



WEB COPY



W.P.No.27228 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.27228 of 2023

K.Durai

... Petitioner

Versus

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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents to regularize the service of petitioner 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 Hon'ble Supreme Court judgment delivered in C.A.No.6798 of 2019 dated 02.09.2019 and in the light of order in W.P.No.19023 of 2021 dated 09.09.2021 and in the light of the G.O.2(D)No.91, Environment, Climate Change and Forests (FR.2(ii)) Department dated 30.06.2022 confer all consequential pensionary benefits by the respondents.

For Petitioner :

Mr.S.Mani

For Respondents :

Mr.R.Neelakandan,

Additional Advocate General assisted by

Mr.S.Arumugham,

Government Advocate



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ORDER

This Writ Petition has been filed to direct the respondents to regularize the service of petitioner 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 Hon'ble Supreme Court in C.A.No.6798 of 2019, dated 02.09.2019 and in the light of order in W.P.No.19023 of 2021, dated 09.09.2021 and in the light of the G.O.2(D)No.91, Environment, Climate Change and Forests (FR.2(ii)) Department dated 30.06.2022 and confer all consequential pensionary benefits by the respondents.

2.The case of the petitioner is that the petitioner was appointed as a Plot Watcher on temporary basis on 01.08.1984 and subsequently as per G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, his service has been brought into regular time scale of pay as plot watcher [supernumerary post]. The petitioner has worked in the forest department for more than 25 years on daily wages. As the services of the petitioner has been regularised after 01.04.2003, he did not get pensionary benefits after retirement. But services of the juniors to the petitioner has been regularised before 01.04.2003 and they are getting pensionary benefits. However, the



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petitioner was denied of such benefit of accommodating him in the cadre post of forest watcher only on the ground that his 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 petitioner, 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 has been made by the petitioner on 01.08.2022, however no order has been passed till date.

3.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 01.0.2003, 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



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dismissed. Hence, submitted that the impugned Order does not warrant any interference.

4.Admittedly, the grievance of the writ petitioner is that the petitioner is seeking regularization of the service for pensionary benefits. It is the contention of the writ petitioner that similarly 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.

5.In such view of the matter, the respondents are directed to consider the case of the petitioner 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 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



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placed persons have already been granted the relief, if 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 respondent shall extend the benefits as per above Government Order as it is extended to similarly situated persons.

6. With the above directions, this Writ Petition is disposed of accordingly. No costs.

19.09.2023

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,
Government of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai – 600009.
2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velacherry Main Road, Guindy,
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N.SATHISH KUMAR, J.
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