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W.P.No.1867 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.1867 of 2023

K.Vijayan

...

Petitioner

versus

1.The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Geenies Road,
Panagal Maligai,
Saidapet, Chennai - 15.

2.The Additional Principal Chief Conservator of Forests,
Dharmapuri Circle,
Dharmapuri - 5,
Dharmapuri District.

3.The District Forest Officer,
Hosur Forest Division,
Hosur, Krishnagiri District.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the Labour Court dated 27.04.2022 made in I.D.No.01 of 2021 passed by the learned Presiding Officer, Labour Court, Hosur, which was communicated to the petitioner *vide* letter dated



22.07.2022 and quash the same, Consequently direct the respondents to reinstate the petitioner into service and appoint him as Plot Watcher in Supernumerary Post as per the G.O.Ms.95, Forest Department dated 07.08.2009 with all service benefits including continuity to service.

For Petitioner : Mr.M.R.Jothimanian
For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The Writ Petition has been filed challenging the order of the learned Presiding Officer, Labour Court, Hosur, dated 27.04.2022 made in I.D.No.01 of 2021 and direct the respondents to reinstate the petitioner into service and appoint him as Plot Watcher in Supernumerary Post as per the G.O.(Ms.)No.95, Forest Department, dated 07.08.2009 with all service benefits including continuity to service.

2. Heard Mr.M.R.Jothimanian, learned counsel for the petitioner and Mr.S.Rajesh, learned Government Advocate for the respondents and perused the materials available on record.



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3. The petitioner joined as a Social Forestry Worker and was brought into regular time scale of pay as a Supernumerary Plot Watcher. In the year 1994, the Government issued G.O.Ms.No.332, Environment and Forest Department dated 22.12.1994 which states that to hold a regular post of Forest Watcher, one should possess SSLC pass. Aggrieved over the said Government Order, the individuals challenged the same before the Administrative Tribunal in O.A.No.197 of 1995. Thereafter, the Government had restored the old qualification of "ability to read and write" by issuing G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999. The grievance of the petitioner is that he has been making repeated representations in this regard to the respondents. But his claim was not considered at the earliest point of time. Hence, the petitioner has filed this Writ Petition with the above prayer.

4. Mr.M.R.Jothimanian, learned counsel for the petitioner submitted that as per G.O.Ms.No.64 dated 08.03.1999, the minimum qualification for the post of Forest Watcher has been restored to the old qualification of "ability to read and write".



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5. Mr.S.Rajesh, learned Government Advocate for the respondents submitted that the petitioner was not treated on par with his juniors because he did not possess the minimum educational qualification.

6. The one and only contention of the respondents is that as on date when the first Government Order in G.O.Ms.No.332 was issued on 22.12.1994, the petitioner did not have the minimum qualification of pass in SSLC and hence, he was not treated on par with his juniors. The subsequent G.O.Ms.No.64, dated 08.03.1999 which relaxes the educational qualification does not say that the Government Order dated 08.03.1999 has got retrospective effect. Since the petitioner has got the eligibility for promotion only subsequent to G.O.Ms.No.64 dated 08.03.1999, he cannot claim any benefit on par with his juniors who had already been promoted to the post of Forest Watcher in pursuant to the earlier Government Order passed in this regard.

7. But the learned counsel for the petitioner submitted that in such case, the petitioner ought to have been given with the benefit of promotion



as on 08.03.1999 when G.O.Ms.No.64 was issued. Hence, he claims that similarly placed juniors were given with the benefit from 08.03.1999 by virtue of their seniority placed above the persons who were promoted as Forest Watcher after 08.03.1999. The attention of this Court was drawn to G.O.Ms.No.1, Environment and Forest (FR-2-II) Department dated 01.01.2021. The relevant portion of the said Government Order is extracted hereunder:-

"8. The Government after careful examination, have decided to implement the orders of Hon'ble High Courts and accord permission to the Principal Chief Conservator of Forests (Head of Department) as follows:

(i) To regularize the services of 7 persons (Annexure-I) in the above proposals, who have possessed minimum general educational qualification (i.e., SSLC) as Forest Watcher and to fix their pay notionally from the date on which their immediate juniors services were regularized.

(ii) To regularize the services of 71 persons (Annexure-II), who did not possess minimum general educational qualification as Forest Watcher and to fix their pay notionally from the date of issue of G.O.(Ms).No.64, Environment and Forests (FR.2) Department, dated 08.03.1999 i.e., from 08.03.1999.



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(iii) To fix the seniority of 71 persons (Annexure-II) only after 08.03.1999 and to place them above their juniors, who were appointed as Forest Watcher after 08.03.1999, since they were eligible for their appointment as Forest Watcher only after the issue of G.O.Ms.No.64, Environment and Forests (FR.2) Department, dated 08.03.1999 i.e., from 08.03.1999.

(iv) To allow the aforesaid 78 persons (Annexure-I and Annexure-II) to get monetary benefits from the date of issue of orders only and in case of retired individuals, to allow the pensionary benefits notionally from the date of retirement of the individuals.

(v) Not to regularize the services of 32 persons (Annexure-III and Annexure-IV) who are not eligible for regularization as Forest Watcher for various reasons."

8. Since the petitioner was very much in service as on 08.03.1999 and if he is eligible to be fixed over and above the persons who got Forest Watcher promotion after 08.03.1999, the respondent shall consider to re-fix his seniority accordingly and pass appropriate orders.



9. The learned Government Advocate for the respondents submitted that the petitioner's case is affected by delay and laches as he did not approach this Court or given any representation for all these years.

10. But the Government cannot expect each and every person to come to Court and knock doors, when the Government Order has already been issued to any one's benefit. For the type of the case raised by the petitioner, the delay and laches is not applicable because the respondents are bound to follow their own orders. Hence, the respondents are obliged to look into the grievance of the petitioner and pass appropriate orders, if the petitioner is not placed above those persons who have been promoted on 08.03.1999 and who were juniors to him and re-work his seniority.

11. In the result, this Writ Petition is **disposed** and the petitioner is at liberty to give a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to re-work the seniority of the



petitioner and pass appropriate orders within a period of twelve weeks from the date of receipt of such representation. No costs.

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19.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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R.N.MANJULA, J.

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