



W.P.No.26126 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.26126 of 2023

V.Marisamy

... Petitioner

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 Mandamus to direct the respondents to regularize the service of the petitioner 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



W.P.No.26126 of 2023

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.

For Petitioner : 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 direct the respondents to regularize the service of the petitioner 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



W.P.No.26126 of 2023

Environment, Climate Change and Forests (FR.2ii) Department, dated
17.08.2022.

2.The case of the petitioner is that he was appointed as Plot Watcher on temporary basis on 17.06.1983 on daily wage basis and subsequently, his service as Forest watcher was regularized on 12.11.2008. 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 petitioner on par with his juniors, 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 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



W.P.No.26126 of 2023

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.

3.The grievance of the petitioner is that the services of similarly placed persons have been regularized with effect from 24.01.1995 in the light of the Orders of this Court in W.A.Nos.690 of 2008 and 607 of 2010 dated 13.10.2009 and 29.03.2010 respectively vide Government Order in G.O.[2BD] No.64, Forest Department, dated 08.03.1999.

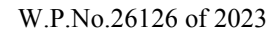
4.The learned Additional Advocate General placed reliance on the Order of the Division Bench of this Court in W.A.No.158 of 2016 and batch cases and submitted that in the above Writ Appeal, the Division Bench of this Court has held that the Government servants who were appointed in non-provincialized 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



W.P.No.26126 of 2023

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 relief cannot be granted.

5. 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 vide 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. Hence, the respondents are directed to consider the case of the petitioner in the light the above Government Order, as the benefit has been extended to similarly placed persons. In fact, the plot watchers are frontline soldiers in forest and they are the 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 petitioner is not granted



14 of Constitution of India. In such view of the matter, the respondents

6. With the above directions, this Writ Petition is disposed of.

08.09.2023

Speaking order / Nonspeaking order

1. The Additional Chief Secretary,
Government of Tamilnadu,
Environment and Forest Department,
Fort St. George, Chennai – 600 009.

Page 6 of 7



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W.P.No.26126 of 2023

N. SATHISH KUMAR, J.
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W.P.No.26126 of 2023

08.09.2023