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W.P.No. 19240 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM:

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

W.P.No. 19240 of 2024

and

W.M.P.No.21100 of 2024

1.R.Kathirvel

2.A.Krishnamoorthy

...Petitioners

-Vs -

1. The Government of Tamilnadu,

Rep. by its Additional Chief Secretary to Government,
Environment, Climate Change and Forest S(FR2(ii)) 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 praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in issuing the Government G.O.(2D) No.134, Environment, Climate Change and Forests (FR.2(ii)) Department dated 16.06.2023 on the file of the first respondent and quash the same in so far as denial of monetary benefits is concerned and directing the first respondent to pay monetary benefits from date of joining as forest watcher from 20.12.2004 (1st Petitioner) & 28.03.2012 (2nd Petitioner) till



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16.06.2023 as per Tamil Nadu Fundamental Rule 27(17) and light of the order passed by this Court in W.P.No.23478 of 2023 dated 27.03.2024.

For Petitioner : Mr.S.Mani

For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 16.06.2023, thereby rejected the request made by the petitioners seeking monetary benefits from the date of their joining as Forest Watcher.

2. The petitioners had employed in the forest department as Forest Watcher. 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 and their service was regularized as Forest Watcher on 20.12.2004 and 28.03.2012.

3. The specific case of the petitioners is that they had joined in the forest department on daily wages. The petitioners 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



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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 petitioners submitted representation and it was not considered as such, the petitioners constrained to approach this Court in W.P.No.20669 of 2019, and the same was allowed by this Court by an order dated 13.11.2019 and directed to regularize their service on par with juniors.

4. As directed by this Court, the government issued G.O.(2D) No.134, Environment, Climate Change and Forests (FR.2(ii)) Department, dated 16.06.2023, thereby regularized the service of the petitioner notionally from 24.01.1995 and monetary benefits were granted 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:-

"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,



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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."

5. Therefore, the petitioners submitted a representation and the same was not considered. Hence, the petitioners approached this Court with the present writ petition.

6. 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 petitioners. The petitioners are not entitled for monetary benefits from the date of his



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notional regularization in the cadre of Forest Watcher. The petitioners' date of regularization will be counted for the purpose of pension and other benefits only. Admittedly, the petitioners had not been discharged their duty as Forest Watcher from the date on which they notionally regularized as Forest Watcher. Only from the date of their joining as Forest Watcher, they discharged their duty as Forest Watcher. Therefore, F.R.27(17) cannot be pressed into service in this case.

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

8. On perusal of records revealed that the petitioners are seeking monetary benefits only from the date of their 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 fixed and the petitioners service was duly regularized on par with their juniors. Therefore, they are entitled for monetary benefits from the date of their joining as Forest Watcher.

9. In view of the above, the impugned order cannot be sustained and it is liable to be quashed. Accordingly, the order dated



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16.06.2023, passed by the first respondent in G.O.(2D) No.134, Environment, Climate Change and Forests (FR.2(ii)) Department is hereby quashed. The petitioners are entitled for monetary benefits only from the date of their joining as Forest Watcher. The respondents are directed to pay monetary benefits to the petitioners from the date of their joining as Forest Watcher viz., from 20.12.2004 till 16.06.2023 and 28.03.2012 to 16.06.2023, within a period of twelve weeks from the date of receipt of a copy of this Order.

10. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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

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To

1. The Additional Chief Secretary to Government,
Environment, Climate Change and Forest S(FR2(ii)) 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,
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