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W.P.No.27797 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.27797 of 2023

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... Petitioner

Versus

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

2.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai – 600 015.

3.The District Forest Officer,
Thiruvallur District,
Thiruvallur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 31.08.2019 in Se.Mu.AA.No.4669/2009/L and the subsequent order dated 17.02.2015 made in Se.Mu.Order No.5763/14/Pa passed by the 3rd respondent and to quash the same consequently direct the respondents to fix the time scale of pay of the petitioner as Forest Watcher taking into account of the seniority and qualification, on par with the juniors 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 20.03.2010 and to confer all consequential service and monetary benefits within a stipulated time.



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

ORDER

This Writ Petition has been filed to call for the records relating to the impugned order, dated 31.08.2019 in Se.Mu.AA.No.4669/2009/L and the subsequent order, dated 17.02.2015 made in Se.Mu.Order No.5763/14/Pa passed by the 3rd respondent and to quash the same consequently, direct the respondents to fix the time scale of pay of the petitioner as Forest Watcher taking into account of the seniority and qualification, on par with the juniors 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 20.03.2010 and to confer all consequential service and monetary benefits within a stipulated time.

2.The case of the petitioner is that he is appointed as Social Forestry Worker on temporary basis on 03.09.1984 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



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[supernumerary post] on 31.08.2009. The petitioner has worked in the forest department for more than 35 years on daily wages. However, the petitioner was denied of benefit of accommodating him in the cadre post of forest watcher only on the ground that he does not possess SSLC qualification as per the service rules. According to the petitioner, similarly placed persons, namely, G.Venkatachalam and others, who are juniors to the petitioner were brought under the regular time scale of pay, however the petitioner was not considered with proper place of promotion by fixing the seniority on par with juniors. Therefore, the petitioner filed a writ petition in W.P.No.23994 of 2014 to consider regularization of service from the date of completion of ten years of service with time scale of pay and fix the selection and special grade with consequential service and monetary benefits in the light of the orders passed by this Court. This Court, by order, dated 09.10.2014 directed the respondent therein to consider the representation of the petitioner. Thereafter, the 3rd respondent passed the impugned order, dated 17.02.2015 rejected the claim of the petitioner on the ground that there is no provision for regularization of service after completion of ten years. Challenging the same, the present Writ Petition has been filed.



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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.2072 of 218 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, 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 dismissed. Hence, submitted that the impugned Order does not warrant any interference.



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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 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 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



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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 Orders passed in this Writ Petitions are set aside. Accordingly, Writ Petition is disposed of.

25.09.2023
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Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

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



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N.SATHISH KUMAR, J.
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