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W.P.Nos.28694 & 28699 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.Nos.28694 & 28699 of 2023

1. A.Kandhasamy
2. A.Muthaiya
3. C.Singaram
4. M.Rajendran

... Petitioners in W.P.No.28694 of 2023

Vs.

1. The State of Tamil Nadu
Rep., by its Additional Chief Secretary to Government,
Environment, Climate Change and Forest Department,
Fort.St.George,
Chennai – 9.
2. The Principal Chief Conservator of Forest,
(Head of Forest Force),
Panagal Maaligai,
Saidapet,
Chennai – 600 015.

.. Respondents in W.P.No.28694 of 2023

Prayer in W.P.No.28694 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records in Ref.No.LL2/27676/2021 dated 02.08.2022 on the file of the 2nd respondent and quash the same with consequential direction to the respondents to regularize the petitioners services in the cadre of forest watcher for the purpose of getting minimum



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pension / Family pension by giving relaxation in respect of height on par with juniors namely P.Karuppiah S.No.4608 with effect from 24.01.1995 in the light of the order passed by this Court in W.P. No.9708 of 2014 dated 12.09.2014 same was affirmed by Division Bench in W.A.No.1703 of 2014 dated 20.01.2015.

1. R.Meyyalagan
2. S.Aliakbar,
3. P.Kalimuthu
4. N.Mani
5. K.Palaniyappan
6. P.Dhanasekarraj
7. T.Singaram
8. K.Subramani,
9. V.Rajamanikkam
10. K.Bakthavatchalam
11. K.Selvan
12. C.Sundaram
13. D.Viswanathan

... Petitioners in W.P.No.28699 of 2023

Vs.

1. The State of Tamil Nadu
Rep.by its Additional Chief Secretary to Government,
Environment, Climate Change and Forest Department,
Fort.St.George,
Chennai – 9.
2. The Principal Chief Conservator of Forest &
Head of Forest Force,
Joint Forest Management,
Velachery Main Road,
Guindy, Chennai – 32. .. Respondents in W.P.No.28699 of 2023



W.P.Nos.28694 & 28699 of 2023

Prayer in W.P.No.28699 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records in G.O.(2D)No.33, Environment, Climate Change and Forest (FR.2ii) Department dated 17.02.2023 on the file of the 1st respondent and quash the same with consequential direction to the respondents to regularize the petitioners services in the cadre of forest watcher for the purpose of getting minimum pension / Family pension by giving relaxation in respect of height on par with juniors namely P.Karuppiyah S. No.,4608 with effect from 24.01.1995 in the light of the order passed by this Court in W.P.No.9708 of 2014 dated 12.09.2014 same was affirmed by Division Bench in W.A.No.1703 of 2014 dated 20.01.2015.

For Petitioners in both WPs. : M/s.K.Jenitha

For Respondent

Nos.1 & 2 in both WPs. : Mr.R.Neelakandan
Assistant Advocate General
Assisted by
Mr.S.Arumugham
Government Advocate

COMMON ORDER

These writ petitions have been filed to call for the entire records in Ref.No.LL2/27676/2021 dated 02.08.2022 on the file of the 2nd respondent and G.O.(2D) No.33, Environment, Climate Change and



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Forests (FR.2ii) Department dated 17.02.2023 on the file of the 1st

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respondent and quash the same and consequently to direct respondents to regularize the service of petitioners in the cadre of forest watcher for purpose of getting minimum pension / Family pension by giving relaxation in respect of height on par with juniors namely P.Karupiah S.No.4608 with effect from 24.01.1995 in the light of the order passed by this Court in W.P. No.9708 of 2014 dated 12.09.2014 which was affirmed by Division Bench in W.A. No.1703 of 2014 dated 20.01.2015 within a time limit that may be fixed by this Court.

2.The case of the petitioners is that they were appointed as Plot Watcher on temporary basis between the years 1979 and 1985 and subsequently as per G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, their services have been brought into regular time scale of pay as plot watcher [supernumerary post] in the year 2009. The petitioners have worked in the forest department for more than 40 years on daily wages. However, the petitioners were denied of benefit of accommodating them in the cadre post of forest watcher only on the ground that they do not possess requisite height as per the service rule.

According to the petitioners, similarly placed persons, namely,



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I. Alagarasan and others filed writ petition before this Court in

W.P.No.23647 of 2013 for a similar relief and same was allowed on 12.09.2014, as against which, the Government preferred an Appeal in W.A.No.2072 of 2018 and Order of the Single Judge has been confirmed by the Division Bench of by an Order dated 11.08.2021 and the Government after relaxing the height rule regularised the service of the petitioners therein from 24.01.1995 and 02.02.1995. In this regard the petitioners have made several representations to regularize the service of the petitioners as per the above Government Order and the same were not considered by the respondents. Therefore, the petitioners filed Writ Petitions and the Writ Petitions were disposed of by directing the respondent to dispose of the representation of the petitioners in line with the above Government Order. However, the respondents vide impugned Orders dated 02.08.2022 and 17.02.2023 rejected the claim of the petitioners stating that the petitioners have retired from service and they have availed the benefit of service regularisation. Challenging the same, the present Writ Petitions have been filed.

3. The impugned Orders have been challenged mainly on the ground that the service of similarly placed persons have been regularized



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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 01.04.2003, 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 has also been dismissed. Hence, submitted that the impugned Orders do not warrant any interference.

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



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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 have 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 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 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 to the petitioners, as it is extended to similarly situated persons. Such an



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exercise shall be completed within a period of six months from the date of receipt of a copy of this Order.

6. With the above directions, the impugned Orders dated 02.08.2022 and 17.02.2023 are set aside. Accordingly, these writ petitions are disposed of. No costs.

29.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

1. The Additional Chief Secretary to Government,
State of Tamil Nadu
Environment, Climate Change and Forest Department,
Fort.St.George,
Chennai – 9.
2. The Principal Chief Conservator of Forest &
Head of Forest Force,
Joint Forest Management,
Velachery Main Road,
Guindy, Chennai – 32.



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N. SATHISH KUMAR, J.
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