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W.P.No.7985 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.7985 of 2024

W.M.P.No.8957 of 2024

S.Sankeswaran

...Petitioner

-Vs-

1.Government of Tamil Nadu  
rep. By its Additional Chief Secretary,  
Environment and Forest Department,  
Fort St. George, Chennai – 9.

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 Certiorarified Mandamus calling for the entire records which culminated in issuing in Na.Ka.No.Pen1/36171/2019 dated 17.07.2023 on the file of the 2<sup>nd</sup> respondent and quash the same and consequently directing the respondents to regularize the service of petitioner after completion of ten years from date of initial appointment as a Plot Watcher on daily wage basis for the purposes of getting pension and family



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pension in the light of Hon'ble Supreme Court judgement delivered in C.A.No.6798 of 2019 dated 02.09.2019 and order in W.P.No.19023 of 2021 dated 09.09.2022 same was implemented by the Government in G.O.(2D) No.91, Forest Environment, Climate Change and Forest (FR-2(II)) Department dated 30.06.2022 and in the light of order in W.P.Nos.21965 & etc. batch of 2023 dated 03.08.2023 and order in W.P.No.34977 of 2023 dated 23.01.2024 confer all consequential pensionary benefits.

For petitioner : Mr.S.Mani

For respondents : Dr.T.Seenivasan  
Special Government Pleader

### **ORDER**

This writ petition has been filed for challenging the order in Na.Ka.No.Pen1/36171/2019 dated 17.07.2023 on the file of the 2<sup>nd</sup> respondent and quash the same and consequently directing the respondents to regularize the service of petitioner after completion of ten years from date of initial appointment as a Plot Watcher on daily wage basis for the purposes of getting pension and family pension in the light of Hon'ble Supreme Court judgement delivered in C.A.No.6798 of 2019 dated 02.09.2019 and order in W.P.No.19023 of 2021 dated 09.09.2022 same was implemented by the



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Government in G.O.(2D) No.91, Forest Environment, Climate Change and Forest (FR-2(II)) Department dated 30.06.2022 and in the light of order in W.P.Nos.21965 & etc. batch of 2023 dated 03.08.2023 and order in W.P.No.34977 of 2023 dated 23.01.2024 confer all consequential pensionary benefits.

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

3. The petitioner had joined in the Forest Department on daily wage basis on 01.04.1987 as Plot Watcher. As per G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009, the petitioner was brought into regular scale of pay in the service of Plot Watcher (supernumerary post), non-cadre post from 07.08.2009. Subsequently, he was promoted to the post of Forest Watcher. Subsequently, he retired from service due to the attainment of age of superannuation. However, the petitioner did not get any pensionary benefits after his retirement, since his service was regularized only after 01.04.2003 viz., after the cut-off date



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fixed by new pensionary scheme for the purpose of getting pension.

However, his juniors, whose services were regularized before 01.04.2003 are getting pensionary benefits. The respondents did not follow the seniority list in the matters of regularization of service to the employees engaged on daily wage basis. Till 1994, the only qualification for appointment of Plot Watcher is ability to read and write. However, as per G.O.Ms.No.332, Environment and Forest Department dated 22.12.1994, SSLC was prescribed as minimum general educational qualification for bringing into regular time scale of pay from employees like Plot Watcher on daily wage basis. Therefore, so many of them could not be considered for appointment of Forest Watcher, since they did not possess SSLC as a qualification. So many persons approached the Tamilnadu Administrative Tribunal and obtained an interim order. However, in the meanwhile, so many juniors were brought in regular time scale in the post of Forest Watcher, in the year 1995. In order to wriggle out of the said situation G.O.Ms.No.62, Environment and Forest Department dated 08.03.1999 came to be passed, whereby G.O.Ms.No.332, Environment and Forest Department dated 22.12.1994 was superseded and revoked. Therefore, the prescription of SSLC qualification



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for appointment of Forest Watcher promoted from Plot Watcher and Social Forestry workers engaged on daily wage basis, is no longer in existence.

4. Therefore, the petitioner submitted detailed representation. Pursuant to the G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009, the petitioner was brought under regular time scale of pay in the non-cadre post of Plot Watcher (supernumerary) from 07.08.2009. Thereafter, the petitioner retired from service, due to his attainment of age of superannuation. Since his service was regularized only after 01.04.2003, he was not granted any pension.

5. In similar issues, the Hon'ble Supreme Court of India in the case of ***Prem Singh vs State of Uttar Pradesh and others*** in ***C.A.No.6798 of 2019 dated 02.09.2019***, held as follows:

*"35. There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized*



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*under the Government instructions and even as per the decision of this Court in Secretary, State of Karnataka & Ors. Vs Uma Devi 2006 (4) SCC 1. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of regularization as others have been regularized, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension."*

6. Thus, it is clear that the petitioner is also entitled to be regularized in his service from the date on which he completes ten years of service as Plot Watcher for the purpose of getting pension.



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7. In view of the above, the impugned order dated 17.07.2023 cannot be sustained and is liable to be quashed. Accordingly, G.O.(2D).No.146, Environment Climate Change And Forests (FR.2ii) Department dated 26.06.2023, is hereby quashed. The respondents are directed to consider the case of the petitioner and pass orders on merits and in accordance with law, in the light of the judgement delivered in C.A.No.6798 of 2019 dated 02.09.2019 and the order passed in W.P.No.19023 of 2021 dated 09.09.2021, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. There shall be no order as to costs.

22.03.2024

Index : Yes/No  
Speaking/Non-speaking order  
Neutral Citation : Yes/No  
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**G.K.ILANTHIRAIYAN,J.**  
gvn

To

1. Government of Tamil Nadu  
rep. By its Additional Chief Secretary,  
Environment and Forest Department,  
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2. The Principal Chief Conservator of Forests,  
(Head of Forest Force)  
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