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WP.No.25380 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.25380 of 2023

1.Karunamoorthy
2.N.A.Thangavel
3.M.Poongavanam

.. Petitioners

Versus

1. The Government of Tamilnadu,
Rep. 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 the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in issuing the G.O (2D) No. 110, Environment Climate Change And Forests (FR.2ii) Department dated 15.05.2023 on the file of the first respondent and quash the same and consequently directing respondents to regularize the service of petitioners in the cadre of forest watcher for the purpose of getting minimum pension / Family pension by giving relaxation in respect of height on par with juniors



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namely P. Karuppiyah S. No 4608 with effect from 24.01.1995 in the light of the order passed by this Court in W.P. No. 23647 of 2013 dated 12.09.2014 same was affirmed by Division Bench in W.A. No 2072 of 2018 dated 11.08.2022 and implementation order passed by the first respondent in G.O (2D) No. 09, Environment Climate Change And Forests (FR.2(II) Department dated 08.08.2022.

For Petitioners : Mr.S.Mani

For Respondents : Mr.R.Neelakandan, AAG VIII
Asst. by Mr.S.Arumugam,
Government Advocate – R1 & R2

ORDER

This Writ Petition has been filed to quash the G.O (2D) No. 110, Environment Climate Change And Forests (FR.2ii) Department dated 15.05.2023 on the file of the first respondent and so far as the petitioners are concerned and consequently directing respondents to regularize the service of petitioners in the cadre of forest watcher for the purpose of getting minimum pension / Family pension by giving relaxation in respect of height on par with juniors namely P. Karuppiyah S. No 4608 with effect from 24.01.1995 in the light of the order passed by this Court in W.P. No. 23647 of 2013 dated 12.09.2014 same was affirmed by Division Bench in W.A. No 2072 of 2018 dated 11.08.2022 and implementation



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order passed by the first respondent in G.O (2D) No. 09, Environment Climate Change And Forests (FR.2(II) Department dated 08.08.2022.

2. The case of the petitioners are that they were appointed as Plot Watcher on temporary basis in the year 1982 to 1984 and subsequently as per G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, their services have been brought into regular time scale of pay as plot watcher [supernumerary post] in the year 2009. The petitioners have worked in the forest department for more than 40 years on daily wages. However, the petitioners were denied of benefit of accommodating them in the cadre post of forest watcher only on the ground that they did not possess requisite height as per the service rule. According to the petitioners, similarly placed persons, namely, I.Alagarasan and others, filed writ petition before this Court in W.P.No.23647 of 2013 for a similar relief and same was allowed on 12.09.2014. As against which, the Government preferred an Appeal in W.A.No.2072 of 2018 and the Order of the learned Single Judge has been confirmed by the Division Bench of by an Order dated 11.08.2021



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and the Government after relaxing the height rule regularised the service of the petitioners therein from 24.01.1995 and 02.02.1995. In this regard the petitioners have made several representations to regularize the service of the petitioner as per the above Government Order and the same was not considered by the respondents. Therefore, the petitioners filed a Writ Petition in W.P.No.34055 of 2022 and the Writ Petition was disposed of directing the respondent to dispose of the representation of the petitioner in line with the above Government Order. The first respondent vide Order dated 15.05.2023 rejected the claim of the petitioner stating that there is no provision for regularization of service after completion of ten years. Challenging the same, the present Writ Petition has been filed.

3. The impugned Order has been challenged mainly on the ground that the service of similarly placed persons have been regularized with effect from 24.01.1995 and 02.02.1995 in the light of the Orders of this Court in W.A.No.2072 of 218 dated 11.08.2021 and the Government Order in G.O.[2BD] No.09 Environment, Climate Change and forest



[FR.2[II] Department dated 08.02.2022.

4. 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.

5. Admittedly, the grievance of the writ petitioners are that they are seeking regularization of service for pensionary benefits. It is the contention of the writ petitioners that similarly persons have been given such benefits as per Government Orders in G.O.Ms.No.95, Environment



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and Forest Department, dated 07.08.2009, G.O (2D) No. 08 Environment Climate Change And Forests (FR.2ii) Department dated 09.01.2023 and G.O. [2D] No.9, dated 08.02.2022 . Based on the Orders of this Court in W.A.No.2072 of 2018, dated 11.08.2021, the Government has issued the Government Order in G.O (2D) No. 08 Environment Climate Change And Forests (FR.2ii) Department dated 09.01.2023. As per the above Government Orders, 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 Orders, 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 relief, if the petitioners 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 to the



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petitioners as per above Government Orders 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.

6. With the above directions, the impugned Order is set aside and accordingly, the present Writ Petition stands disposed of.

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Index:Yes/No

Neutral Citation : Yes/No

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To,

1. The Additional Chief Secretary,
The Government of Tamilnadu,
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.



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