



W.P.(MD).No.1947 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.1947 of 2016

and

W.M.P.(MD).No.1715 of 2016

M.Raja

Vs.

... Petitioner

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Environment and Forest Department,
Chennai – 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai.

3.The District Forest Officer,
Tirunelveli Division,
N.G.O.Colony,
North Main Road,
Tirunelveli – 627 007.

4.The Forest Range Officer,
Kadayanallur Range,
Kadayanallur Post,
Tirunelveli District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in Ref.No.LL2/4327/2015 dated 18.02.2015 to quash the same as illegal and unconstitutional and consequently direct the second respondent to pass fresh orders by consider the petitioner's representation in the light of the order passed by this Court in W.P.Nos.10654 & 9764/2014 dated 15.04.2014 and appoint in the supernumerary posts in the Forest Department within a time frame as fixed by this Court.

For Petitioner : Mr.S.Sukumar

For Respondents : Mr.S.Shanmugavel,
Additional Government Pleader.

ORDER

This Writ Petition is filed to quash the impugned order dated 18.02.2015 and consequently direct the second respondent to pass fresh orders by considering the petitioner's representation in the light of the order passed by this Court in W.P.Nos.10654 & 9764/2014 dated 15.04.2014 and appoint him in the supernumerary posts in the Forest Department.



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2. The brief facts as stated in the affidavit are that the petitioner was appointed on 01.10.1998 on temporary basis as Anti-Poaching Watcher on consolidated pay. Thereafter, the petitioner has served until January 2008. Suddenly, the respondents did not permit the petitioner to continue the service. Moreover, the petitioner was not paid any salary from January 2006 to 2008. The contention of the petitioner is that he has served for more than 10 years but without any notice, the respondents have arbitrarily prevented the petitioner from continuing the service. Hence, on 02.06.2008, the petitioner submitted a representation to the third respondent for reinstatement and to pay the arrears of salary for the above said period. Based on the representation, an enquiry was conducted and report was submitted to the third respondent. However, the respondents have not passed any order on the same. In the meanwhile, the petitioner had preferred W.P.(MD)No.9676 of 2010 directing the respondents to absorb the petitioner in the post of Guard and pay the attendant benefits. The said Writ Petition was disposed of on 18.07.2013 directing the respondents to consider and pass orders. Along with the order, again the petitioner submitted a representation dated 10.09.2013. After lapse of 1½ years, the second respondent has passed an impugned order dated 18.02.2015, whereby the



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request of regularization was rejected by citing G.O.Ms.No.64 Environment and Forests (FR-2) Department dated 08.03.1999 and G.O.Ms.No.95 Environment and Forests Department dated 07.08.2009. The contention of the petitioner is that the said two Government Orders are pertaining to the Social Forest Workers and Plot Watchers. But the petitioner was working as Anti-Poaching Watcher and the applicable Government Order is G.O.Ms.No.76 Environment and Forest (F2) Department dated 07.06.2010 and pursuant to this G.O., the respondents have taken a policy decision to create supernumerary posts to appoint those who have completed 10 years of service as Anti-Poaching Watcher in the scale of pay of Rs.2500-5000+grade pay of Rs.500/-. The respondents have created 137 Anti-Poaching Watchers and appointed those who have completed 10 years of service in Forest Department.

3. According to the respondents, the petitioner has completed only 7 years. But according to the petitioner, he has completed 10 years. The respondents have taken the service of the petitioner from 01.04.2003 to 31.03.2007, wherein the petitioner was engaged on daily wage basis. The contention of the petitioner is that he was engaged from 01.10.1998 onwards on consolidated wages basis. The respondents in the impugned order as well as in



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the counter stated that the petitioner was engaged from 2003 onwards. There was no denial in the counter that the petitioner was engaged from 1998 in consolidated pay. In fact, the impugned order is also silent about the petitioner's claim that he was engaged from 1998 onwards in consolidated pay. The petitioner has relied on the certificate issued by the Forest Ranger, Kadayanallur Range, dated 30.11.1999, wherein, it has been certified that the petitioner was working in Makkarai Section of Kadayanallur Range as Anti-Poaching Watcher from 01.10.1998 to till date.

4. Therefore, this Court is of the considered opinion that the petitioner was working from 01.10.1998 onwards on consolidated wages and from 01.04.2003 onwards as NMR. If both the services are taken together, then the petitioner has completed 10 years. If the respondents have taken a policy decision to create supernumerary posts for Anti-Poaching Watcher, then the respondents are bound to accommodate the petitioner. Therefore, this Court is inclined to allow the Writ Petition. The impugned order is quashed. The respondents are directed to appoint the petitioner in the said post. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.



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5. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

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S.SRIMATHY, J.

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