



W.P.No.25772 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.25772 of 2023

1.K.Velladurai
2.P.Durairaj
3.S.Periyasamy
4.M.Sundaramoorthy
5.C.Ramalingam
6.P.Sundaram
7.T.Kalappa
8.N.Thavamani
9.N.Ponnalagar
10.K.Raji
11.M.Sudalaimuthu

... Petitioners

Versus

1.The State of Tamil Nadu,
Rep., by its Secretary to Government,
Environment, Climate Change and Forest Department,
Fort.St.George,
Chennai – 9.

2.The Principal Chief Conservator of Forest & Head of Forest Force,
Joint Forest Management,
Velacherry Main Road,
Guindy,
Chennai – 32.

... Respondents

PRAYER: 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 appoint the petitioners in the cadre post of Forest Watcher by giving the benefit of relaxation of the rule 5 of the



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TNFSS Rules with respect to height with effect from the date of their junior-s appointment on 24.01.1995 by considering our representation dated 08.08.2022 in the light of the order passed in W.P.No.9708 of 2014 dated 12.09.2014, W.P.No.15474 of 2021 dated 27.07.2021, W.A.No.1838 & 1839 of 2018 dated 11.08.2021, G.O.(2D).No.48, Environment, Climate Change and Forests (FR.2-II) Department dated 07.04.2022, G.O.(2D).No.58, Environment and Climate Change and Forests (FR.2-II) Department dated 20.04.2022, G.O.(2D).No.155, Environment, Climate Change and Forests (FR.2-II) Department dated 26.09.2022, with all consequential benefits with the time frame.

For Petitioners : Mr.K.Jenitha
For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This Writ Petition has been filed to direct the respondents to appoint the petitioners in the cadre post of Forest Watcher by giving the benefit of relaxation of the Rule 5 of the TNFSS Rules with respect to height with effect from the date of their juniors' appointment in the post of Forest Watcher on 24.01.1995 by considering the petitioner's representations, dated 08.08.2022.

2.It is the case of the petitioners that they were appointed as Plot Watchers/Social Forestry workers on daily wage basis from 1980 to 1986 respectively. Thereafter, their names were included in the State wide Seniority List. Since the petitioners are not having the required height of



163 c.m., they were not appointed in the cadre post of Forest Watcher.

Thereafter, the petitioners were appointed as Forest Watchers, but in a Supernumerary post. At this juncture, the juniors who are having 163 c.m., in height were appointed in the said post and they were granted pensionary benefits. Hence, the similarly placed persons who were appointed as Supernumerary Forest Watcher have filed writ petitions for appointment to the said post of Forest Watcher on par with the juniors by giving the benefit of height relaxation rule and the same were disposed by this Court. Aggrieved by the said order, the respondents preferred an appeal and the same was dismissed by the Division Bench of this Court. Thereafter, the respondents preferred SLP before the Hon-ble Supreme Court and the same was also dismissed. Pursuant to the dismissal of the appeals, the respondents have implemented the said orders by issuing GOs. Since the petitioners service was regularized in 2009, they could not get the pension. Hence, the petitioners made representations for the very same relief and the same has not been considered by the authorities concerned. Hence, the writ petition.

3.It is the contention of the learned counsel for the writ petitioners that the similarly placed persons were given such benefits in the light of the



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order passed in W.P.No.9708 of 2014 dated 12.09.2014, W.P.No.25274 of 2014 dated 17.09.2014, W.A.No.1703 of 2014 dated 20.01.2015, SLP (Civil).No.12056 of 2015 dated 05.07.2016 and Ref.No.LL2/31604/2014 dated 10.02.2020 and also G.O.Ms.No.49, Environment and Forests [FR2~II] Department dated 01.09.2020 with all consequential benefits. Therefore, the petitioners are also entitled to the same benefits.

4.The learned counsel appearing for the petitioners also draw to the attention of the order passed by this Court in W.P.No.15474 of 2021, dated 27.07.2021, wherein this Court held as follows:

“8. It is seen from the order passed in W.P.No.6327 of 2005 dated 4.2.2012, wherein similar issue was considered by this Court and the respondents were directed to consider the regularization of services of the petitioner as Forest Watcher. As per G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999, Plot Watchers who have been served in the Forest Department for long number of years, are directed to be posted in regular post of Forest Watcher and the petitioners are also working in the Forest Department as Plot Watchers for a long period. Further, it is seen from the above Judgment that relaxation was given in respect of some of the persons nd appointed



them as Forest Watchers. In the Judgment rendered in W.P.No.10349 of 2012 also, the same issue was considered and the respondents were directed to regularise the appointment of the petitioner as Forest Watcher in that writ petition. The above cited judgments have also been followed in the subsequent decisions made in W.P.No.9708 of 2014 dated 12.09.2014, W.P.No.25274 of 2014 dated 17.09.2014, W.A.No.1703 of 2014 dated 20.01.2015, SLP (Civil).No.12056 of 2015 dated 05.07.2016 and Ref.No.LL2/31604/2014 dated 10.02.2020 and also G.O.Ms.No.49, Environment and Forests [FR2~II] Department dated 01.09.2020.

9.Considering the same, the respondents are directed to consider the case of the petitioners and appoint them as Forest Watcher and it is also made clear that the petitioners are entitled for monetary benefits of that appointment only from the date on which they join duty. As far as fixation of pay is concerned, the petitioners are entitled from the date on which their juniors were promoted till they actually join the post and pay can be fixed notionally. This direction with regard to pay fixation is given taking into account the fact that after serving for long number of years in the respondent Department and if appointment is directed to be given with effect from today, the petitioners may not have pensionary and other benefits, even to a certain extent also, on their retirement. Hence, the



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respondents are directed to complete the exercise of giving appointment orders to the petitioners within a period eight weeks from the date of receipt of a copy of this order. If any relaxation of the Rule is necessary as was done in the case of Sivanesan by G.O.(2D).No.56, Environment and Forest Department dated 06.09.2006, the respondents are directed to take appropriate steps and to get relaxation of the Rules.?"

The above said order is also appears to have been implemented by the Government in G.O.(2D).No.48. In such view of the matter, the petitioners, being the similarly situated persons, entitled for such relief.

5.It is the contention of the learned Government Advocate for the respondents that there is no acknowledgement for the representation submitted by the petitioners. He further submitted that if the petitioners submit fresh representations, the same will be considered, within a period of one month, in accordance with law.

6.In such view of the matter, the petitioners shall make a fresh representation to the respondents, within one month, from the date of receipt of a copy of this order and on receipt of such representation made by the



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petitioners, the respondents are directed to consider the same and pass orders in the light of the observation made in the above cited writ petition.

7.With the above direction, this Writ Petition stands disposed of.

There shall be no order as to costs.

04.09.2023

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

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To

1.The Secretary to Government,
The State of Tamil Nadu,
Environment, Climate Change and Forest Department,
Fort.St.George,
Chennai – 9.

2.The Principal Chief Conservator of Forest & Head of Forest Force,
Joint Forest Management,
Velacherry Main Road,
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N.SATHISH KUMAR, J.
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