



WEB COPY



W.P.No.30209 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.30209 of 2023
and W.M.P.Nos.29811 & 29814 of 2023

1. A.Chinnathambi
2. K.Ganesan

...Petitioners

-Vs -

1. The Government of Tamilnadu,
Rep. by its Principal Secretary to Government,
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 – 015.

... 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 No.24713/FR2(II)/2016-5, Environment and Forests (FR-2) Department, Secretariat, Chennai-9, dated 27.09.2017, and quash the same and so far as to allow monetary benefits from the date of issue this letter and consequently direction directing the respondents to pay monetary benefits from date of joining as forest watcher to petitioner from 18.08.2005 (1st petitioner) and from 15.09.2003 (2nd petitioner) till 27.09.2017 as per Tamil Nadu Fundamental Rule 27(17).



W.P.No.30209 of 2023

For Petitioners : 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 27.09.2017, 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 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 their services were regularized as Forest Watcher on 18.08.2005 and 15.09.2003 respectively.

3. The specific case of the petitioners is that they had joined in the forest department on 01.09.1982 & 15.05.1987 respectively on daily wages. The petitioners and their juniors were included in the State wide



W.P.No.30209 of 2023

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 petitioners and others submitted representation and it was not considered as such, they were constrained to approach this Court in W.P.No.3890 of 2014, and the same was allowed by this Court by an order dated 13.02.2014 and directed to regularize their services on par with juniors.

4. As directed by this Court, the government issued order vide letter No.24713/FR(II)/2016-5 dated 27.09.2017, thereby regularized the petitioners 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:-



WEB COPY



W.P.No.30209 of 2023

"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."

5. 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 their



W.P.No.30209 of 2023

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.

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

7. 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' services were duly regularized on par with their juniors. Therefore, they are entitled for monetary benefits from the date of their joining as Forest Watcher.



W.P.No.30209 of 2023

WEB COPY

8. In view of the above, the impugned order cannot be sustained and it is liable to be quashed. Accordingly, the order dated 27.09.2017 passed by the first respondent in Letter No.24713/FR2(II)/2016-5, Environment and Forests (FR-2) 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., insofar as the first petitioner is concerned from 18.08.2005 and the second petitioner is concerned from 15.09.2003, till 27.09.2017 or till their attainment of superannuation age, within a period of twelve weeks from the date of receipt of a copy of this Order.

9. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

27.03.2024

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



W.P.No.30209 of 2023

To
WEB COPY

1. The Principal Secretary to Government,
Government of Tamilnadu,
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 – 015.



WEB COPY



W.P.No.30209 of 2023

G.K.ILANTHIRAIYAN. J.

rts

W.P.No.30209 of 2023 and
W.M.P.Nos.29811 & 29814 of 2023

27.03.2024