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W.P.No.25877 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.25877 of 2023

1.G.Vasanth
2.K.Banu

... Petitioners

Vs.

1.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 Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records which culminated in issuing G.O. (2D) No. 163 Environmental Climate Change and Forests (FR. 2ii) Department dated 10.08.2023 passed by the 1st respondent and quash the same in so far as the petitioners is concerned and consequently directing respondents to regularize the service of petitioners after completion of ten years from 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 Honble Supreme Court judgement delivered in C.A. No. 6798 of 2019 dated



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2.09.2019 and Order in W.P. No. 19023 of 2021 dated 9.09.2022 same was implemented by the government in G.O. (2D). No. 91 Forest Environment , Climate Change and Forest (FR.2(II) Department dated 30.06.2022 and confer all consequential pensionary benefits.

For Petitioners : 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 to call for the entire records which culminated in issuing G.O. (2D) No. 163 Environmental Climate Change and Forests (FR. 2ii) Department dated 10.08.2023 passed by the 1st respondent and quash the same in so far as the petitioners is concerned and consequently directing respondents to regularize the service of petitioners after completion of ten years from 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 Honble Supreme Court judgement delivered in C.A. No. 6798 of 2019 dated 2.09.2019 and Order in W.P. No. 19023 of 2021 dated 9.09.2022 same was implemented by the government in G.O. (2D). No. 91 Forest Environment , Climate Change and Forest (FR.2(II) Department dated 30.06.2022 and confer all



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consequential pensionary benefits.

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2.The case of the petitioners is that the petitioners were appointed as a Plot Watcher on temporary basis on 07.01.1986 and 04.05.1981 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]. The petitioners have worked in the forest department for more than 43 years on daily wages. As the services of the petitioners have been regularised after 01.04.2003, they did not get pensionary benefits after retirement. But services of the juniors to the petitioners have been regularised before 01.04.2003 and are getting pensionary benefits. However, the petitioners were denied of such benefit of accommodating them in the cadre post of forest watcher only on the ground that their request is contrary to Order of the Division Bench of this Court in W.A.No.158 of 2016 and batch cases dated 03.12.2019. According to the petitioners, similarly placed persons have already filed a Writ Petition in W.P.No.19027 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. In this regard, the representation made by



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the petitioners has been rejected by the second respondent vide Order dated 10.08.2023. 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 and the same was accepted by the Government and issued Government Order in G.O.Ms.No.91 Forest Department dated 30.06.2022.

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 01.04.2003, 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



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not warrant any interference.

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5. Admittedly, the grievance of the writ petitioners is that the petitioners are seeking regularization of their service for pensionary benefits. It is the contention of the writ petitioners that similar persons have been given such benefits as per Government Orders of this Court in W.P.No.19027 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 respondent ought to have considered the claim of the petitioners to regularize their services 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 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 petitioners in the light of the judgment of the Apex Court and Orders of this Court and as per the above Government Order, as the benefit has been extended to similarly placed persons. In



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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 husband of 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 respondents shall extend the benefits as per 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.

7. With the above directions, the impugned Order dated 10.08.2023 is set aside and the Writ Petition is disposed of accordingly.
No costs.

05.09.2023

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Internet : Yes
Index : Yes / No
Neutral citation : Yes / No
Speaking order / Nonspeaking order

To
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