



W.P.(MD)No.2496 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.2496 of 2022

J.Johnson Thanga Blessing

: Petitioner

Vs.

1.State of Tamil Nadu

Rep. by its Additional Chief Secretary to
Government,
Environment and Forest Department,
Secretariat, Chennai.

2.The Principal Chief Conservator of Forest
(Head Department),
Panagal Maligai, Saidapet, Chennai.

3.The Chief Conservator of Forest and Field Director,
Kalakkadu Mundandurai Tiger Reserve, Tirunelveli.

4.The Deputy Director,
Project Tiger, Ambasamudram,
Tirunelveli District.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Ref.No.LL2/14110/2021 dated 21.10.2021 and quash the same and direct the respondents to regularize the petitioner as Anti-



W.P.(MD)No.2496 of 2022

Poaching Watcher in the special time scale of pay by extending the benefit of G.O.Ms.No.116 Environment and forest Department dated 25/09/2014 with all consequential benefits.

For Petitioner : Mr.V.Paneer Selvam

For Respondents : Mr.M.Senthil Ayyanar

Government Advocate

ORDER

This writ petition has been filed challenging the proceedings of the second respondent in Ref.No.LL2/14110/2021 dated 21.10.2021 and for a consequential direction to the second respondent to regularize the petitioner as Anti-Poaching Watcher in the special time scale of pay by extending the benefit of 'G.O.Ms.No.116, Environment and Forests (FR.2) Department', dated 25.09.2014 (hereinafter referred to as 'G.O.Ms.No.116' for short), with all consequential benefits.

2. The case of the petitioner is that while he was studying IX standard, he could not continue his studies and started to go for daily wages. Thereafter, he was appointed as Anti-Poaching Watcher on 01.04.2000 and posted at Papanasam Forest Range, Kalakkadu-Mundanthurai (KMTR) Tiger Reserve Forest, Ambasamudhram. While



W.P.(MD)No.2496 of 2022

so, the Government issued order in G.O.Ms No.76, Environment and Forests Department dated 07.06.2010, appointing 137 Anti-Poaching Watchers on time scale by creating supernumerary post for those who have completed 10 years of service and their services were regularized with effect from 07.08.2009. As far as the petitioner is concerned, he has completed 10 years of service on 31.03.2010, however his name was not considered for the same.

3. The petitioner made request to regularize the petitioner's service since he has completed 10 years of service and his request was not considered by the authority. Therefore, the information related to regularization was sought for through RTI, for that the authorities sent a reply on 04.12.2013 mentioning that the petitioner had completed 10 years of service on 31.03.2010 and his name was placed in Sl.No.145 in the seniority list. However his name was not considered for regularization for the reason best known to them. Therefore, 134 Anti-Poaching Watchers including the petitioner filed writ petition in W.P.Nos. 10654 and 9764 of 2014 to regularize the service in the post of Anti-Poaching Watcher in Special Time Scale of pay by extending the benefit of G.O.Ms No.76, Environment and Forest Department, dated



W.P.(MD)No.2496 of 2022

07.06.2010, in the light of the order passed by a Division Bench of this Court in W.A.(MD) No.887 of 2010 dated 29.04.2011. This Court, by order dated 15.04.2014, had passed the following directions:-

“15. In view of all the above, both the writ petitions are disposed of with the following directions:- (i)The Government shall issue order creating supernumerary posts of Anti-Poaching Watchers to appoint those Anti-Poaching Watchers working in the Tamil Nadu Forest Department and those who have completed 10 years of service or less as the Government may deem fit, as on today; (ii) The Government shall issue appropriate Rule governing the post of Plot Watchers and Anti-Poaching Watchers or include these two posts in the Tamil Nadu Forest Subordinate Service Rules so as to regulate the appointment of the Plot Watchers and Anti-Poaching Watchers in order to avoid back door entry; (iii) The Government shall consider to take a policy decision to amend the Tamil Nadu Forest Subordinate Service Rules, so as to make the Anti-Poaching Watchers working as against the supernumerary posts eligible for recruitment as Forest Watchers under the Tamil Nadu Subordinate Service Rules as it has been done



W.P.(MD)No.2496 of 2022

in favour of the Social Forest Workers and Plot Watchers; (iv) It is further directed that the Government shall take all necessary steps to ensure that there is no back door entry into these posts namely Social Forest Workers, Plot Watchers and Anti-Poaching Watchers without following the method of appointment to be prescribed by the Rules and (v) In any event, the Government shall comply with this order within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

