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W.P.No.23251 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.23251 of 2023
and W.M.P.No.22789 of 2023

R.Mani

...Petitioner

-Vs -

1. The Government of Tamilnadu,
Rep. by its Additional Chief Secretary
to Government,
Environment, Climate Change 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. The District Forest Officer,
Villupuram 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 G.O.(2D). No.109 Environment, Climate Change and Forests (FR.2(ii)) Department dated 15.05.2023 and quash the same and further direction directing the first and second respondents to pay monetary benefits from the date of joining



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as forest watcher 26.06.2014 till 17.08.2022 to the petitioner as per Tamilnadu Fundamental Rule 27(17) and G.O.(2D).No.124, Environment, Climate Change and Forests (FR.2(ii)) Department, dated 17.08.2022.

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 15.05.2023, 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 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 26.06.2014.



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3. The specific case of the petitioner is that he has joined as Plot Watcher in the forest department on 01.12.1986 on daily wages. The petitioner and their 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.31208 of 2019 etc., 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 in G.O(2D)No.124, Environment, Climate Change and Forests (FR.2(ii)) Department, dated 17.08.2022, thereby regularized the petitioner and others services notionally and also granted monetary benefits as per Rule 27(17) of the Tamilnadu Fundamental Rules. Accordingly, they are entitled to get monetary benefits with effect from the date of joining as



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



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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.1140 of 2023, before this Court and this Court by an order dated 12.01.2023, directed the respondents to consider the representation and pass orders. However, it was rejected by the impugned order dated 15.05.2023 by the first respondent.

6. On perusal of the counter affidavit filed by the second respondent and on the submission made by the learned Government Advocate appearing for the respondents revealed 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 their duty as Forest Watcher from the date on which they notionally regularized as Forest Watcher. Only from the date of their



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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 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 15.05.2023, passed by the first respondent in G.O.(2D).No.109 Environment, Climate Change and Forests (FR.2(ii)) Department, is



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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., 26.06.2014 till 17.08.2022, 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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G.K.ILANTHIRAIYAN. J.

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To

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