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W.P.Nos.26788 & 26795 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.Nos.26788 & 26795 of 2023

1.G.Guruvanandam

2.M.Karunakaran

3.T.K.Palani

... Petitioners in W.P.No.26788 of 2023

... Petitioner in W.P.No.26795 of 2023

Vs.

1.Government of Tamil Nadu,

Rep. by its Additional Chief Secretary,

Environment and Forest Department,

Fort St.George, Chennai – 600009.

2.The Principal Chief Conservator of Forests,

(Head of Forest Force),

Velacherry Main Road, Guindy,

Chennai – 600032.

... Respondents in both Writ Petitions

PRAYER in W.P.No.26788 of 2023: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other appropriate writ, order or direction in the nature of a writ, calling for the entire records which culminated in issuing the G.O.(2D) No.74 Environment, Climate Change and Forests (FR.2ii) Department dated 05.04.2023 passed by the 1st respondent and quash the same in so far as the petitioners is concerned and consequently directing respondents to regularise 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 Hon'ble Supreme Court judgment delivered in C.A.No.6798 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2022 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



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pensionary benefits.

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PRAYER in W.P.No.26795 of 2023: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other appropriate writ, order or direction in the nature of a writ, calling for the entire records which culminated in issuing the Ref.No.Pen1/23991/2018 dated 17.08.2023 on the file of the 2nd respondent and quash the same and consequently directing respondents to regularise 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 Hon'ble Supreme Court judgment delivered in C.A.No.6798 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2022 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
in both Writ Petitions : Mr.S.Mani

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

COMMON ORDER

W.P.No.26788 of 2023 has been filed to quash the impugned order in G.O.(2D) No.74 Environment, Climate Change and Forests (FR.2ii) Department, dated 05.04.2023 passed by the 1st respondent and direct the respondents to regularise 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 Hon'ble



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Apex Court judgment delivered in C.A.No.6798 of 2019, dated 02.09.2019 and Order in W.P.No.19023 of 2021, dated 09.09.2022 and the 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.

2.W.P.No.26795 of 2023 has been filed to quash the impugned order in Ref.No.Pen1/23991/2018, dated 17.08.2023 passed by the 2nd respondent and direct the respondents to regularise 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 Hon'ble Supreme Court judgment delivered in C.A.No.6798 of 2019, dated 02.09.2019 and Order in W.P.No.19023 of 2021, dated 09.09.2022 and the 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.

3.The petitioners were appointed as a Plot Watcher and subsequently their service was brought into regular time scale of pay as plot



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watcher [supernumerary post] and thereafter, they were appointed as Forest Watcher (supernumerary post) and retired from service on 30.04.2022, 31.01.2021 and 31.01.2018 respectively.

4.The petitioners have worked in the forest department for more than 20 years on daily wages. As their services have been regularised after 01.04.2003, they did not get the pensionary benefits after retirement. But services of the juniors to the petitioners who have been regularised their service before 01.04.2003 are getting pensionary benefits. According to the petitioners, similarly placed persons have already filed a Writ Petition in W.P.No.19023 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. Therefore, the petitioners filed writ petitions in W.P.Nos.30408 of 2022 & 32309 of 2019 and the writ petitions were disposed of, directing the respondents to dispose of the representation of the petitioners. Pursuant to the directions of this Court, now, the respondents have rejected the claim of the petitioners. Challenging the same, the present writ petitions have been filed.



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5.The learned Additional Advocate General appearing for the respondents 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 petitioners against the said Order has also been dismissed. Hence, opposed these writ petitions.

6.Admittedly, the petitioners are seeking regularization of service for pensionary benefits. It is the contention of the writ petitioners that similarly situated persons have been given such benefits as per Government Orders of this Court in W.P.No.19023 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 respondents ought to have considered the claim of the petitioners to regularize his service after completion of ten years from the date of initial appointment as a Plot



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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.

7.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 Hon'ble Apex Court and Orders of this Court and as per the above Government Order, 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 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 respondents shall extend the benefits as per above Government Order as it is extended to similarly situated persons.



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8. Accordingly, the impugned orders challenged in both Writ Petitions are set aside and the respondents shall extend the benefits as per above Government Orders to the petitioners, 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.

9. With the above directions, these writ petitions stand disposed of.

No costs.

13.09.2023
(³/₄)

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,
Government of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai – 600009.

N.SATHISH KUMAR, J.



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2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velacherry Main Road, Guindy,
Chennai – 600032.

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