



W.P.Nos.25523 & 25526 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.25523 & 25526 of 2023

V.Karuppasamy ... Petitioner in W.P.No.25523 of 2023
G.Muniammal ... Petitioner in W.P.No.25526 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 – 600032. ... Respondents in both Writ Petitions

PRAYER in W.P.No.25523 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 Ref.No.LL3/19592/2023 O/o.The Principal Chief Conservator of Forest, dated 02.08.2023 on the file of the second respondent and quash the same so 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 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.



W.P.Nos.25523 & 25526 of 2023

PRAYER in W.P.No.25526 of 2023: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ direction or order in the nature of Writ of Mandamus, directing the respondents to regularise the service of the petitioner's husband as Forest Watcher from 24.01.1995 notionally for purpose of getting pension by taking into account their seniority and qualification, on par with their juniors L.Stephan, Seniority No.4794, and R.Mani Seniority No.4920 and in the light of the orders 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 proceedings of the 2nd respondent dated 07.01.2011 and order in W.P.No.19020 of 2021 dated 09.09.2021 and in the light of G.O.(2D) No.122, Environment, Climate Change and Forests (FR.2(ii)) Department dated 12.08.2022 and G.O.(2D) No.124, Environment, Climate Change and Forests (FR.2II) Department dated 17.08.2022.

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.25523 of 2023 has been filed to call for the entire records which culminated in issuing the Ref.No.LL3/19592/2023, dated 02.08.2023 on the file of the 2nd respondent and quash the same and consequently, direct the respondents to regularize the service of the petitioners in the cadre of Forest Watcher for the purpose of getting minimum pension/Family pension on par with junior 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



W.P.Nos.25523 & 25526 of 2023

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.

2.W.P.No.25526 of 2023 has been filed to direct the respondents to regularise the service of the petitioner's husband as Forest Watcher from 24.01.1995 notionally for purpose of getting pension by taking into account their seniority and qualification, on par with their juniors L.Stephan, Seniority No.4794, and R.Mani Seniority No.4920 and in the light of the orders 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 proceedings of the 2nd respondent, dated 07.01.2011 and order in W.P.No.19020 of 2021, dated 09.09.2021 and in the light of G.O.(2D) No.122, Environment, Climate Change and Forests (FR.2(ii)) Department, dated 12.08.2022 and G.O.(2D) No.124, Environment, Climate Change and Forests (FR.2II) Department, dated 17.08.2022.



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3.The case of the petitioner in W.P.No.25523 of 2023 is that the petitioner was appointed as Plot Watcher on 01.05.1982 on daily wage basis and subsequently, his service as plot watcher was regularized on 26.10.2012. Whereas, his juniors were regularised as early as on 24.01.1995. Hence, there is vast disparity and discrimination in the matter of regularization of service of the husband of petitioner on par with his juniors, G.Venkatachalam and others were brought in regular time of scale on 24.01.1995. According to the petitioner, similarly placed persons, namely, P.Sundaram and P.Govindan and 23 others filed W.P.No.15561 of 2006 and 23374 of 2008 before this Court and the same was disposed on 10.03.2008 and 30.10.2009 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.No.690 of 2008 and 607 of 2010 and the same were dismissed by the Hon'ble 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 Order of this Court by passing Order dated 15.11.2010 and 07.01.2010 respectively. In this regard, the petitioner has made several representations to regularize the service of



W.P.Nos.25523 & 25526 of 2023

the petitioner which was not considered. Therefore, the petitioner filed a Writ Petition in W.P(MD)No.10328 of 2020 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 02.08.2023 rejected the claim of the petitioner stating that the petitioner has already availed the benefits of service regularization as per the government policy decision, hence, he cannot seek another benefits such as minimum pension/family pension. Challenging the same, W.P.No.25523 of 2023 has been filed.

4.The case of the petitioner in W.P.No.25526 of 2023 is that her husband was appointed as Plot Watcher on 13.10.1976 on daily wage basis and subsequently, his service as plot watcher was regularized on 26.10.2012. Whereas, his juniors were regularised as early as on 24.01.1995. Hence, there is vast disparity and discrimination in the matter of regularization of service of the husband of petitioner on par with his juniors, G.Venkatachalam and others were brought in regular time of scale on 24.01.1995. According to the petitioner, similarly placed persons, namely, P.Sundaram and P.Govindan and 23 others filed W.P.No.15561 of



W.P.Nos.25523 & 25526 of 2023

2006 and 23374 of 2008 before this Court and the same was disposed on 10.03.2008 and 30.10.2009 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.No.690 of 2008 and 607 of 2010 and the same were dismissed by the Hon'ble 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 Order of this Court by passing Order dated 15.11.2010 and 07.01.2010 respectively and in the light of the G.O.[2D] No.122 dated 12.08.2022. In the light of the above Order of this Court, the petitioner made a representation to the respondents on 21.11.2022 to regularise the service of the petitioner on par with his juniors with effect from 24.01.1995 and the same was not considered by the respondents. Hence, the present Writ Petition has been filed.

5.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 in the light of the judgments of this Court in W.A.Nos.690 of 2008 and 607 of 2010.



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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.

7.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 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.



W.P.Nos.25523 & 25526 of 2023

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 petitioner 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 respondents shall extend the benefits as per above Government Orders as it is extended to similarly situated persons. As far as the Writ Petition in W.P.No.25526 of 2023 is concerned, the respondents are directed to extend the benefits to the husband of the petitioner as per the 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.



W.P.Nos.25523 & 25526 of 2023

8. With the above directions, the impugned Order, dated 02.08.2023

challenged in Writ Petition in W.P.No.25523 of 2023 is set aside.

Accordingly, both Writ Petitions are disposed of.

31.08.2023

(2/2)

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.

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



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W.P.Nos.25523 & 25526 of 2023

N.SATHISH KUMAR, J.
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W.P.No.25523 & 25526 of 2023

31.08.2023
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