



W.P.No.25975 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 26.06.2024**

**CORAM :**

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.25975 of 2022  
and W.M.P.No.25070 of 2022

1.V.Palanisamy  
2.K.Malaiyandi  
3.S.Manipandi

.. **Petitioners**

**Vs.**

1.The State of Tamil Nadu  
Rep.by its Secretary to Government  
Environment and Forest Department  
Fort St.George  
Chennai.

2.The Principal Chief Conservator of Forest  
Panagal Building  
Saidapet, Chennai – 15.

.. **Respondents**

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the 1<sup>st</sup> respondent in Letter No.6012/FR.2(ii)/2020-4, dated 26.10.2021 and quash the same with consequential direction to the respondents to fix our seniority



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on par with our juniors with effect from 24.01.1995 and also to fix the pay with all consequential benefits within time frame.

For the Petitioners : Ms.K.Jenitha

For the Respondents : Dr.T.Sreenivasan  
Special Government Pleader

### **ORDER**

This Writ Petition is filed challenging the impugned order dated 26.10.2021 and consequently fix the seniority of the petitioners on par with their juniors, with effect from 24.01.1995 and also fix the pay with all consequential benefits within a time frame.

2. The facts which are relevant to the disposal of the present Writ Petition is that the petitioners were engaged as a Plot Watchers on daily wage basis with effect from 01.10.1985, 12.12.1983 and 01.05.1981. Thereafter, they were appointed in the Supernumerary Plot Watcher with effect from 07.08.2009. Finally, the petitioners were absorbed in the post of Forest Watchers with effect from 10.06.2013, 19.11.2010 and 22.10.2003



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and accordingly, the petitioners were fit into the regular scale of pay only with effect from the said date and their services were treated as regular only from that date.

3. The grievance of the petitioners is that in respect of the similarly situated persons, they have been fit into the regular scale of pay with effect from their initial date of appointment. However, when the petitioners prayed for the same, the same was not considered. Therefore, the petitioners approached this Court by way of W.P.Nos.4792, 4793 and 4795 of 2019 and this Court by an order dated 08.02.2020 directed the respondents therein to consider the limited relief by taking into account the earlier orders passed by this Court and pass orders thereon within a period of six weeks there from. Pursuant thereto, the impugned order was passed, rejecting the claim of the petitioners and hence the present Writ Petition.

4. The Writ Petition was resisted by filing a detailed counter affidavit by the respondents. The case of the respondents is that the petitioners cannot seek seniority or scale of pay on par with other juniors, because they did not



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possess the minimum general educational qualification required to be appointed in the Government Services. Therefore, the petitioners cannot claim parity with other juniors, that is those who are appointed on 24.01.1995.

5. Heard, *Ms.K.Jenitha*, the learned counsel appearing on behalf of the petitioners; *Dr.T.Sreenivasan*, the learned Special Government Pleader appearing on behalf of the respondents.

6. The learned counsel appearing on behalf of the petitioners would draw attention of this Court to paragraph No.9 of the impugned order to point out that the only ground which is mentioned in the impugned order is that the petitioner did not possess the 10<sup>th</sup> standard, which is the minimum general educational qualification. However, she would submit that similarly placed daily wage employees who were subsequently fit into the scale of pay / appointed were given the benefit from their initial date of appointment. In that many of them also did not possess the minimum general educational qualification of 10<sup>th</sup> standard.



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7. She would further draw the attention of this Court to the order dated 14.05.2018, in which total number of 40 persons were regularised in service from the date of appointment of their juniors. In several cases, who were granted the benefit of Forest Watcher with effect from 24.01.1995, inspite of the fact that they possess the educational qualification such as 5<sup>th</sup> or 6<sup>th</sup> standard etc. Similarly, she would point out another order dated 27.09.2018 in which also, the said benefit was extended in respect of about 166 persons, the majority of whom did not have the minimum general educational qualification of 10<sup>th</sup> standard.

8. The learned counsel for the petitioners further placed her arguments by pointing out the G.O.(Ms) No.1, Environment and Forests (FR.2-II) Department, dated 01.01.2021, whereunder the Government had considered the issue once again in detail. In the said G.O., the Government finally noted that by virtue of G.O. (Ms). No.64, Environment and Forests (FR.2) Department, dated 08.03.1999, relaxation of possession of minimum general educational qualification was granted with effect from 08.03.1999 and



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therefore ordered regularisation from the said date. However, the petitioners in the instant case were not granted the said benefit also.

9. Per contra, *Dr T.Sreenivasan*, learned Special Government Pleader would submit that as far as the earlier orders which are pointed out is concerned, there were positive directions from this Court to grant them regularisation with reference to the particular date and accordingly, the orders were complied. In the case of the petitioners, their case was directed to be considered in accordance with law. Therefore, when the case of the petitioners were being considered as per law, these Writ Petitions are filed.

