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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.11598 of 2021

A.Kasi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai – 9.

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

... Respondents

PRAYER: This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents to appoint the petitioner as regular time scale Forest Watchers taking into account of his seniority, on par with his juniors with effect from 24.01.1995 for the purpose of getting pension by considering the petitioner's representation dated 10.02.2021 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 G.O Ms.No.01, Environment and Forests (FR.2-II) Department dated 01.01.2021 with all consequential benefits within a time frame.



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For Petitioner : Ms.K.Jenitha

For Respondents : Mr.V.Arun, Additional Advocate General,
assisted by Mr.T.Arunkumar, AGP

ORDER

The petitioner has filed this Writ Petition to issue a Writ of Mandamus, to direct the respondents to appoint the petitioner as regular time scale Forest Watchers taking into account of his seniority, on par with his juniors with effect from 24.01.1995 for the purpose of getting pension by considering the petitioner's representation dated 10.02.2021 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 G.O Ms.No.01, Environment and Forests (FR.2-II) Department dated 01.01.2021 with all consequential benefits within a time frame.

2. Heard Ms.K.Jenitha, learned counsel for the petitioner and Mr.V.Arun, learned Additional Advocate General for the respondents.



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3. The petitioner joined as a Social Forestry Worker and was brought into regular time scale of pay as a Supernumerary Plot Watcher.

In the year 1994, the Government issued G.O.Ms.No.332, Environment and Forest Department dated 22.12.1994 which states that to hold a regular post of Forest Watcher, one should possess SSLC pass. Aggrieved over the said Government Order, the individuals challenged the same before the Administrative Tribunal in O.A.No.197 of 1995. Thereafter, the Government had restored the old qualification of "ability to read and write" by issuing G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999. The grievance of the petitioner is that he has been making repeated representations in this regard to the second respondent. But his claim was not considered at the earliest point of time. Hence the petitioner has filed this Writ Petition with the above prayer.

4. The second respondent has filed his counter by stating that the petitioner has not given any representation along with relevant records so far. It is further submitted that in normal course, the petitioner got elevated to the post of Forest Watcher from supernumerary Plot Watcher



post on 04.06.2013 and he retired from service on 31.07.2013 due to superannuation. Further, 50% of temporary service period also taken into account for computing his total years of service for bringing him under the old pension scheme and he was also given with pension.

5. Ms.K.Jenitha, learned counsel for the petitioner submitted that as per G.O.Ms.No.64 dated 08.03.1999, the minimum qualification for the post of Forest Watcher has been restored to the old qualification of "ability to read and write".

6. Mr.V.Arun, learned Additional Advocate General for the respondents submitted that the petitioner's name was included in the State wide seniority list in S.No.4446. It is further submitted that he was promoted to the post of Forest Watcher on 04.06.2013. It is also submitted that the petitioner was not treated on par with his juniors because he did not possess the minimum educational qualification.



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7. The one and only contention of the respondents is that as on date when the first Government Order in G.O.Ms.No.332 was issued on 22.12.1994, the petitioner did not have the minimum qualification of pass in SSLC and hence he was not treated on par with his juniors. The subsequent G.O.Ms.No.64, dated 08.03.1999 which relaxes the educational qualification does not say that the Government Order dated 08.03.1999 has got retrospective effect. Since the petitioner has got the eligibility for promotion only subsequent to G.O.Ms.No.64 dated 08.03.1999, he cannot claim any benefit on par with his juniors who had already been promoted to the post of Forest Watcher in pursuant to the earlier Government Order passed in this regard.

8. But the learned counsel for the petitioner submitted that in such case, the petitioner ought to have been given with the benefit of promotion as on 08.03.1999 when G.O.Ms.No.64 was issued.

9. The grievance of the petitioner is that the petitioner was given with benefit only from 12.07.2012 on which date he was brought under



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the regular time scale of pay as Supernumerary Plot Watcher. However, the learned counsel for the petitioner claims that similarly placed juniors were given with the benefit from 08.03.1999 by virtue of their seniority placed above the persons who were promoted as Forest Watcher after 08.03.1999. The attention of this Court was drawn to G.O.Ms.No.1, Environment and Forest (FR-2-II) Department dated 01.01.2021. The relevant portion of the said Government Order is extracted hereunder:

"8. The Government after careful examination, have decided to implement the orders of Hon'ble High Courts and accord permission to the Principal Chief Conservator of Forests (Head of Department) as follows:

(i) To regularize the services of 7 persons (Annexure-I) in the above proposals, who have possessed minimum general educational qualification (i.e., SSLC) as Forest Watcher and to fix their pay notionally from the date on which their immediate juniors services were regularized.

(ii) To regularize the services of 71 persons (Annexure-II), who did not possess minimum general educational qualification as Forest Watcher and to fix their pay notionally from the date of issue of



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G.O.(Ms).No.64, Environment and Forests (FR.2) Department, dated 08.03.1999 i.e., from 08.03.1999.

(iii) To fix the seniority of 71 persons (Annexure-II) only after 08.03.1999 and to place them above their juniors, who were appointed as Forest Watcher after 08.03.1999, since they were eligible for their appointment as Forest Watcher only after the issue of G.O.Ms.No.64, Environment and Forests (FR.2) Department, dated 08.03.1999 i.e., from 08.03.1999.

(iv) To allow the aforesaid 78 persons (Annexure-I and Annexure-II) to get monetary benefits from the date of issue of orders only and in case of retired individuals, to allow the pensionary benefits notionally from the date of retirement of the individuals.

(v) Not to regularize the services of 32 persons (Annexure-III and Annexure-IV) who are not eligible for regularization as Forest Watcher for various reasons."

10. Since the petitioner was very much in service as on 08.03.1999 and if he is eligible to be fixed over and above the persons who got Forest Watcher promotion after 08.03.1999, the respondent shall consider to re-fix his seniority accordingly and pass appropriate orders.



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11. The learned Additional Advocate General for the respondents submitted that the petitioner's case is affected by delay and laches as he did not approach this Court or given any representation for all these years.

12. But the Government cannot expect each and every person to come to Court and knock the doors when the Government Order has already been issued to any one's benefit. For the type of the case raised by the petitioner, the delay and laches is not applicable because the respondents are bound to follow their own orders. Hence, the respondents are obliged to look into the grievance of the petitioner and pass appropriate orders, if the petitioner is not placed above those persons who have been promoted on 08.03.1999 and who were juniors to him and re-work his seniority.

13. In the result, this Writ Petition is disposed and the petitioner is at liberty to give a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order and on



receipt of the same, the respondents are directed to re-work the seniority of the petitioner and pass appropriate orders within a period of twelve weeks from the date of receipt of such representation. No costs.

21.12.2023

Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking
gsk

To

- 1.The Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai – 9.
- 2.The Principal Chief Conservator of Forest,
Panagal Building, Saidapet,
Chennai.



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R.N.MANJULA, J.

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