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W.P.Nos.25504 & 25516 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.25504 & 25516 of 2023

1.S.Gandhi
2.K.Sumathi ... Petitioners in W.P.No.25504 of 2023
3.K.Ariyaran
4.S.Pandiyan ... Petitioners in W.P.No.25516 of 2023
Versus

1.The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai-600009.
2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velachery Main Road, Guindy,
Chennai – 32. ... Respondents in both Writ Petitions

PRAYER in W.P.No.25504 of 2023: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other appropriate writ, order or direction in the nature of a writ, calling for the entire records which culminated in issuing the Government G.O (2D) No.44, Environment, Climate Change and Forests (FR.2ii) Department dated 01.03.2023 on the file of the first respondent and quash the same and consequently directing respondents to regularize the service of the petitioners in the cadre of forest watcher for purpose of getting minimum pension/Family pension by giving relaxation in respect of height 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.23647 of 2013 dated 12.09.2014 same was affirmed by Division Bench in W.A.No.2072 of 2018 dated 11.08.2021 and implementation order passed by the 1st respondent in



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G.O.(2D) No.09 Environment, Climate Change and Forest (FR2(II)) Department dated 08.02.2022 within a time limit that may be fixed by this Court.

PRAYER in W.P.No.25516 of 2023: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other appropriate writ, order or direction in the nature of a writ, calling for the entire records which culminated in issuing the Government G.O (2D) No.36, Environment, Climate Change and Forests (FR.2ii) Department dated 17.02.2023 on the file of the first respondent and quash the same and consequently directing respondents to regularize the service of the petitioners in the cadre of forest watcher for 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 11.08.2021 and implementation order passed by the 1st respondent in G.O.(2D) No.09 Environment, Climate Change and Forest (FR2(II)) Department dated 08.02.2022 within a time limit that may be fixed by this Court.

In both Writ Petitions:

For Petitioners : Mr.S.Mani

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

COMMON ORDER

W.P.No.25504 of 2023 has been filed to call for the entire records which culminated in issuing the Government G.O.(2D)No.44, Environment, Climate Change and Forests (FR.2ii) Department, dated 01.03.2023 on the file of the 1st respondent and quash the same and consequently, direct respondents to regularize the service of the petitioners in the cadre of forest



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watcher for purpose of getting minimum pension/Family pension by giving relaxation in respect of height 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.23647 of 2013, dated 12.09.2014, which was affirmed by the Hon'ble Division Bench in W.A.No.2072 of 2018, dated 11.08.2021 and implementation order passed by the 1st respondent in G.O.(2D) No.09 Environment, Climate Change and Forest (FR2(II)) Department, dated 08.02.2022.

2.W.P.No.25516 of 2023 has been filed to call for the entire records which culminated in issuing the Government G.O.(2D)No.36, Environment, Climate Change and Forests (FR.2ii) Department, dated 17.02.2023 on the file of the 1st respondent and quash the same and consequently direct the respondents to regularize the service of the petitioners in the cadre of forest watcher for purpose of getting minimum pension/Family pension by giving relaxation in respect of height 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.23647 of 2013 dated 12.09.2014, which was affirmed by the Hon'ble Division Bench in



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W.A.No.2072 of 2018, dated 11.08.2021 and implementation order passed by the 1st respondent in G.O.(2D)No.09 Environment, Climate Change and Forest (FR2(II)) Department, dated 08.02.2022.

3.The case of the petitioner in W.P.No.25504 of 2023 is that they were appointed as Plot Watcher on temporary basis in the year 1984 and 1981 respectively 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 rules. 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 Order of the Single Judge has been confirmed by the Division Bench of by an Order dated 11.08.2021 and the Government after relaxing the height rule



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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 their service as per the above Government Order and the same were not considered by the respondents. Therefore, the petitioners filed a Writ Petition in W.P.No.29391 of 2022 and the Writ Petition was disposed of directing the respondent to dispose of the representation of the petitioners in line with the above Government Order. The 2nd respondent *vide* Order dated 01.03.2023 rejected the claim of the petitioners stating that there is no provision for regularization of service after completion of ten years. Challenging the same, the present W.P.No.25504 of 2023 has been filed.

4.The case of the petitioner in W.P.No.25516 of 2023 is that they were appointed as Plot Watcher on temporary basis in the year 1984 & 1983 respectively 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



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accommodating them in the cadre post of forest watcher only on the ground that they did not possess requisite height as per the service rules. 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 Order of the Single Judge has been confirmed by the Division Bench of by an Order dated 11.08.2021 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 petitioner filed a Writ Petition in W.P.No.29013 of 2022 and the Writ Petition was disposed of directing the respondents to dispose of the representation of the petitioner in line with the above Government Order. The 2nd respondent *vide* Order dated 17.02.2023 rejected the claim of the petitioners stating that there is no provision for regularization of service after completion of ten years. Challenging the same, the present W.P.No.25516 of 2023 has been filed.



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5.The impugned Orders have 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.

6.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, 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, submitted that the impugned Order does not warrant any interference.



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7. Admittedly, the grievance of the writ petitioners is 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 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



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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 respondents shall extend the benefits as per above Government Orders as it is extended to similarly situated persons.

8. With the above directions, the impugned Orders challenged in both Writ Petitions are set aside. Accordingly, Writ Petitions are disposed of. No costs.

31.08.2023
(1/2)

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

1. The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai-600009.

N.SATHISH KUMAR, J.



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2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velachery Main Road, Guindy,
Chennai – 32.

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