



W.P.No.27724 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.27724 of 2023

1.M.Shanmugam
2.G.Dhanapal
3.M.Mallappa
4.C.Balaji
5.D.Munikrishnappa

... Petitioners

Vs.

- 1.State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Environment, Climate Change and Forest Department,
Fort St. George,
Secretariat, Chennai – 600 009.
- 2.The Principal Chief Conservator of Forests,
Head of Forest Force,
Velacherry Main Road,
Guindy, Chennai – 600 032.
- 3.The District Forest Officer,
Dharmapuri Forest Division,
Dharmapuri – 5,
Dharmapuri District.
- 4.The District Forest Officer/Wild Life Warden,
Hosur Forest Division,
Hosur,
Krishnagiri District.



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5.The Assistant Conservator of Forests,
Modern Nursery Forest Division,
Dharmapuri,
Dharmapuri District.

6.The Divisional Forest Officer,
Social Forestry and Extension Division,
Krishnagiri,
Krishnagiri District.

7.The Accountant General of Tamil Nadu,
Office of the Accountant General,
Anna Salai, Teynampet,
Chennai – 18.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing respondents 1 to 6 to regularise the service of the petitioners from the date on which completing ten years of service as plot watchers on daily wage basis for the purpose of getting pension in the light of the Hon'ble Supreme Court Judgment reported in (2019) 10 SCC 516 and confer all consequential pensionary benefits from the date of their retirement by sending the proposal to the 7th respondent for granting pension with all consequential benefits.

For Petitioner : Mr.M.R.Jothimanian

For R1 to R6 : Mr.S.Arumugham
Government Advocate



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ORDER

This writ petition has been filed directing respondents 1 to 6 to regularise the service of the petitioners from the date on which completing ten years of service as plot watchers on daily wage basis for the purpose of getting pension in the light of the Hon'ble Supreme Court Judgment reported in (2019) 10 SCC 516 and confer all consequential pensionary benefits from the date of their retirement by sending the proposal to the 7th respondent for granting pension with all consequential benefits.

2.The petitioners were initially appointed as Plot Watchers on daily wage basis and subsequently, their services were brought into regular time scale of pay as Plot Watchers [supernumerary post] on 07.08.2009 and thereafter, the petitioners retired from services.

3.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 the juniors to the petitioners, whose services have been regularised before 01.04.2003, are getting pensionary benefits. According to the petitioners,



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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. Hence, this writ petition is filed seeking pensionary benefits as granted to the similarly situated persons.

4.The learned Government Advocate 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 have also been dismissed. Hence, opposed the writ petition.

5.Admittedly, the writ petitioners are seeking regularization of service of petitioners for pensionary benefits. It is the contention of the writ petitioners that similarly situated persons have been given such benefits as



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per Government Orders of this Court in W.P.No.19023 of 2021 and the

same was accepted by the Government and the Government have 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 their services after completion of ten years

from the date of initial appointment as Plot Watcher on daily wage basis

for the purpose of getting 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.

6.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 Apex

Court and Orders of this Court and as per the above Government Order, as

the benefit has been extended to similarly placed persons. 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



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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.

7. Accordingly, the respondents are directed to extend the benefits to the petitioners and are directed to regularize the services of the petitioners respectively as Plot Watchers as per the above Government Order 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.

8. With the above directions, this writ petition stands disposed of.

No costs.

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order



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To
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State of Tamil Nadu,
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Secretariat, Chennai – 600 009.
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N. SATHISH KUMAR, J.
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