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W.P.No.26780 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.26780 of 2023

V.Janagi

... Petitioner

Vs.

1.Government of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai – 600 009.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the petitioner service in the cadre of forest watcher for purpose of getting minimum pension by giving relaxation in respect of height same was done similarly placed person like petitioner namely I.Alagarasen and 4 others on 08.09.2022 with effect from 24.01.1995 and 02.02.1995 and in the light of the order passed by this Court in W.P.No.23647 of 2013 dated 12.09.2014 same was affirmed by Division Bench in W.A.No.2072 of 2018 dated 11.08.2021 and same was implemented by the 1st respondent in G.O.(2D) No.09 Environment, Climate Change and Forest (FR.2(II)) Department, dated 08.02.2022 basis of representation dated 16.06.2023 within a time limit that may be fixed by this Court.

For Petitioner : Mr.S.Mani



WEB COPY



W.P.No.26780 of 2023

For Respondents : Mr.R.Neelakandan,
Additional Advocate General assisted by
Mr.S.Arumugham,
Government Advocate

ORDER

This Writ Petition has been filed to direct the respondents to regularize the petitioner's service in the cadre of Forest Watcher for the purpose of getting minimum pension by giving relaxation in respect of height and the same was done for similarly placed person like petitioner namely I.Alagarasen and 4 others on 08.09.2022 with effect from 24.01.1995 and 02.02.1995 and in the light of the order passed by this Court in W.P.No.23647 of 2013, dated 12.09.2014 and the same was affirmed by the Hon'ble Division Bench of this Court in W.A.No.2072 of 2018, dated 11.08.2021 and the same was implemented by the 1st respondent in G.O.(2D) No.09 Environment, Climate Change and Forest (FR.2(II)) Department, dated 08.02.2022 on the basis of the representation, dated 16.06.2023 within a time limit fixed by this Court.

2.The case of the petitioner is that she was appointed as Plot Watcher on temporary basis on 01.03.1982 and subsequently as per G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, her



W.P.No.26780 of 2023

service has been brought into regular time scale of pay as plot watcher [supernumerary post] on 07.08.2009. The petitioner has worked in the forest department for more than 40 years on daily wages. However, the petitioner was denied of benefit of accommodating her in the cadre post of forest watcher only on the ground that he did not possess requisite height as per the service rule. According to the petitioner, similarly placed persons, namely, I.Alagarasan and others, filed writ petition before this Court in W.P.No.23647 of 2013 for a similar relief and same was allowed on 12.09.2014. As against which, the Government preferred an Appeal in W.A.No.2072 of 2018 and the Order of the learned Single Judge has been confirmed by the Hon'ble Division Bench of this Court, by judgment, dated 11.08.2021 and the Government after relaxing the height rule regularised the service of the petitioner therein from 24.01.1995 and 02.02.1995. In this regard, the petitioner has made several representation to regularize the service as per the above Government Order and the same was not considered by the respondent. Hence, the present Writ Petition has been filed.



W.P.No.26780 of 2023

WEB COPY

3.The learned counsel appearing for the petitioner submitted 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 judgment of this Court in W.A.No.2072 of 2018, dated 11.08.2021 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 Leave Petitions filed by certain petitioner against the said Order has also been dismissed.



W.P.No.26780 of 2023

5. Admittedly, the grievance of the writ petitioner is that she 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 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 judgment 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 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 petitioner is not granted such relief,



W.P.No.26780 of 2023

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 to the petitioner as per 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.

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

No costs.

13.09.2023

(1/6)

Index : Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Speaking Order/Non-Speaking Order

vv2

To

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

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



WEB COPY



W.P.No.26780 of 2023

N.SATHISH KUMAR, J.
vv2

W.P.No.26780 of 2023

13.09.2023
(1/6)