



WEB COPY



W.P.No.34977 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.34977 of 2023

M.Pathmanathan

...Petitioner

-Vs-

1. Government of Tamil Nadu,
represented by its Additional Chief Secretary to Government,
Environment and Forest Department,
Fort St.George,
Chennai-600009.

2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Velachery Main Road,
Guindy,
Chennai-600032.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records which culminated in issuing the in G.O. (2D) No.146, Environment Climate Change And Forests (FR.2ii) Department dated 26.06.2023 on the file of the First respondent and quash the same and consequently directing respondents to regularize the service of petitioner after completion of ten years from date of initial appointment as Plot Watcher on daily wage basis for the purpose of getting pension and



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Family Pension in the light of Honorable Supreme Court judgment delivered in C.A. No.6798 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2022 same was implemented by the Government in G.O.(2D) No.91 Forest Environment Climate Change and Forest (FR.2(ii)) Department dated 30.06.2022 and confer all consequential pensionary benefits.

For Petitioner : Mr.S.Mani

For Respondents : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed calling for the entire records which culminated in issuing the Government G.O. (2D) No.146, Environment Climate Change And Forests (FR.2ii) Department dated 26.06.2023 on the file of the First respondent and quash the same and consequently directing respondents to regularize the service of petitioner after completion of ten years from date of initial appointment as Plot Watcher on daily wage basis for the purpose of getting pension and Family Pension in the light of Honorable Supreme Court judgment delivered in C.A. No.6798 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2022 same was implemented by the Government in G.O.(2D) No.91 Forest Environment Climate Change and Forest



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(FR.2(ii)) Department dated 30.06.2022 and confer all consequential pensionary benefits.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner had joined in the Forest Department on daily wage basis, on 01.04.1994 as Plot Watcher. As per G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009, the petitioner was brought in regular time scale of pay in the service of Plot Watcher (supernumerary), non-cadre post from 07.08.2009. Subsequently, he was promoted to the post of Forest Watcher. Subsequently, he retired from service due to the attainment of age of superannuation. However, the petitioner did not get any pensionary benefits after his retirements, since his service was regularized only after 01.04.2003, viz., after the cut-off date fixed by new pensionary scheme for the purpose of getting pension. However, his juniors, whose services were regularized before 01.04.2003 are getting pensionary benefits. The respondents did not follow the seniority list in the matters of regularization of service to the employees



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engaged on daily wage basis. Till 1994, the only qualification for appointment of Plot Watcher is ability to read and write. However, as per G.O.Ms.No.332 Environment and Forest Department dated 22.12.1994, SSLC was prescribed as minimum general educational qualification for bringing into regular time scale of pay from employees like Plot Watcher on daily wage basis. Therefore, so many of them could not be considered for appointment of Forest Watcher, since they did not possess SSLC as a qualification. So many persons approached the Tamil Nadu Administrative Tribunal and obtained an interim order. However, in the meanwhile, so many juniors were brought in regular time scale in the post of Forest Watcher, in the year 1995. In order to wriggle out of the said situation G.O.Ms.No.64 Environment and Forest Department dated 08.03.1999 came to be passed, whereby G.O.Ms.No.332 Environment and Forest Department dated 22.12.1994 was superseded and revoked. Therefore, the prescription of SSLC qualification for appointment of Forest Watcher promoted from Plot Watcher and Social Forestry workers engaged on daily wage basis, is no longer in existence.

4. Therefore, the petitioner submitted a detailed representation.



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Pursuant to G.O.Ms.No.95, Environment and Forest Department dated 07.08.2009, the petitioner was brought under regular time scale of pay in the non-cadre post of Plot Watcher (supernumerary) from 07.08.2009. Thereafter, the petitioner retired from service, due to his attainment of age of superannuation. Since his service was regularized only after 01.04.2003, he was not granted any pension.

5. In similar issues, the Hon'ble Supreme Court of India in the case of ***Prem Singh Vs State of Uttar Pradesh and others*** in ***C.A.No.6798 of 2019 dated 02.09.2019***, held as follows:-

“ 35. There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized under the Government instructions and even as per the decision of this Court in Secretary, State of Karnataka & Ors. v. Uma Devi 2006 (4) SCC 1. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of regularisation as others have been regularised, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of



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superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension.”

6. Thus, it is clear that the petitioner is also entitled to be regularized in his service from the date on which he completes ten years of service as Plot Watcher for the purpose of getting pension.

7. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, G.O.(2D) No.146, Environment Climate Change And Forests (FR.2ii) Department dated 26.06.2023, is hereby quashed. The respondents are directed to consider the case of the petitioner and pass orders on merits and in accordance with law, in the light of the judgment delivered in C.A.No.6798 of 2019 dated 02.09.2019 and the order passed in W.P.No.19023 of 2021 dated 09.09.2021, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. There shall be no order as to costs.

23.01.2024
(5/6)

Internet: Yes
Index : Yes/No



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Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.

mn

To

1. The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Environment and Forest Department,



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Fort St.George,
Chennai-600009.

2. The Principal Chief Conservator of Forests,
(Head of Forest Force),
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