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W.P.No.27832 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.27832 of 2023

M.Srinivasan

... Petitioner

Vs.

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

2.The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy,
Chennai – 600 032.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to regularise the service of petitioner after completion of ten years from date of initial appointment as a Plot Watcher on daily wage basis for the purposes of getting pension and family pension in the light of Honourable Supreme Court Judgment delivered in C.A.No.6798 of 2019 dated 02.09.2019 and Order in WP.No. 19023 of 2021 dated 09.09.2021 confer all consequential pensionary benefits by the way of considering his representation to the respondents dated 16.08.2022.



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For Petitioner : Mr.S.Mani
For R1 and R2 : 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 regularise the service of petitioner after completion of ten years from date of initial appointment as a Plot Watcher on daily wage basis for the purposes of getting pension and family pension in the light of Honourable Supreme Court Judgment delivered in C.A.No.6798 of 2019 dated 02.09.2019 and Order in WP.No. 19023 of 2021 dated 09.09.2021 confer all consequential pensionary benefits by the way of considering his representation to the respondents dated 16.08.2022.

2.The petitioner was appointed as a Plot Watcher on 01.12.1986 and subsequently his service was brought into regular time scale of pay as plot watcher [supernumerary post] on 07.08.2009 and thereafter, retired from service on 31.05.2018.



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3.The petitioner has worked in the Forest Department for more than 20 years on daily wages. As his services have been regularised after 01.04.2003, he 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 petitioner, 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 01.04.2003, 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



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have also been dismissed. Hence, opposed the writ petition.

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5. Admittedly, the writ petitioner is seeking regularization of service of petitioner for pensionary benefits. It is the contention of the writ petitioner 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 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 petitioner 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 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 persons. In fact, the plot



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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 petitioner and also the fact that when similarly 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 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 petitioner and are directed to regularize the services of the petitioner 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.



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

of. No costs.

22.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

1. The Additional Chief Secretary,
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)
Velachery Main Road, Guindy,
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