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W.P.No.23409 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.23409 of 2023

S.Paramasivam

... Petitioner

Vs.

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

2.The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy,
Chennai – 600 032.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records which culminated in issuing G.O.(2D)No.76, Environment, Climate Change and Forests (FR.2ii) Department, dated 05.04.2023, on the file of the 1st respondent and quash the same and consequently to direct the respondents to regularize the service of petitioner in the cadre of Forest Watcher for the purpose of getting minimum pension / family pension on par with juniors, namely P.Karupiah S.No. 4608, with effect from 24.01.1995 in the light of the order passed by this Court 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**



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29.03.2010 and proceedings of the 2nd respondent dated 07.01.2011 and order in W.P.No.19020 of 2021 dated 09.09.2021 within a time limit that may be fixed by this Court.

For Petitioner : Mr.S.Mani

For Respondents : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed to call for the entire records which culminated in issuing G.O.(2D)No.76, Environment, Climate Change and Forests (FR.2ii) Department, dated 05.04.2023, on the file of the 1st respondent and quash the same and consequently to direct the respondents to regularize the service of petitioner in the cadre of Forest Watcher for the purpose of getting minimum pension / family pension on par with juniors, namely P.Karuppiah S.No. 4608, with effect from 24.01.1995 in the light of the order passed by this Court 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 proceedings of the 2nd respondent dated 07.01.2011 and order in W.P.No.19020 of 2021 dated 09.09.2021 within a time limit that

may be fixed by this Court.



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2.The case of the petitioner is that he joined the Forest Department as Plot Watcher on daily wage basis on 01.05.1982 and subsequently, his services as Plot Watcher was regularized on 26.10.2012. Whereas, his juniors were regularised as early as on 24.01.1995. Hence, there is a vast disparity and discrimination in the matter of regularization of service of the petitioner on par with his juniors, Venkatachalam and others, who were brought under regular time scale of pay on 24.01.1995. The Government issued an order in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999, whereby G.O.Ms.No.332, Environment and Forest Department, dated 22.12.1994, was superseded or revoked, by virtue of which, the requirement of SSLC as a qualification for appointment to the post of Plot Watcher is no longer in existence. The petitioner further states that, similarly placed persons, namely, P.Sundaram and P.Govindan and 23 others filed W.P.Nos.15561 of 2006 and 23374 of 2008 before this Court and the same was disposed on 10.03.2008 and 30.10.2009, respectively, with a direction to consider their claim for appointment as Forest Watcher on par with their juniors. As against the said order, the Department went on appeal in W.A.Nos.690 of 2008 and 607 of 2010 and the same were dismissed by the Division Bench



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of this Court on 13.10.2009 and 29.03.2010 respectively. Pursuant to the dismissal of the appeals, the respondents implemented the orders of this Court by passing orders dated 15.11.2010 and 07.01.2010 respectively and in the light of the G.O.[2D] No.122, dated 12.08.2022.

3.The grievance of the petitioner is that he is also similarly placed and therefore, the benefits of the orders of this Court have to be extended to the petitioner also and in this regard, the petitioner has made several representations to regularize the service of the petitioner as per the Government Order, however, the same were not considered by the respondents. Therefore, the petitioner filed a writ petition in W.P.No.28329 of 2022 and the writ petition was disposed of, by order dated 27.10.2022, directing the respondents to dispose of the representation of the petitioner. Pursuant to the directions of this Court, now, the 1st respondent, vide impugned order dated 05.04.2023, has rejected the claim of the petitioner citing the judgment of the Hon'ble Supreme Court of India in *Secretary to Government, School Education Department v. R.Govindasamy and others* [2014 (4) SCC 769] and also by stating that the petitioner has already availed the benefit of service regularisation as per the Government policy and he cannot seek another



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benefit such as pension and family pension. Challenging the same, the

present writ petition has been filed.

4.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 of cases and submitted that, in the said Writ Appeal, the Division Bench of this Court has held that the Government servants who were appointed in non-provincialized service, consolidate pay, honoarium 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, he submitted that the impugned order does not warrant any interference.

5.Admittedly, the grievance of the writ petitioner is that he is seeking regularization of service for pensionary benefits. It is the contention of the writ petitioner that similarly persons have been given such benefits as per orders in W.A.Nos.690 of 2008 and 607 of 2010, dated 13.10.2009 and 29.03.2010 respectively, and the Government Order



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in G.O.[2BD] No.64, Environment and Forest Department, dated

08.03.1999. As per the above Government Orders, the relief has been

extended to the similarly placed persons. Hence, the respondents shall also consider the case of the petitioner in the light the above Government Orders, as the benefit has been extended to similarly placed persons. In fact, the Plot Watchers are frontline soldiers in forest and they are the 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 relief, if the petitioners are not granted such relief, the same is nothing but discrimination and violative of Article 14 of Constitution of India.

6.In such view of the matter, the impugned order of the 1st respondent, dated 05.04.2023, is set aside and the respondents shall extend the benefits as per above Government Orders to the petitioner, 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.



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7. Accordingly, this writ petition is disposed of. No costs.

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

1. The Additional Chief Secretary,
Government of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai – 600 009.
2. The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy,
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