



W.P.No.23478 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.23478 of 2023
and W.M.P.No.22993 of 2023

R.M.Koneri

...Petitioner

-Vs -

1. The Principal Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai -9.
2. The Government of Tamilnadu,
Rep. by its Additional Chief Secretary
to Government,
Environment, Climate Change and
Forest Department,
Fort St. George, Chennai – 600 009.
3. The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy,
Chennai – 015.
4. The District Forest Officer,
Trichy and District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records order passed by the first respondent in Letter



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No.4059/FR2(II)/2017-3 dated 16.08.2017, insofar as the monetary benefits from date issue of this letter is concerned and consequential order passed by the second respondent in G.O.(2D).No.125, Environment, Climate Change and Forests (FR.2.ii) Department, dated 30.05.2023 and quash the same and further direction directing the first to third respondents to pay monetary benefits from date of joining as forest watcher from 14.06.2013 till 15.08.2017 as per this Court Order in W.P.No.37630 of 2016 dated 26.10.2016 and Tamilnadu Fundamental Rule 27(17).

For Petitioner : Mr.S.Mani

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 16.08.2017 and consequential order passed by the second respondent dated 30.05.2023, thereby rejected the request made by the petitioner seeking monetary benefits from the date of his joining as Forest Watcher.

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



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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 services was regularized as Forest Watcher on 14.06.2013.

3. The specific case of the petitioner is that he has 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.37630 of 2016, and the same was allowed by this Court by an order dated 06.11.2019 and directed to regularize their services on par with juniors.

4. As directed by this Court, the government issued order vide letter No.4059/FR(II)/2017-3, dated 16.08.2017, thereby regularized the



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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:-

"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



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*seniority has been restored prior to 19th September 1981
arrears shall be admissible only with effect from the
above date."*

5. However, it was not considered and as such, the petitioner and others submitted representation and the same was also not considered. Once again the petitioner and others filed writ petition in W.P.No.35091 of 2022, before this Court and this Court by an order dated 03.01.2023, directed the respondents to consider the representation and pass orders. However, it was rejected by the impugned order dated 30.05.2023 by the second respondent.

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 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



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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.

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 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 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.

9. In view of the above, the impugned order cannot be sustained and it is liable to be quashed. Accordingly, the order dated 16.08.2017, passed by the first respondent in Letter



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No.4059/FR2(II)/2017-3 and the consequential order passed by the second respondent in G.O.(2D).No.125, Environment, Climate Change and Forests (FR.2.ii) Department, dated 30.05.2023 are hereby quashed. The petitioner is entitled for monetary benefits only from the date of his joining as Forest Watcher. The respondents 1 & 2 are directed to pay monetary benefits to the petitioner from the date of his joining as Forest Watcher viz., 14.06.2013 till 15.08.2017, 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

rts



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G.K.ILANTHIRAIYAN. J.

rts

To

1. The Principal Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai -9.
2. The Additional Chief Secretary
to Government,
Government of Tamilnadu,
Environment, Climate Change and
Forest Department,
Fort St. George, Chennai – 600 009.
3. The Principal Chief Conservator of Forests,
(Head of Forest Force)
Velachery Main Road, Guindy,
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