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WP.No.25012 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.25012 of 2023

S.Mathiyalagan

.. Petitioner

Versus

1.Government of Tamil Nadu
Rep by its 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 the Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularise the service of the petitioner after completion of ten years of service as a Plot Watchers on daily wage basis for the purpose of getting pension and family pension in the light of the Hon'ble Supreme Court Judgment delivered C.A.No.6798 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2021 and in light of G.O.(2D).No.91, Environment, Climate Change and Forest (F.R.2(ii))



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Department dated 30.06.2022 confer all consequential pensionary benefits.

For Petitioner : Mr.S.Mani

For Respondents : Mr.R.Neelakandan
Additional Advocate General
assisted by Mr.S.Arumugam
Government Advocate

ORDER

This Writ Petition has been filed seeking to direct the respondents to regularise the service of the petitioner after completion of ten years of service as a Plot Watchers on daily wage basis for the purpose of getting pension and family pension in the light of the Hon'ble Supreme Court Judgment delivered C.A.No.6798 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2021 and in light of G.O.(2D).No.91, Environment, Climate Change and Forest (F.R.2(ii)) Department dated 30.06.2022 confer all consequential pensionary benefits.

2. The 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 Forest Watcher



(supernumerary post) and retired from service on 31.05.2016.

3. The petitioner has worked in the forest department for more than 20 years on daily wages. As his services has been regularised after 01.04.2003, he did not get the pensionary benefits after retirement. But services of the juniors to the petitioner who have been regularised their service before 01.04.2003 are getting pensionary benefits. According to the petitioner, 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.

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 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



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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.

5. Admittedly, the grievance of the writ petitioner is seeking regularization of service for pensionary benefits. It is the contention of the writ petitioner 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 respondents ought to have considered the claim of the petitioner to regularize his 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



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per the above Orders, the relief has been extended to similarly placed persons.

6. In such view of the matter, the respondents are directed to consider the case of the petitioner in the light of the judgment of the Hon'ble 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 petitioner and also the fact that when similarly placed persons have already 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 respondent shall extend the benefits as per above Government Order as it is extended to similarly situated persons.

7. Accordingly, the respondents are directed to regularize the



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services of the petitioner as Plot Watcher 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.

8. With the above directions, this writ petition stands disposed of.

29.08.2023

Index:Yes/No

Internet: Yes/No

Neutral Citation : Yes/No

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Government of Tamil Nadu
Environment and Forest Department
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2.The Principal Chief Conservator of Forests
(Head of Forest Force)
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N.SATHISH KUMAR, J.



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