10. I have considered the rival submissions made on either side and perused the material records of the case. Paragraph Nos.9, 10 and 11 of the impugned order is extracted hereunder:-

“9. The Government have examined the proposal of the Principal Chief Conservator of Forests and have decided that claim of the petitioners Tvl. V. Palanisamy, K.Malaiyandi and S. Manipandi to regularize their services as Forest Watcher from 24.01.1995 cannot be conceded to the following reasons:-

(i) When the proposal was



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considered while issuing of G.O.(Ms) No.332 Environment and Forests Department, dated 22.12.1994, the petitioners did not possess minimum general educational qualification.

(ii) The qualification of ability to read and write in Tamil prescribed in G.O. (Ms). No.64. Environment and Forests Department, dated 08.03.1999 and Rule 5 of Special Rules in respect of Forest Watcher with effect from 08.03.1999 only and not from the year 1995.

(iii) The petitioner in W.P.No. 15561/2006, W.P No.23374 of 2008 and juniors cited by the petitioners are not similarly placed persons because of non-possession of minimum general educational qualification by the petitioners.

10. The Government after careful examination have decided to implement the orders of the Hon'ble High court of Madras in various Writ Petitions filed by Tvl. V. Palanisamy and 2 others and permit the Principal Chief Conservator of Forests to regularize the services of Tvl. V. Palanisamy (4346), K. Malaiyand? (3213) and S Manipandi (1378) as Forest Watcher on par with their junior mentioned in the Annexure and to fix the pay as per Rule 27(17) of the fundamental rules of the Tamil Nadu Government.

11. I am therefore request you to take necessary action in time bound manner and to issue necessary orders in this regard and send your report to the Government for record”

11. Even though non possession of minimum general educational qualification was considered by the respondents, ultimately in paragraph



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Nos.10 and 11 of the impugned order dated 26.10.2021, the relief was not denied to the petitioners. However, in the service details annexed to the petitioners, the petitioners were not recommended to be regularised from the particular date. Therefore, the petitioners have approached this Court.

12. On a perusal of the earlier orders, as rightly pointed out by the learned Special Government Pleader, in respect of first two instances, it can be seen that there are positive orders in favour of the said petitioners to regularise their services from their date of initial appointment and therefore, the said order was implemented. As far as the petitioners' case is concerned, this Court directed the respondents to consider the cases in the light of the earlier orders passed. Even considering from the said angle, it can be seen that the post in which the petitioners were all appointed was Forest Watcher. They have to go inside the forest and do their duty. Considering the said nature of work and duties to be performed by them, the Government had issued G.O. (Ms). No.64, dated 08.03.1999, relaxing the minimum general educational qualification. By considering the said Government Order, when the matter was considered earlier in respect of the similarly situated persons



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in G.O.(Ms) No.1 dated 01.01.2021, the candidates were divided into two. The persons who had the minimum educational qualification were directed to be regularised from their initial date of appointment. Whereas, in respect of 71 persons, who did not possess the minimum general educational qualification, directions were given to fix their pay notionally from the date of issuance of Government Order, ie., with effect from 08.03.1999. Therefore, there is no reason for the respondents to take a departure from the said Government Order. In the said G.O., 71, persons were given the benefit. Thus, keeping the petitioners alone at bay and not passing any orders granting the said benefit as mentioned in G.O.(MS) No.1 dated 01.01.2021 is discriminatory.

13. Therefore, the petitioners are entitled to succeed and the Writ Petition is disposed of on the following terms:-

(i) The petitioners shall also be extended the same benefit as in G.O.(Ms)No.1 dated 01.01.2021, i.e., regularise the services of the petitioners, who did not possess the minimum educational qualification as Forest Watcher and fix their pay from the date of issuance of the G.O. (Ms).



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No.64, Environment and Forests (FR.2) Department, dated 08.03.1999, i.e., with effect from 08.03.1999. The consequential benefits, viz., fixation of pay, seniority, etc., shall be done in accordance with law. However, the petitioners will be entitled for the arrears only from date of this Order;

(ii) The said exercise shall be carried on within a period of four weeks from the date of receipt of a copy of this order;

(iii) No costs. Consequently connected miscellaneous petition is closed.

26.06.2024

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Neutral Citation : Yes

To

1.The Secretary to Government  
State of Tamil Nadu  
Environment and Forest Department  
Fort St.George  
Chennai.

2.The Principal Chief Conservator of Forest  
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**D.BHARATHA CHAKRAVARTHY, J.**

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