Against the above said order, the respondent Department filed an appeal in WA.No.354 & 355 of 2016 and the same was partly allowed with following direction by an order dated 05.04.2018. The relevant paragraph No.13, reads as under:-

"13. In that view of the matter, instead of keeping the matter pending over the months, we take a decision that as per the undertaking to the effect that in the case of those remaining either already approached or not approached the court, their cases shall be considered uniformly at regular intervals. Further, as and when such persons, who have completed the 10 years of service excluding the break-in-service,



WEB COPY



W.P.(MD)No.2496 of 2022

as per the direction issued by this Court, shall make a calculation on their own and shall furnish their particulars as to the date of joining of service, break in service to be included or excluded and the actual date of completion of 10 years etc. to the Department. On furnishing of such particulars, the same shall be verified by the department after getting necessary clarifications from the individual, if required and on subject to satisfaction by the department, their cases shall be considered at regular intervals"

4. As per the direction of the Division Bench of this Court, on completion of 10 years of service, the respondents ought to have regularized the service of the petitioner by giving Special Time Scale in the post of Anti-Poaching Watcher. In the mean time the Government issued order in G.O.Ms.No.116, dated 25.09.2014, regularizing the services of seven Anti-Poaching Watchers. The above said 7 persons were promoted to the post of Forest Watcher in the year 2017 itself. As far as the petitioner is concerned, as per the information given by the respondents department dated 04.12.2013, he has completed 10 years of service on 31.03.2010 and his name was included in the seniority list for



W.P.(MD)No.2496 of 2022

WEB COPY

those who completed 10 years of service in Sl.No.145. Therefore, there is no impediment to regularize the service of the petitioner by creating four supernumerary post by extending the benefit of G.O.Ms No. 116, dated 25.09.2014.

5. It is the further case of the petitioner that he was sent for National Training Centre for Dogs by the Forest Department. The training was conducted by the Border Security Force, Tekanpur, Gwalior, Madhya Pradesh. He had Completed 9 months training from 01.02.2016 to 08.10.2016, with meager salary of Rs.6500/-. The petitioner has also awarded Appreciation Grade by the National TRG Centre for Dogs and undergone various training courses. He continuously working in the Forest Department as Anti-Poaching Watcher. The petitioner was posted at Tirunelveli range for nearly 6 months and thereafter, posted to the Papanasam range. Hence, there is no break of service in his career.

6. However, the respondent department without furnishing any particulars, mentioned the period as break in service for the petitioner. But till today, they have not furnished any details about break period of service and he continued to work from the date of appointment



W.P.(MD)No.2496 of 2022

without any break of service and if the records are verified, it will reveal the same. Therefore, the petitioner is entitled for regularization as per G.O.Ms.No.116, dated 25.09.2014.

7. The contention of the petitioner is that the persons who have not worked continuously had been regularized and promoted to the post of Guard and the persons who have not completed 10 years of service had been regularized. The respondents ought to have considered the persons who have completed 10 years of service prior to the persons who have been regularized as per Government order. The petitioner made series of representations and the last one was on 20.09.2020. Thereafter he filed the writ petition in W.P.(MD) No.6825 to regularize his service as Anti-Poaching Watcher by extending the benefit of G.O.Ms No.116, dated 25.09.2014 with all consequential benefits. This Court, by order dated 25.03.2021 directed the respondents to consider his representation dated 26.09.2020 within a period of 12 weeks and the same was rejected by the second respondent vide his impugned proceedings in Ref.No.LL2/14110/2021, dated 21.10.2021, as if the petitioner has completed 10 years of service only on 31.05.2012. Aggrieved over the same, the petitioner has come forward with the present writ petition.



W.P.(MD)No.2496 of 2022

WEB COPY

8. The learned counsel for the petitioner submitted that the petitioner completed ten years of service on 31.12.2010 even as per the RTI reply given by the third respondent dated 04.12.2013. The learned counsel drew the attention of this Court to G.O.Ms.No.116, dated 25.09.2014, by which 137 supernumerary posts of Anti-Poaching Watcher were created in the special time scale of pay. In that, it is mentioned that the list of Anti-Poaching Watcher who have completed ten years of service as on 31.12.2010 and total seven persons who were working as Anti-Poaching Watcher and have completed ten years of service and the persons working in daily wages were regularised by appointing them as Anti-Poaching Watchers by creating seven supernumerary posts in the special time scale of pay of Rs.2500-5000 and Grade Pay Rs.500 from the date of issue of the order.

