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W.P.No.26164 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.26164 of 2023

1.K.R.Venkatachalam
2.K.P.Govindan
3.K.Krishnan
4.V.Kandasamy
5.P.Viswanathan

... Petitioners

Versus

1.The State of Tamil Nadu,
Rep., by its Additional Chief 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,
Velachery 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 a writ of Certiorarified Mandamus calling for the entire records which culminated in issuing the G.O.(2D)No.24, Environment and Climate Change and Forests (FR.2(ii) Department, dated 13.02.2023 on the file of the first respondent and quash the same with consequential direction to the respondents to regularise services in the cadre of forest watcher for the 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.9708 of 2014 dated



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12.09.2014 same was affirmed by Division Bench in W.A.No.1703 of 2014 dated 20.01.2015 within a time limit that may be fixed by this Court.

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

ORDER

This Writ Petition has been filed to call for the records which culminated in issuing G.O.(2D)No.24, Environment and Climate Change and Forests (FR.2(ii) Department, dated 13.02.2023 on the file of the first respondent and quash the same with consequential direction to the respondents to regularise services in the cadre of forest watcher for the 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.9708 of 2014, dated 12.09.2014 and the same was affirmed by Division Bench in W.A.No.1703 of 2014, dated 20.01.2015 within a time limit that may be fixed by this Court.

2.The case of the petitioners is that they were appointed as Social Forestry Workers from employment exchange from 1981 to 1983 at Social Forestry Division, Salem and subsequently as per G.O.Ms.No.95,



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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 him in the cadre post of forest watcher only on the ground that they did not possess requisite height as per the service rule. According to the petitioners, similarly placed persons, namely, Kanniyappan has filed writ petition before this Court in W.P.No.9708 of 2014 for a similar relief and same was allowed on 12.09.2014. As against which, the Government preferred an Appeal in W.A.No.1703 of 2014 and Order of the Single Judge has been confirmed by the Division Bench of by an Order dated 20.01.2015 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 petitioners filed Writ Petitions in W.P.Nos.6189, 6192, 6195, 6206 & 6209 of 2021 and the same were disposed of directing the respondents to dispose of the representation of the petitioner in line with the above Government



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Order. The first respondent, by order, dated, 13.02.2023 rejected the claim of the petitioners on the ground that they do not possess eligible height as per Rule 5 of the Tamil Nadu Forest Subordinates Service Rules.

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 in the light of the Orders of this Court in W.A.No.1703 of 204, dated 20.01.2015 and the Government Order in G.O.[2BD] No.09 Environment, Climate Change and forest [FR.2[II] Department dated 08.02.2022.

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, 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



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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.

5. 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



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

6. With the above directions, the impugned Order challenged in this Writ Petition is set aside. Accordingly, this Writ Petition is disposed of. No costs.

07.09.2023

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,
State of Tamil Nadu,
Environment, Climate Change and Forest Department,
Fort St. George, Chennai – 9.



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2.The Principal Chief Conservator of Forest & Head of Forest Force,
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N.SATHISH KUMAR, J.
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