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W.P.No.24301 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.24301 of 2023

S.Bagavathiammal

... Petitioner

Vs.

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

2.The Principal Chief Conservator of Forests &
Head of Forest Force,
Joint Forest Management,
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 Mandamus to direct the respondents to appoint the petitioner's husband under regular Time Scale as Forest Watcher, taking into account of his seniority on par with his juniors with effect from 24.01.1995 for the purpose of getting family pension, by considering the petitioner's representation, dated 27.03.2023, 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.(2D).No.92, Environment, Climate Change and Forests (F.R.2(ii)) Department, dated 05.07.2022, with all



W.P.No.24301 of 2023

consequential benefits within a time frame.

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For Petitioner : M/s.K.Jenitha
For R1 and R2 : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to appoint the petitioner's husband under regular Time Scale of Pay as Forest Watcher, taking into account of his seniority on par with his juniors with effect from 24.01.1995 for the purpose of getting family pension, by considering the petitioner's representation, dated 27.03.2023, 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.(2D).No.92, Environment, Climate Change and Forests (F.R.2(ii)) Department, dated 05.07.2022, with all consequential benefits within a time frame.

2.The case of the petitioner is that the petitioner's husband was appointed as Plot Watcher on daily wage basis on 01.10.1977 and subsequently, he was appointed as Forest Watcher by the proceedings of



W.P.No.24301 of 2023

the 2nd respondent on 12.03.2003. 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's

husband on par with his juniors, 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 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. Accordingly, it is the case of the



W.P.No.24301 of 2023

petitioner that the services of similarly placed persons have been regularized with effect from 24.01.1995 in the light of the orders of this Court in W.A.Nos.690 of 2008 and 607 of 2010, dated 13.10.2009 and 29.03.2010, respectively, and the Government Order in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999.

3.In the light of the above orders of this Court, the petitioner states that the petitioner's husband is also entitled to the benefit of the orders and hence, made a representation to the respondents on 09.08.2022 in this regard. However, the same was not considered by the respondents. Hence, the present writ petition.

4.This Court, on an earlier occasion, while dealing with the similar issue in ***W.P.No.22841 of 2023 [M.Mani Megalai v. Government of Tamilnadu and another]***, has passed the following order on 03.08.2023 :

“8.The learned Additional Advocate General 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, 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, submitted that the impugned Order does not warrant any interference.

9. Admittedly, the grievance of the writ petitioner is that she is seeking regularization of service of her husband 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 in G.O.[2BD] No.64 Forest Department dated 08.03.1999. As per the above Government Order, the relief has been extended to similarly placed persons. Hence, the respondents are directed to consider the case of the petitioners in the light 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 husband of the petitioner and also the fact that when similarly placed persons have already



W.P.No.24301 of 2023

been granted the relief, if the petitioner is 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 respondents shall extend the benefits as per above Government Orders as it is extended to similarly situated persons.

10. In such view of the matter, the respondents are directed to extend the benefits to the husband of the petitioner as per the above Government Order in G.O.[2BD] No.64 Forest Department dated 08.03.1999 as it is extended to similarly situated persons.

11. With the above directions, this Writ Petition is disposed of. No costs.”

5. Since the petitioner's husband is also similarly situated, as per the orders of this Court in W.A.Nos.690 of 2008 and 607 of 2010, dated 13.10.2009 and 29.03.2010 respectively, and the Government Order in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999, the benefits have to be extended to the petitioner's husband also. In fact, the Plot Watchers are frontline soldiers in forests and they are the main protectors of the forests. These facts cannot be disputed by any one.

Hence, the Government shall take into consideration the nature of service



W.P.No.24301 of 2023

rendered by the petitioner's husband and also the fact that, when similarly placed persons have already been granted the relief, if the petitioner's husband is not granted such relief, the same is nothing but discrimination and violative of Article 14 of the Constitution of India.

6.In such view of the matter, the respondents are directed to extend the benefits of the orders of this Court in W.A.Nos.690 of 2008 and 607 of 2010, dated 13.10.2009 and 29.03.2010 respectively, and the Government Order in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999, to the petitioner's husband, as it is extended to similarly situated persons. Such an exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

7.With the above directions, this writ petition is disposed of. No costs.

18.08.2023

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W.P.No.24301 of 2023

N. SATHISH KUMAR, J.

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Environment, Climate Change and Forest Department,
Fort St. George, Chennai – 600 009.
- 2.The Principal Chief Conservator of Forests &
Head of Forest Force,
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W.P.No.24301 of 2023

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