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W.P.No.18999 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM:

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

W.P.No.18999 of 2024

D.Moorthy

...Petitioner

-Vs-

1.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- 600 032.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to regularize the service of the petitioner after completion of ten years from the date of initial appointment as a Forest Watcher notionally in the cadre of Plot Watcher on daily wage basis for the purpose of getting pension in the light of the Hon'ble Supreme Court Judgment delivered in C.A No.6798 of 2019 dated 02.09.2019 and order in W.P No.19023 of 2021 dated 09.09.2021 same was implemented by the government in G.O.2(D) No.91, Environment, Climate Change and Forests [FR.2(II)] Department dated 30.06.2022 and order in W.P.No.21965 & etc. batch of 2023 dated 03.08.2023 and order in W.P.No.34979 of 2023 dated



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23.01.2024 confer all consequential pensionary benefits.

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For Petitioner : Mr.S.Mani

For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed for a direction directing the respondents to regularize the service of the petitioner after completion of ten years from the date of initial appointment as a Forest Watcher notionally in the cadre of Plot Watcher on daily wage basis for the purpose of getting pension in the light of the Hon'ble Supreme Court Judgment delivered in C.A No.6798 of 2019 dated 02.09.2019 and order in W.P No.19023 of 2021 dated 09.09.2021 same was implemented by the government in G.O.2(D) No.91, Environment, Climate Change and Forests [FR.2(II)] Department dated 30.06.2022 and order in W.P.No.21965 & etc. batch of 2023 dated 03.08.2023 and order in W.P.No.34979 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



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wage basis, on 02.02.1988. As per G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009, the petitioner was brought in regular time scale of pay in the service of Plot Watcher (supernumerary), non-cadre post from 07.08.2009. Subsequently, he was promoted as a Forest Watcher (Supernumerary post) in the cadre post on 23.12.2019. Subsequently, due to the attainment of age of superannuation, he retired from service on 31.03.2024. 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 fixed by new pensionary scheme for purpose of getting pension. However, his juniors, whose service 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 Tamil Nadu Administrative Tribunal and obtained an interim order. However, in the



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

4. Pursuant to 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. Hence, this writ petition.

5. The learned Special Government Pleader appearing for the respondents submitted that since, the number of Social Forestry Workers/Plot Watchers who were waiting for regular appointment was nearly 3000 but, the sanctioned posts are very meager in number in the department, the Government as a benevolent measure took a policy decision and issued order in G.O.Ms.No.95, Environment and Forest (FR.2) Department, dated 07.08.2009



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to regularise the service of the persons in the State Wide Seniority List who have completed ten years of service in the department as Supernumerary Plot Watcher with a special time scale of pay.

6. Accordingly, all the remaining Plot Watchers in SWSL were regularised in one go by G.O.Ms.95, Environment, Climate Change and Forests (FR2(ii)) Department dated 07.08.2009. All the Plot Watcher/Village Social Forestry Workers accepted this and joined duty as Supernumerary Plot Watchers and promoted to various posts such as Forest Watcher, Mali, Night Watch Man, etc based on their seniority. Since, the pensionary benefits were stopped from 01.04.2003 as per pension policy, those who are regularised on 07.08.2009 are not eligible for pensionary benefits. Hence, all the Plot Watcher/Village Social Forestry Worker are filling cases requesting to make them on par with reference to the juniors to them who were appointed during 1995 by virtue of possession of minimum general educational qualification (i.e.S.S.L.C). This retrospective seniority enables them to get pensionary benefits if they are regularised on a prior date. Many Court orders were received stating that they should be treated in similar manner and when similar persons are getting pensionary benefits the litigants are also eligible for the same. Those persons who were appointed as Forest Watcher on 1995 are not included in the seniority list. The 171 persons who joined during 1995 are far



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more senior to the persons included in the SWSL drawn during 1999. No persons among the 171 persons have been included in the SWSL and this fact is brought to kind notice to enlighten that the persons quoted as juniors are not strictly juniors in right sense.

7. The learned Special Government Pleader relied upon the Judgment of this Court in W.P.No.(MD) No.21389 of 2015 dated 4.12.2020 in the case of A.Kasim Vs. Government of Tamil Nadu by its Additional Chief Secretary to Government, wherein it is held as follows :

“Para 4. This part, there were 5442 plot watchers in the seniority list, as per G.O.Ms.No.65, Environment and Forests (FR.2) Department, dated 08.03.1999. All these plot watchers were appointed in the regular post subject to their qualification and as and when the vacancies arose. The implication of the seniority is with reference to all the 5442 persons. Thus, such belated claim of re-fixation of seniority is entertained after lapse of many years. This would have larger repercussions and the settled seniority cannot be unsettled after many years and this part based on the state wide seniority list and based on the availability of vacancies, the plot watchers was regularly absorbed in the sanctioned post and retired from service”.

8. 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**



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dated 02.09.2019, held as follows:-

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“ 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 under the Government instructions and even as per the decision of this Court in *Secretary, State of Karnataka & Ors. v. 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 regularisation as others have been regularised, 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.”

9. 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



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service as Plot Watcher for the purpose of getting pension. Therefore, the petitioner made a representation and the same was not considered.

10. In view of the above, the respondents are directed to consider the representation of the petitioner and pass orders on merits and in accordance with law, in the light of the judgment 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 and the Government order in G.O.2(D) No.91, Forest Environment, Climate Change and Forest [FR.2(II)] Department dated 30.06.2022 and the order passed in W.P.No.21965 & etc. batch of 2023 dated 03.08.2023 and the order passed in W.P.No.34979 of 2023 dated 23.01.2024, within a period of twelve weeks from the date of receipt of a copy of this order.

11. In the result, this writ petition stands disposed of. There shall be no order as to costs.

10.07.2024
(4/5)

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

1.The Additional Chief Secretary
Environment and Forest Department,
Fort St.George, Chennai-600 009.



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2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velachery Main Road, Guindy,
Chennai- 600 032.

G.K.ILANTHIRAIYAN. J.

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