



W.P.No.18822 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.18822 of 2023

A.Govindaraj

...Petitioner

-Vs -

1. The Government of Tamilnadu,
Rep. by its Principal Secretary to Government,
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 – 015.
3. Wild Life Warden,
Gulf Marine Life Archive,
Ramanathapuram,
Ramanad District.
4. The Accountant General of Tamilnadu,
Teynampet,
Chennai – 600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 to 4 to implement the first respondent order in Government letter No.8496/FR2(II)/2018-3, dated 27.09.2018 to pay monetary benefits



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from the date of joining as forest watcher from 01.01.2014 till 27.09.2018 and Tamilnadu Fundamental Rule 27(17) and light of the order passed by this Court in W.P.No.35091/2022 dated 03.01.2023 by considering the representation dated 23.09.2022.

For Petitioner : Mr.S.Mani

For Respondents

For R1 to R3 : Mr.S.Rajesh
Government Advocate

For R4 : Mr.P.Mano Rajan

ORDER

This writ petition has been filed for direction to direct the respondents 2 to 4 to implement the order dated 27.09.2018, passed by the first respondent to pay monetary benefits to the petitioner from the date of joining as forest watcher from 01.01.2014 till 27.09.2018

2. The petitioner and others had employed in the forest department as Plot Watcher/Forest Guard. Prior to regularization of their service, they were engaged on daily wage basis. Thereafter, they were brought into regular time scale of pay of Forest Watcher, which is a cadre post. Therefore, they approached this Court and as directed by this Court the petitioner's service was regularized as Forest Watcher on 01.01.2014.



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3. The specific case of the petitioner is that he had joined in the forest department on 04.09.1985 on daily wages. The petitioner and his juniors were included in the State wide seniority list drawn by the department by taking note of their date of joining in service on daily basis for bringing them into regular scale of pay of Forest Watcher. However, the seniority list was not maintained properly and the services of their juniors have been regularized on 24.01.1995. Therefore, the petitioner and others submitted representation and it was not considered as such, they were constrained to approach this Court in W.P.No.37631 of 2016, and the same was allowed by this Court and directed to regularize their services on par with juniors.

4. As directed by this Court, the government issued order vide letter No.8496/FR.2-II/2018-3 dated 27.09.2018, thereby regularized the petitioner and others services notionally from 24.01.1995 however granted monetary benefits from the date of issue of the order. It is contrary to the fundamental rules and they are entitled to get monetary benefits with effect from the date of joining as Forest Watcher as per F.R. 27(17) of the Tamil Nadu Fundamental Rules. It is relevant to extract the F.R. 27(17) of the Tamil Nadu Fundamental Rules, as follows:-



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"In case, where a government servant has been overlooked for promotion/appointment to the next higher post but subsequently promoted/appointed to that higher post after restoration of his original seniority on appeal, his pay shall be fixed on the date of assumption of charge in the higher post on par with the pay of his junior provided he has not drawn the same rate of pay as junior in the lower post from time to time. If he has not drawn the same rate of pay as his junior in the lower post, his pay shall be fixed, on the date assumption of charge, at the stage at which he would have drawn pay on that date had he been promoted/appointed to the higher post along with his junior. In cases where seniority has been restored on or after 19th September 1981, arrears of pay and allowance consequent of pay shall be admissible with effect from the date of assumption of charge in the higher post in cases where seniority has been restored prior to 19th September 1981 arrears shall be admissible only with effect from the above date."

Hence, the present writ petition.



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5. The learned Government Advocate appearing for the respondents submitted that the Rule 27(17) of the Tamil Nadu Fundamental Rules, is not applicable to the case of the petitioner. The petitioner is not entitled for monetary benefits from the date of his notional regularization in the cadre of Forest Watcher. The petitioner's date of regularization will be counted for the purpose of pension and other benefits only. Admittedly, the petitioner had not been discharged his duty as Forest Watcher from the date on which he notionally regularized as Forest Watcher. Only from the date of his joining as Forest Watcher, he discharged his duty as Forest Watcher. Therefore, F.R.27(17) cannot be pressed into service in this case.

6. Heard, the learned counsel appearing on either side and perused the materials placed before this Court.

7. On perusal of records revealed that the petitioner is seeking monetary benefits only from the date of his joining as Forest Watcher, as per F.R.27(17) of the Tamil Nadu Fundamental Rules and G.O(2D).No.124, Environment, Climate Change and Forests (F.R2(ii)) Department dated 17.08.2022. In fact, the seniority has already been



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fixed and the petitioner's service was duly regularized on par with his juniors. Therefore, he is entitled for monetary benefits from the date of his joining as Forest Watcher.

8. In view of the above, the respondents are directed to pay monetary benefits to the petitioner from the date of his joining as Forest Watcher viz., from 01.01.2014 till 27.09.2018, within a period of two weeks from the date of receipt of a copy of this Order. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs.

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

rts



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WEB COPY To

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Government of Tamilnadu,
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(Head of Forest Force)
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G.K.ILANTHIRAIYAN. J,

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