



W.P.No.18079 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 19.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P.No.18079 of 2019

M.Karunanidhi ... Petitioner
Vs

1.The State of Tamil Nadu
Rep., by its Secretary to Government,
Environment and Forest Department,
Fort.St.George, Chennai – 9.

2.The Principal Chief Conservator of Forest,
And Head of Forest Force,
Panagal Building, Saidapet,
Chennai - 15.

3.The Wild Life Warden, Hosur Division, Krishnagiri Circle.	...	Respondents
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PRAYER: The writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records of the third respondent in Na.Ka.No.5900/2018/pal dated 29.10.2018 and to quash the same with consequential direction to include the petitioner's name in the statewide seniority list and to regularize his service in the Supernumerary post of Plot Watcher as per



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G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009 and G.O.Ms.No.202, Environment and Forest (FR-2) Department, dated 18.12.2013 with all consequential benefits.

For Petitioner ... Mr.K.Jenitha

For Respondents ... Mr.R.Neelakandan,
Additional Advocate General
Assisted by Mr.S.Rajesh
Government Advocate

ORDER

The writ petition has been filed for issuance of a writ of Certiorarified Mandamus to call for the records of the third respondent in Na.Ka.No.5900/2018/pal dated 29.10.2018 and to quash the same with consequential direction to include the petitioner's name in the statewide seniority list and to regularize his service in the Supernumerary post of Plot Watcher as per G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009 and G.O.Ms.No.202, Environment and Forest (FR-2) Department, dated 18.12.2013 with all consequential benefits.

2.The case of the petitioner is that the petitioner was working as Plot Watcher in the Denkanikottak Forest Range and his initial



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appointment was on 01.09.1997. From the date of his appointment, he was continuously working in the same range and rendered 22 years of service. The first respondent has issued a G.O.Ms.No.64, Environment and Forests Department, dated 08.03.1999 for preparation of State wide seniority list of Plot Watchers/Social Forestry Workers for the purpose of regularization of service according to seniority. Thereafter, the Government issued G.O.(D).No.95, Environment and Forests Department, dated 07.08.2009 for regularizing the service. As per the above G.O., the services of Social Forestry Workers/Plot Watchers, whose names were included in the State Wide Seniority List, have been regularized and 3058 Plot Watchers were brought under the time scale of pay in a Supernumerary Post. But, the order dated 25.06.2010 of the third respondent has not been implemented so far by issuing a posting order. But the other persons included in the order dated 25.06.2010 have been issued with separate posting orders.

2.1. In view of the abovesaid facts, the petitioner filed a writ petition in W.P.No.30416 of 2013 by seeking an order of Mandamus and the same was disposed of by this Court by order dated 04.12.2013



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directing the respondents to consider the representation of the petitioner for bringing him into the regular time scale of pay. After receipt of the order, the petitioner made representation to the third respondent but it was not considered. Again, he made representation on 24.08.2018 to consider his claim for service regularization. But the third respondent, without considering the same, rejected his claim on 29.10.2018 stating that he was paid wages under Village Forest Contractor account for four years and that periods will not be taken into account as service period. Aggrieved by the same, this writ petition has been filed.

3.A Counter Affidavit has been filed. It is averred in the Counter Affidavit that the petitioner has not filed any genuine certificate to prove that the petitioner had worked more than 10 years continuously. As such, he is not entitled to include in the State wide seniority list as per orders issued in G.O.Ms.No.64, Environment and Forest (FR.2) Department, dated 08.03.1999 and only those daily wages employees, who worked continuously for 10 years as on 01.01.2006 alone, are to be regularised and absorbed under regular time scale of pay as per G.O(D).No.95, Environment and Forests Department, dated 07.08.2019.



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4.On perusal of the averments of the Additional Counter Affidavit filed by the respondent, it appears that the petitioner had served as a daily wages Plot Watcher for Nine years and Seven months, as such, it appears there is shortage of five months only for completion of ten years on qualified service.

5.At this stage, the learned counsel appearing for the petitioner placing reliance on the order of a learned Single Judge of this Court passed *on 20.09.2023 in W.P.No.9274 of 2021 (M.Dhanaraj Vs. Government of Tamil Nadu, Rep.by its Secretary and two others)* and would submit that the State Government passed orders in an identical circumstances by relaxing the relevant Rules in exercise of the power conferred under Section 58 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the same benefit was not extended to the petitioner. The learned counsel also placed a copy of the said order for perusal of the Court.



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6. On perusal of the said order, it appears that the respondents on several occasions regularised the service of the similarly situated persons by relaxing the relevant Rules to do substantial justice to them. The relevant para in the said order is extracted hereinunder for proper adjudication of this case.

“ 17. From the above facts, it is crystal clear and evident that the Government has regularized the many similar persons like the petitioner herein, who worked as daily wage drivers as drivers after the completion of 10 years of service by relaxing the age and other qualifications, by exercising the power under Section 27 and Section 58 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. But, in the case of the petitioner, his request for regularisation was rejected, from which, it shows that this is a clear case of discrimination and the same is in violation of Article 14 & 21 of the Constitution of India. In the case of regularization, some of the similarly placed persons were also not sponsored by the Employment Exchange, but, however, they were all regularized by relaxing the rules mentioned supra. The same principle and yardstick has to be applied to the petitioner in the instant case. Hence,



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this Court is of the considered view that the order passed by the first respondent dated 04.12.2010 is liable to be quashed and the same is hereby quashed.”

7.In the said order, this court categorically held that relaxing the age and other qualifications for similarly situated daily wages employees by exercising the power under Section 27 and Section 58 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, but rejecting the case of the petitioner therein amounts to discrimination and it is in violation of Article 14 & 21 of the Constitution of India.

8.In the present case also, the respondents, without following the same procedure to extend the benefit of relaxation of the relevant rules to regularise the service of the petitioner and rejecting the claim of the petitioner is to be treated as discriminatory.

9.Accordingly, by following the order stated supra, this Court is of the considered opinion that the impugned order passed by the first respondent dated 29.10.2018 is liable to be quashed.



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10. For the reasons stated above, this writ petition is allowed with the following directions:

1. The first respondent is directed to regularise the petitioner's service from the date of his initial appointment on 01.09.1997 and

2. To pay all monetary and other service benefits within a period of eight weeks from the date of receipt of a copy of this order.

Internet: Yes/No

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Index: Yes/No

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