsel on either side and perused the materials available on record.



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7. In view of the above submission made by the learned counsel on either side and taking into consideration the written instructions submitted by the Principal Chief Conservator of Forests, Guindy, Chennai, this Court issues the following directions:

(i) Petitioners are directed to submit a fresh representation before the second respondent, within a period of two weeks from the date of receipt of a copy of this order.

(ii) On such receipt, the second respondent is directed to forward the said representation to the first respondent.

(iii) After receiving the same, the first respondent is directed to pass appropriate orders on merits and in accordance with law, within a period of eight weeks thereafter.

8. This writ petition stands disposed of with the aforesaid observation and directions. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No

Speaking Order : Yes/No

J.SATHYA NARAYANA PRASAD,J.

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To:

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