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W.P.No.28438 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.28438 of 2023

1.P.Periyannan

2.K.Subramani

... Petitioners

Versus

1.State of Tamil Nadu

Rep 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

Velachery Main Road, Guindy, Chennai – 600 032.

... Respondents

Prayer :- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioners as Forest Watcher from 24.01.1995 notionally for purpose of getting pension by taking into account their seniority and qualification on par with their juniors, in light of the orders passed by this Hon'ble Court in W.P.No.25523 of 2023 dated 31.08.2023 and W.P.No.25882 of 2023 dated 05.09.2023 and confer all consequential pensionary benefits.

For Petitioner : Mr.S.Manikandan

For Respondents : Mr.R.Neelakandan, AAG VIII

Asst. by Mr.S.Arumugam,

Government Advocate – R1 & R2



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ORDER

This writ petition has been filed seeking for a direction to the respondents to regularize the service of the petitioners as Forest Watcher from 24.01.1995 notionally for purpose of getting pension by taking into account their seniority and qualification on par with their juniors, in light of the orders passed by this Hon'ble Court in W.P.No.25523 of 2023 dated 31.08.2023 and W.P.No.25882 of 2023 dated 05.09.2023 and confer all consequential pensionary benefits.

2.The case of the petitioners are that they were appointed as Plot Watchers on temporary basis on 01.02.1982 & 01.10.1976 respectively and subsequently, their service as Forest watchers were regularized on 10.10.2003 & 29.12.1999 respectively. Whereas, their juniors were regularised as early as on 24.01.1995. Hence, there is vast disparity and discrimination in the matter of regularization of service of the petitioner on par with his juniors, Venkatachalam and others were brought in regular time of scale on 24.01.1995. According to the petitioners, similarly placed persons, namely, P.Sundaram and P.Govindan and 23



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others filed W.P.No.15561 of 2006 and 23374 of 2008 before this Court and the same was disposed on 10.03.2008 and 30.10.2009 with a direction to consider their claim for appointment as Forest Watcher on par with their juniors. As against the said Order, the Department went on appeal in W.A.No.690 of 2008 and 607 of 2010 and the same were dismissed by the Division Bench of this Court on 13.10.2009 and 29.03.2010 respectively. Pursuant to the dismissal of the appeals, the respondents implemented the Order of this Court by passing Order dated 15.11.2010 and 07.01.2010 respectively and in the light of the G.O.[2D] No.122 dated 12.08.2022. In the light of the above Order of this Court, the petitioners made representations to the respondents on 21.04.2022 and 26.07.2022 respectively to regularise the service of the petitioner on par with his juniors with effect from 24.01.1995 and the same was not considered by the respondents. Hence, the present Writ Petition has been filed.

3.The grievance of the petitioners are that the service of similarly placed persons have been regularized with effect from 24.01.1995 in the



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light of the Orders of this Court in W.A.Nos.690 of 2008 and 607 of 2010 dated 13.10.2009 and 29.03.2010 respectively vide Government Order in G.O.[2BD] No.64, Forest Department, dated 08.03.1999.

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 relief cannot be granted.

5.Admittedly, the grievance of the writ petitioners are that they are seeking regularization of service for pensionary benefits. It is the



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contention of the writ petitioners that similarly persons have been given such benefits as per Orders in W.A.Nos.690 of 2008 and 607 of 2010 dated 13.10.2009 and 29.03.2010 respectively vide Government Order in G.O.[2BD] No.64 Forest Department dated 08.03.1999. As per the above Government Order, 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 Order, as the benefit has been extended to similarly placed persons. In fact, the plot watchers are frontline soldiers in forest and they are the 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 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 respondents shall extend the benefits as per above Government Orders 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



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of a copy of this Order.

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

27.09.2023

Index:Yes/No
Neutral Citation : Yes/No
dhk

To,

1.The Principal Secretary to Government
State of Tamil Nadu
Environment, Climate Change and Forest Department
Fort St.George
Secretariat, Chennai – 600 009

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



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N.SATHISH KUMAR, J.

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