



W.P. No.23813 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.23813 of 2013

1.K.Raja

2.K.Subramani

... Petitioners

Vs.

1.Government of Tamil Nadu
Rep. by its Secretary to Government
Environment and Forest Department
Fort St. George
Chennai – 600 009.

2.The Principal Chief Conservator of Forest
Panagal Maaligai, Saidapet
Chennai – 600 015.

3.The Divisional Forest Officer
Dharmapuri Modern Nursery
Dharmapuri District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to reinstate the petitioners in to service as Plot Watchers so as to enable them to get regularisation of their service from the date on which they have completed ten years of service on daily wage basis as contemplated under G.O. Ms.No.95, Forest Department dated 07.08.2009 with all consequential service



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and monetary benefits.

For Petitioners : Mr.S.Mani
For Respondents : Mr.S.Rajesh
Government Advocate.

WEB COPY

ORDER

Both the petitioners herein have joined in Agro Forestry Research Division, Salem, as Plot watchers on 01.03.1995 and continued as such till 20.08.2008. Thereafter, they were discharged from service with effect from 21.08.2008 for want of vacancy and work in the unit of Agro Forestry Research Division, Salem. The said Agro Forestry Research Division, Salem, was merged in Dharmapuri Modern Nursery Division with effect from 01.10.2010.

2. While so, the Government issued G.O.Ms.No.64 Environment and Forests Department dated 08.03.1999 for regular appointment of the Village Social Forestry workers and Plot Watcher and directed for preparation of consolidated Statewise seniority list of Plot Watcher/Village Social forestry workers who are employed on daily wages. It was further directed that on preparation of Statewide seniority list of Plot Watchers/Village Social Forestry Workers by the Principal Chief Conservator of Forests, the Plot Watchers and



the Village Social Forestry Workers who are included in the above said Statewide seniority list are directed to be appointed as Forest Watchers and Mali in the vacancies already available in the department and the vacancies that would become available in future, in the order of their seniority, relaxing the rules regarding appointment and age qualification.

3. There is no dispute that both the petitioners herein were working as on the date of issuance of G.O.Ms.No.64 dated 08.03.1999, and they continued in service also for about nine years thereafter. However the names of the petitioners were not included in the Statewide seniority list. But according to the learned counsel for the petitioners, the names of several other persons who were appointed subsequent to the appointment of the petitioners i.e., after 01.03.1995 were included in the Statewide seniority list.

4. It is also necessary to notice that in terms of the said Government order in G.O.Ms.No.64, dated 08.03.1999, the services of several Plot Watchers were made permanent and some of them were left without making them permanent for want of availability of vacancy. Taking into consideration the said situation, the Government issued yet another order in



G.O.Ms.No.95, Environment and Forests (FR2) Department dated 07.08.2009 for absorption of Forest Watcher who were left in the Statewide seniority list as Forest Watchers, Mali, Officer Assistants, Officer Watchman, Bungalow Watchman and Drivers on the basis of their eligibility and seniority in the Statewide seniority list in the posts remaining vacant and in future vacancies and also ordered for creation of supernumerary posts for accommodating persons included in the Statewide seniority list.

5. As seen from the counter affidavit filed by the 3rd respondent, the petitioners have admittedly worked during the period from 01.03.1995 to 20.08.2008 but their names were not included in the seniority list prepared in terms of G.O.Ms.No.64, dated 08.03.1999 and no explanation is furnished in the counter affidavit for not including the names of the petitioner in the State wise seniority list, except stating that their names were not included in the Statewide seniority list.

6. In the light of the above admitted fact situation, this Court is of the considered view that the respondents are not justified in not including the petitioners in Statewide seniority list that was prepared pursuant to



G.O.Ms.No.64. It is because of the said mistake committed by the 2nd respondent in preparing the Statewide seniority list, the petitioners were deprived the benefit of G.O.Ms.No.64 as well as G.O.Ms.No.95 dated 07.08.2009.

7. From a perusal of the materials on record, it is noticed that it is not only the persons who are included in Statewide seniority list prepared under G.O.Ms.No.64 dated 08.03.1999 were absorbed on permanent basis, but also those Plot Watchers who were not included in the Statewide seniority list, but completed ten years of service and also those who have not completed ten years of service were also directed to be regularised by this Court passing various orders including in W.P.No.11405 of 2012 and W.A.No.887 of 2010, etc., and the Government also issued various Government orders implementing the said order such as G.O.(3D) No.02, Environment and Forests (FR.2-II) Department dated 13.01.2021 and G.O.Ms.No.227, Environment, Climate Change and Forests (FR.2-ii) Department, dated 30.12.2022, etc.

8. In the light of the above, this Court is of the considered view that



the action of the 2nd respondent in not including the names of the petitioners in the Statewide seniority list prepared pursuant to G.O.Ms.No.64 dated 08.03.1999 resulting in not absorbing the services of the petitioners on par with other similarly situated persons is highly arbitrary and illegal.

9. In the light of the above, the 2nd respondent is directed to include the name of the petitioners in Statewide seniority list prepared in terms of G.O.Ms.No.64 dated 08.03.1999 at the appropriate place by taking into consideration the initial date of appointment of the petitioners as 01.03.1995 and submit appropriate proposals for absorption of the services of the petitioners on par with the immediate juniors of the petitioners in the said Statewide seniority list to the 1st respondent for passing appropriate orders. On such submission of said proposal, the 1st respondent is directed to pass orders duly absorbing the services of the petitioners on par with immediate juniors and pass appropriate orders as expeditiously as possible. However, it is made clear that, the petitioners are not entitled for any back wages with effect from 21.08.2010 till the date of issuing appropriate orders by the 1st respondent. The 2nd respondent is further directed to comply with this order, as expeditiously as possible at any rate within a period of eight (8) weeks



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from the date of receipt of a copy of this order and submit proposal to the 1st respondent and the 1st respondent is further directed to pass orders as directed above within a further period of eight(8) weeks from the date of submission of proposals by the 2nd respondent.

10. Accordingly, the writ petition is allowed. The connected miscellaneous petitions, if any shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

MUMMINENI SUDHEER KUMAR,J.
dpa

To:

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