



WP.Nos.19406 & 19411 of 2023,
30267 of 2022 and
9835 & 19135 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.Nos.19406 & 19411 of 2023, 30267 of 2022
and 9835 & 19135 of 2021

W.P.No.19406 of 2023

1.C.Duraisamy

2.S.Periyasamy

3.G.Kantha

.. Petitioners

Versus

1.State of Tamil Nadu

Rep by its Principal Secretary to Government

Environment, Forest and Climate Change Department

Fort St.George

Chennai – 600 009

2.The Principal Chief Conservator of Forests

Head of Forest Force

No.1, Genies Road

Panagal Maligai

Saidapet, Chennai – 15

3.The Divisional Forest Officer

Krishnagiri Social Forestry & Extension Division

Krishnagiri, Krishnagiri District



WP.Nos.19406 & 19411 of 2023,
30267 of 2022 and
9835 & 19135 of 2021

WEB COPY

4. The Divisional Forest Officer
Social Forestry and Extension Division
Dharmapuri – 5, Dharmapuri District

5. The Accountant General of Tamil Nadu
Office of the Accountant General
Anna Salai, Teynampet
Chennai – 18

.. Respondents

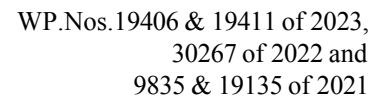
Prayer in W.P.No.19411 of 2023 :- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus, directing respondents to regularise the service of the 1st and 2nd petitioners and 3rd petitioner's husband viz., R.Govindaraj from the date on which completing ten years of service as plot watchers on daily wage basis for the purpose of getting pension/family pension in the light of the Hon'ble Supreme Court Judgment reported in (2019) 10 SCC 516 confer all consequential pensionary benefits from the date of their retirement by sending the proposal to the fifth respondent for granting pension/family pension with all consequential benefits.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.S.Arumugham for R1 – R4
Government Advocate
Mr.V.Vijaya Shankar for R5

COMMON ORDER

These Writ Petitions have been filed seeking to direct the respondents to regularise the service of the petitioners/respective petitioner's husband from the date on which of completing ten years of service as plot watchers on daily wage basis for the purpose of getting



2. The facts in all the Writ Petitions are almost identical, barring the dates and therefore, the facts as spoken in W.P.No.19406 of 2023 is taken up for dealing the facts.

3.a. The first petitioner was appointed as a Plot Watcher and subsequently his service was brought into regular time scale of pay as plot watcher [supernumerary post] and thereafter, he was appointed as Night Watchman and retired from service on 31.05.2020.

b. The second petitioner was appointed as a Plot Watcher and subsequently his service was brought into regular time scale of pay as plot watcher [supernumerary post] and retired from service on 31.06.2019.



WP.Nos.19406 & 19411 of 2023,
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WEB COPY

c. The third petitioner's husband was appointed as a Plot Watcher and subsequently his service was brought into regular time scale of pay as plot watcher [supernumerary post] and died on 23.02.2019, while he was in service.

4. The petitioners 1 and 2 and the husband of the third petitioner have worked in the forest department for more than 20 years on daily wages. As their services have been regularised after 01.04.2003, they did not get the pensionary benefits after retirement. But services of the juniors to the petitioners 1 and 2 and husband of the third petitioner have been regularised their service before 01.04.2003 are getting pensionary benefits. According to the petitioners, similarly placed persons have already filed a Writ Petition in W.P.No.19023 of 2021 and the same was allowed and the Government also issued Government Order in G.O.[2D] No.91 Forest Department dated 30.06.2022. Hence, this writ petition is filed seeking pensionary benefits as granted to the similarly situated persons.



WP.Nos.19406 & 19411 of 2023,
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WEB COPY

5. The learned Government Advocate placed reliance on the Order of the Division bench of this Court in W.A.No.158 of 2016 and batch cases and submitted that in the above Writ Appeal, the Division Bench of this Court has held that the Government servants who were appointed in non-provincialized service, consolidate pay, honorarium or daily wages basis before 01.04.2003, but were absorbed in regular service after 01.0.2003, will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension. Further, Special Leave Petitions filed by certain petitioners against the said Order has also been dismissed. Hence, opposed the writ petition.

6. Admittedly, the grievance of the writ petitioners are seeking regularization of service of petitioners 1 and 2 and husband of the third petitioner for pensionary benefits. It is the contention of the writ petitioners that similarly situated persons have been given such benefits as per Government Orders of this Court in W.P.No.19023 of 2021 and the same was accepted by the Government and issued Government Order in G.O.Ms.No.91, Forest Department dated 30.06.2022. Hence, the



WP.Nos.19406 & 19411 of 2023,
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respondents ought to have considered the claim of the petitioners 1 & 2 and the third petitioner's husband to regularize their service after completion of ten years from the date of initial appointment as a Plot Watcher on daily wage basis for the purpose of getting pension and family pension in the light of the judgment of the Apex Court in C.A.No.6798 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2021. As per the above Orders, the relief has been extended to similarly placed persons.

7. In such view of the matter, the respondents are directed to consider the case of the petitioners in the light of the judgment of the Apex Court and Orders of this Court and as per the above Government Order, as the benefit has been extended to similarly placed person. In fact, the plot watchers are frontline soldiers in forest and they are main protectors of the forest. These facts cannot be disputed by any one. Hence, while passing the Orders, the Government shall take into consideration the nature of service rendered by the petitioners and also the fact that when similarly placed persons have already been granted the



WP.Nos.19406 & 19411 of 2023,
30267 of 2022 and
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relief, if the petitioners 1 and 2 and the husband of the third petitioner are not granted such relief, the same is nothing but discrimination and it violates Article 14 of Constitution of India. In such view of the matter, the respondent shall extend the benefits as per above Government Order as it is extended to similarly situated persons.

8. As far as the Writ Petitions in W.P.Nos.9835 & 19135 of 2021 and W.P.No. 19411 of 2023 are concerned, the respondents are directed to extend the benefits to the petitioners and insofar as Writ Petitions in W.P.Nos.30267 of 2022 and 19406 of 2023 are concerned, the respondents are directed to regularize the services of the first petitioner and husband of the petitioners 2 to 4; petitioners 1 & 2 and husband of the third petitioner respectively as Plot Watchers as per the above Government Order as it is extended to similarly situated persons. Such an exercise shall be completed within a period of six months from the date of receipt of a copy of this Order.



WP.Nos.19406 & 19411 of 2023,
30267 of 2022 and
9835 & 19135 of 2021

WEB COPY

9. With the above directions, these writ petitions stands disposed of.

07.08.2023

Index:Yes/No

Internet: Yes/No

Neutral Citation : Yes/No

dhk

To,

1.The Principal Secretary to Government
State of Tamil Nadu
Environment, Forest and Climate Change Department
Fort St.George, Chennai – 600 009

2.The Principal Chief Conservator of Forests
Head of Forest Force
No.1, Genies Road
Panagal Maligai
Saidapet, Chennai – 15

3.The District Forest Officer
Dharmapuri Forest Division
Dharmapuri – 5, Dharmapuri District

4.The District Forest Officer
Hosur Forest Division
Hosur, Krishnagiri District



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5. The Divisional Forest Officer
Social Forestry and Extension Division
Dharmapuri – 5, Dharmapuri District

6. The District Forest Officer
Vellore Forest Division
Vellore, Vellore District

7. The Accountant General of Tamil Nadu
Office of the Accountant General
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N.SATHISH KUMAR, J.

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