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W.P.No.30589 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.30589 of 2023
and W.M.P.No.30234 of 2023

M.Govindaraj

...Petitioner

-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.9988/FR2-II/2016-3, Environment and Forests (FR-2) Department, Secretariat, Chennai-9, dated 16.03.2017, 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 14.05.2008 till 02.03.2018 as per Tamil Nadu Fundamental Rule 27(17).



W.P.No.30589 of 2023

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 16.03.2017, 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 01.11.2008.

3. The specific case of the petitioner is that he had joined in the forest department on 01.02.1983 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



W.P.No.30589 of 2023

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.Nos.21 of 2016, and the same was allowed by this Court by an order dated 05.01.2016 and directed to regularize their services on par with juniors.

4. As directed by this Court, the government issued order vide letter No.9988/FR.2-II/2016-3 dated 16.03.2017, thereby regularized the 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



WEB COPY



W.P.No.30589 of 2023

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. 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.4289 of 2020, before this Court and this Court by an order dated 20.02.2020, directed the respondents to consider the representation and pass orders. As directed by this Court, they were promoted as Forest



W.P.No.30589 of 2023

Guard on par with their juniors, however monetary benefits from the date of issue of this letter. Hence, the petitioner 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 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 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.



W.P.No.30589 of 2023

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 16.03.2017, passed by the first respondent in Letter No.9988/FR2-II/2016-3, Environment and Forests (FR-2) Department, is hereby quashed. The petitioner is entitled for monetary benefits only from the date of his joining as Forest Watcher. The respondents are directed to pay monetary benefits to the petitioner from the date of his joining as Forest Watcher viz., from 14.05.2008 till 16.03.2017, within a period of twelve weeks from the date of receipt of a copy of this Order.



W.P.No.30589 of 2023

10. With the above directions, the Writ Petition stands allowed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

27.03.2024
(3/3)

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

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To

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)
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G.K.ILANTHIRAIYAN. J.

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