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W.P.No.7889 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7889 of 2024

1.S.Gajendran

2.E.Perumal

3.N.Raghavan

...Petitioners

-Vs-

1.The Government of Tamil Nadu
rep. By its Additional Chief Secretary
Environment and Forest Department
Fort St. George, Chennai –600 009.

2.The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy
Chennai – 32.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to regularize the service of the petitioner 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 L.Stephan, Seniority No.4794 and R.Mani, Seniority No.4920 and in the light of the orders passed in W.P.No.15561 of 2006 dated 10.03.2008, W.A.No.690 of 2008 dated



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13.10.2009, W.P.No.23374 of 2008 dated 30.10.2009, W.A.No.607 of 2010 dated 29.03.2010 and proceedings of the 2nd respondent dated 07.01.2011 and order in W.P.No.19020 of 2021 dated 09.09.2021 and in the light of G.O.(2D) No.122, Environment, Climate Change and Forests (FR-2(ii)) Department dated 12.08.2022 and G.O.(2D) No.124 Environment, Climate Change and Forests (FR-2(ii)) Department dated 17.08.2022 and the same was followed order in W.P.No.18476 & etc. Batch of 2023, dated 03.08.2024 and order in W.P.No.1884 of 2024 dated 31.01.2024.

For petitioner : Mr.S.Mani

For respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This writ petition has been filed for direction to the respondents to regularize the service of the petitioner 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 L.Stephan, Seniority No.4794 and R.Mani, Seniority No.4920 and in the light of the orders passed in W.P.No.15561 of 2006 dated 10.03.2008, W.A.No.690 of 2008 dated 13.10.2009, W.P.No.23374 of 2008 dated 30.10.2009, W.A.No.607 of



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2010 dated 29.03.2010 and proceedings of the 2nd respondent dated 07.01.2011 and order in W.P.No.19020 of 2021 dated 09.09.2021 and in the light of G.O.(2D) No.122, Environment, Climate Change and Forests (FR-2(ii)) Department dated 12.08.2022 and G.O.(2D) No.124 Environment, Climate Change and Forests (FR-2(ii)) Department dated 17.08.2022 and the same was followed order in W.P.No.18476 & etc. Batch of 2023, dated 03.08.2024 and order in W.P.No.1884 of 2024 dated 31.01.2024.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioners were initially appointed as Plot Watcher on 10.10.1982 on daily wage basis in the Forest Department. The petitioners were worked as such on daily wage basis for a considerable length of time and the petitioners were brought into regular service after a period of 28 years. The names of the petitioners have also been included in the State Wide Seniority list drawn by the department during the year 1994 and 1999. The petitioners were engaged as Plot Watches on daily wage basis for a



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considerable length of time and only after a period of more than two decades of service, the petitioners were brought into regular time scale of pay as Forest Watcher. Till the year 1994, the qualification for appointment to the post of Plot Watcher is only ability to read and write. However, on 22.12.1994, the Government issued G.O.Ms.No.332, Environment and Forest Department thereby SSLC as minimum General Education Qualification for appointing for bringing into regular time scale. So far as the petitioners are concerned, even though the petitioners given regular time scale of appointment as Forest Watchers even in the year 1995, by virtue of Interim Stay granted by the Tribunal, some of the petitioner could not join the regular post of Forest Watcher. However, some of the persons who got promoted during the same period have joined the regular post of Forest Watcher before the Tribunal could grant Interim Stay and they continue in the regular post to the detriment of the petitioner's.

3.1. The Government issued another order in G.O.Ms.No.64, Environment and Forest Department dated 08.03.1999, whereby G.O.Ms.No.332, Environment and Forest Department dated 22.12.1994 was



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superseded or revoked. Therefore the prescription of SSLC as a qualification for appointment to the post of Plot Watcher is no longer in existence. The petitioners were brought into time scale of pay in the non-cadre post as supernumerary plot watcher and Forest Watcher, on 01.07.2004, 11.05.2017 and 12.05.2017 and further promoted as forest guard in the year 2021 itself. The grievance of the petitioners is that the seniority list drawn by the Department has not been followed in letter and spirit and the service of many persons who are juniors to the petitioners have been regularized and they were given time scale of pay in the cadre post of Forest Watcher. The name of Junior L.Stephan, Seniority No.4794 and R.Mani, Seniority No.4920, the said persons were regularized from the daily wage basis to Forest Watcher on 08.03.1999, even though the petitioners were brought into time scale of pay in the non-cadre post as supernumerary Plot Watcher and Forest Watcher, on 01.07.2004, 11.05.2017 and 12.05.2017 and further promoted as Forest Guard in the year 2021 itself. The grievance of the petitioners is that their juniors' service regularized before 01.04.2003 whereas the petitioners' service has been regularized after 01.04.2003. Therefore, the petitioners were seeking



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retrospective regularization from 24.01.1995. Thus, there is a vast disparity as discrimination in the matter of regularization of service of the petitioners on par with their juniors. In the seniority list drawn by the Department during 1994 and 1999, the name of the petitioners are not included. The petitioners made a representations to the respondents to regularize their service on par with their juniors. However, the same was rejected.

4. Similarly placed persons were filed writ petition before this Court in W.P.No.23374 of 2008, this Court passed an order dated 30.10.2009. The said order was also confirmed by the Hon'ble Division Bench of this Court in W.A.No.607 of 2010 dated 29.03.2010. Whereas, this Court directed the appellants to comply with the order passed by the learned single judge dated 30.10.2009 in W.P.No.23374 of 2008 within a period of four weeks.

5. In similar matters, this Court considered the similar request in W.P.No.18476 of 2023 etc., batch dated 03.08.2023 and held as follows:



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"7. Admittedly, the grievance of the writ petitioner is that he is seeking regularization of service for pensionary benefits. It is the contention of the writ petitioners that similarly persons have been given such benefits as per orders in W.A.No.690 of 2008 and 607 of 2010 dated 13.10.2009 and 29.03.2010 respectively and the 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 of the above Government Order, as the benefit has been extended to similarly placed person. In fact the plot watchers are front line 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 respondents shall extend the benefits as per above Government Orders as it is extended to similarly situated persons."



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6. In view of the above, the respondents are directed to pass appropriate orders in the light of the above order passed in W.P.No.18476 of 2023 etc., batch dated 03.08.2023 as the benefits have been extended to similarly placed persons, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of.

There shall be no order as to costs.

22.03.2024

Index : Yes/No
Speaking/Non-Speaking order
Neutral Citation : Yes/No
gvn



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- 2.The Principal Chief Conservator of Forests,
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