9. The learned counsel for the petitioner further submitted that the petitioner has also completed ten years of service on 31.12.2010 but his name was not considered with the similar placed persons who were regularised and appointed as Anti-Poaching Watchers as per G.O.Ms.No.116, dated 25.09.2014. The learned counsel also drew the

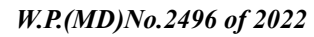


W.P.(MD)No.2496 of 2022

attention of this Court to the impugned order passed by the second respondent dated 21.10.2021 in which it is stated as follows:-

“In the circumstances and reasons stated above, the claim of the Petitioner to regularize the service as per G.O.(Ms) No.116 Environment and Forests (FR-2) Department, dated 25.09.2014 which states about those who have completed 10 years of service on 31.12.2010, is not feasible for compliance as the petitioner herein completed 10 years only on 31.05.2012. Hence, the request of the petitioner for extending the benefit of G.O.(Ms) No.116 Environment and Forests (FR-2) Department, dated 25.09.2014 cannot be complied with.”

10. A counter-affidavit also filed by the fourth respondent on 14.07.2022. The learned Government Advocate appearing for the respondents submitted that based on the details, the date of completion of ten years of service as Anti-Poaching Watchers excluding the break in service is calculated and the seniority list has been furnished to the Principal Chief Conservator of Forests (Head of Department), Chennai. The state wide seniority list of Anti-Poaching Watchers has been



11. The learned Government Advocate would further submit that the petitioner's name has been included in the list of persons who have been granted the status of Forest Guards (as per the order of the Government of Tamil Nadu, dated 04.12.2013, wherein it has been stated that the petitioner's name find place in Sl.No.145 of the list of persons who have been granted the status of Forest Guards received from the Principal Chief Conservator of Forests (Wildlife Department), Chennai of the Anti-Poaching Watchers who have been granted the status of Forest Guards for 10 years of service as on 31.12.2010 and denied the same and the petitioner has been sent through the office that he has completed 10 years of service as on 31.03.2010.

<https://www.mhc.tn.gov.in/judis>



W.P.(MD)No.2496 of 2022

the ten years of service on 31.03.2010 and in addition to the break in service of 2 years and 2 months, the petitioner has completed ten years of service only on 31.05.2012 and not on 31.03.2010 as claimed by the petitioner. The break in service period of the petitioner is extracted hereunder:-

Break in Service	Year	Month	Day
01.06.2000 to 31.07.2000	-	2	-
01.09.2000 to 30.09.2000	-	1	-
01.11.2000 to 30.11.2000	-	1	-
01.01.2001 to 31.01.2001	-	1	-
01.03.2001 to 31.03.2001	-	1	-
01.06.2001 to 31.08.2001	-	3	-
01.11.2001 to 31.03.2003	1	5	-
2 years 2 months			

13. Hence, the request of the petitioner to regularise the services by creating supernumerary post by extending benefits of G.O.Ms.No.116, cannot be extended to the petitioner since the petitioner has not completed ten years of service as on 31.12.2010 and it is only on 31.05.2012.

14. As per service particulars of the petitioner has been



W.P.(MD)No.2496 of 2022

engaged as Anti-Poaching Watcher in Kalakkadu-Mundanthurai (KMTR) Tiger Reserve from 01.04.2000 and the service details of the petitioner up to 31.12.2021 are as follows:-

“Name of the Post	-	Anti-Poaching Watcher
Date of birth	-	07.05.1976
Educational qualification	-	10 th Pass
Date from which engaged	-	01.04.2000 to 31.12.2021”

15. As per the above particulars, the petitioner has rendered service on daily wages in the post of Anti Poaching Watcher for the period of 19 years and 6 months as on 31.12.2021. There is service break in his service period for 2 years 2 months.

16. Based on the representation of the petitioner dated 26.09.2020 the Principal Chief Conservator of Forests (Head of Department), Chennai has ordered in reference no.LL2/14110/2021 dated 21.10.2021, wherein the claim of the petitioner to regularise the service as per G.O.Ms.No.116 was rejected since the petitioner has not completed ten years of service as on 31.12.2010 and he has completed only ten years of service only on 31.05.2012 and the said rejection order



W.P.(MD)No.2496 of 2022

was received by the petitioner only on 21.10.2021.

