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W.P. No. 6687 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 6687 of 2020

P. Annadurai

... Petitioner

-VS-

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department,
Fort St. George,
Chennai.

2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai – 15.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to appoint the Petitioner as Forest Watcher with effect from the date of Petitioner's Junior's appointment on 24.01.1995 by considering the Petitioner's representation dated 12.11.2019 in the light of the order passed in W.P. No. 15561 of 2006 dated 10.03.2008, W.A. No.690 of 2008 dated 13.10.2009, W.P. No. 23374 of 2008 dated 30.10.2009, W.A. No. 607 of 2010 dated 29.03.2010 and First Respondent in his G.O.(Ms) No.8, E & F(FR.2-II) Department dated 21.01.2019 with all consequential benefits.



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For Petitioner : Ms. K.Jenitha
For Respondents : Mrs. R.Anitha,
Special Government Pleader

ORDER

Heard Ms. K.Jenitha, Learned Counsel for the Petitioner and Mrs. R.Anitha, Learned Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The grievance ventilated by the Petitioner, who joined in service as Forest Watcher and has been subsequently promoted as Forest Guard, is that he had made a representation dated 12.11.2019 for changing his date of appointment to an earlier date as granted to persons similarly placed to him in G.O. (Ms). No. 08, Environment and Forests (FR.2II) Department dated 21.01.2019, but as it did not evoke any response, he has filed this Writ Petition.

3. It has been brought to notice that in respect of the persons similarly placed to the Petitioner, this Court by order dated 10.03.2008 passed in W.P. No. 15561 of 2006, order dated 13.10.2009 passed in W.A. No.690 of 2008,



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order dated 30.10.2009 passed in W.P. No. 23374 of 2008 and order dated

29.03.2010 passed in W.A. No. 607 of 2010 have upheld their claim for the

grant of the said benefit. In this context, reference must also be made to the

dictum of the Hon'ble Supreme Court of India in ***State of Uttar Pradesh -vs-***

Arvind Kumar Srivastava [(2015) 1 SCC 347], where it has been held as

follows:-

"22.1. Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well recognized



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exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3. *However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of*



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regularisation and the like (see K.C. Sharma & Ors. v. Union of India (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

Having regard to the aforesaid legal position, the obligation is cast upon the concerned authorities to have on their own accord extend the benefit to all similarly placed persons, if they are eligible for the same.

4. Having regard to the limited scope of the relief sought in the Writ Petition, this Court without expressing any view on the merits of controversy involved, passes the following order:-

- (i) the concerned authority shall immediately examine the representation dated 12.11.2019 made by the Petitioner in terms of G.O. (Ms). No. 08, Environment and Forests (FR.2II) Department dated 21.01.2019 including ascertaining as to whether the Petitioner would be entitled for



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the relief claimed;

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- (ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 days for the same;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their respective position in that regard;
- (iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated by 31.08.2023 under written acknowledgment;
- (v) if the Petitioner is found entitled to any monetary benefits, the same shall be paid along with working-sheet showing its calculation within a period of three months from the date of passing of that order; and
- (vi) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.

In fine, the Writ Petition is disposed on the aforesaid terms. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 28.06.2023.



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To

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1. The Secretary to Government of Tamil Nadu,
Environment and Forest Department,
Fort St. George,
Chennai.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai – 15.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600104.
2. G.Rajamani,
S/o. Govindan,
No. 10, Senganangollai,
Thirukovilur Taluk,
Kallakurichi District.



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P.D. AUDIKESAVALU, J.

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