WEB COPY

17. The learned Government Advocate would further submit that the petitioner joined duty as Anti-Poaching Watchman on 01.04.2000 and without break in service, he would have completed ten years of service as on 31.03.2010 however, the petitioner has two years and two months break in service as per the report submitted by the Forest Range Officer, Papanasam. Therefore, the petitioner name was not included in the selection list. He also submitted that the copy of RTI reply sent by the respondent dated 04.12.2013 is not available in the second respondent Office. Presently, the petitioner has been promoted as Forest Watcher in the year 2023 and working in the same post.

18. The learned Government Advocate submitted that the copy of the joining report sent by the Forest Ranger, Kalakkadu-Mundanthurai (KMTR) Tiger Reserve to the Deputy Director, Tiger Reserve, Ambasamudram, vide Na.Ka.No.118/2023 dated 24.08.2023 wherein the persons who were appointed as Forest Guard have appointed in the respective range on 24.08.2023 and the petitioner name is



W.P.(MD)No.2496 of 2022

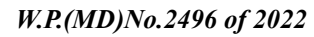
mentioned in Sl.No.1.

WEB COPY

19. Heard both sides and perused the material available on record.

20. **The petitioner was appointed as Anti-Poaching Watcher on 01.04.2000 and has completed ten years of service on 31.03.2010 without excluding the break in service. If the break in service is added, that is the period of two years and two months are added, then the petitioner has completed ten years of only on 31.05.2012 and not on 31.03.2010 as claimed by the petitioner.**

21. **It is pertinent to note that in RTI reply given by the third respondent dated 04.12.2013, it is categorically mentioned that the petitioner has completed ten years of service on 31.12.2010, however, the respondents have stated in their counter-affidavit that there is no RTI reply given by the third respondent and even the copy of the RTI reply is also not available in their records. The statement in the counter-affidavit is unsustainable for the reason that**



The main contention of the respondents is that the benefit of G.O.Ms.

reason that as per G.O.Ms.116, dated 25.09.2014, the petitioner has

had completed ten years of service by adding the break in service

25.09.2014, cannot be extended to the petitioner. The respondents

two years and two months which is extracted hereunder:-

2 years 2 months

22. The rejection order passed by the second respondent/the

Principal Chief Conservator of Forests (Head of Department) dated



W.P.(MD)No.2496 of 2022

21.10.2021, is extracted hereunder:-

WEB COPY

“In the circumstances and reasons stated above, the claim of the Petitioner to regularize the service as per G.O.(Ms) No.116 Environment and Forests (FR-2) Department, dated 25.09.2014 which states about those who have completed 10 years of service on 31.12.2010, is not feasible for compliance as the petitioner herein completed 10 years only on 31.05.2012. Hence, the request of the petitioner for extending the benefit of G.O.(Ms) No.116 Environment and Forests (FR-2) Department, dated 25.09.2014 cannot be complied with.”

23. It is also the admitted fact that the petitioner has been promoted as Forest Watcher in the year 2023 and he is now working in Mundanthurai Range – Padharmalai Beat. In regard to RTI reply dated 04.12.2013, it has been mentioned that the petitioner has completed ten years of service as on 31.12.2010. However, the learned Government Advocate appearing for the respondents submitted that it has been mentioned without adding the break in service of two years and two months. If the break in service is added, then the



W.P.(MD)No.2496 of 2022

completion of ten years will be only on 31.05.2012. Hence, the benefit of G.O.Ms.116, dated 25.09.2014, cannot be extended to the petitioner.

24. In view of the above factual matrix of the case, the writ petition is disposed of with the following directions:-

(i) Since it is admitted by the respondents that the petitioner has completed ten years of service on 31.05.2012, the respondents are directed to regularise the service of the petitioner as Anti-Poaching Watcher in the special time scale of pay with effect from 31.05.2012 with all other consequential benefits;

(ii) The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

29.10.2024

Index : Yes / No

Internet : Yes / No

PKN



W.P.(MD)No.2496 of 2022

To

WEB COPY

1. Additional Chief Secretary to
Government,
State of Tamil Nadu,
Environment and Forest Department,
Secretariat, Chennai.
2. The Principal Chief Conservator of Forest
(Head Department),
Panagal Maligai, Saidapet, Chennai.
3. The Chief Conservator of Forest and Field Director,
Kalakkadu Mundandurai Tiger Reserve, Tirunelveli.
4. The Deputy Director,
Project Tiger, Ambasamudram,
Tirunelveli District.



WEB COPY



W.P.(MD)No.2496 of 2022

J.SATHYA NARAYANA PRASAD, J.

PKN

W.P.(MD)No.2496 of 2022

29.10.2024