



W.A(MD)No.1179 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE L. VICTORIA GOWRI**

W.A(MD) No.1179 of 2020
and
C.M.P(MD)No.6410 of 2020
and
C.M.P(MD)No.3229 of 2022

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Forest and Environment Department,
Fort St. George,
Chennai – 600 009.
 - 2.The Principal Chief Conservator of Forests,
No.1, Jennis Road,
Panagal Building,
Saidapet, Chennai -600 015.
 - 3.The Wild Life Warden/District Forest Officer,
Grizzed Squirrel Wildlife Sanctuary,
Srivilliputhur,
Virudhunagar District.
- ... Appellants/Respondents

Vs.

I.Ponnu

... Respondent/Petitioner



W.A(MD)No.1179 of 2020

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 14.03.2019 made in W.P(MD)No.6644 of 2016.

For Appellants :Mr.Muthu Vijayan,
Special Government Pleader

For Respondent :M/s.K.Jenitha

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is preferred challenging the order of a learned single Judge in W.P(MD)No.6644 of 2016, by which, the learned single Judge has directed appellants to appoint the respondent herein in the regular time scale of Forest Watcher by taking into account his seniority and qualification on par with his juniors.

2. The facts are:

- On 13.06.1983, the respondent herein was appointed as a Plot Watcher by the Forest Department. It is a daily wage employment. He was working as such for several years. While so, the Government came out



W.A(MD)No.1179 of 2020

with G.O.(Ms.)No.64, Environment and Forest Department dated 08.03.1999. Vide this Government Order, the Government has chosen to regularize the employment of those who have been working on daily wage for several years and directed that a State wide seniority list be prepared, and accordingly the appointments were given to those daily wage employees of the Department. Based on that, seniority list was prepared in which the petitioner's rank figured at 2817. Based on the same, he was appointed as the Forest Watcher on 13.12.2008. He worked in that capacity in different places upto 31.05.2014 and eventually he superannuated.

- Be that as it may, upon his retirement, the respondent herein had approached the authorities for pensionary benefits. When it was declined, he approached this Court in W.P(MD)No.17666 of 2014. His prayer there was that half of his service as a daily wage worker of the Forest Department must be added to his regular service for reckoning the eligible period for grant of pensionary benefits. This was ordered. The Government did not prefer any appeal and eventually, his



W.A(MD)No.1179 of 2020

pensionary benefits too were given in terms of the order. Subsequently, the respondent has come forward with the present writ petition, wherein he seeks appointment as Forest Watcher from 24.01.1995 on par with other juniors and for payment of pensionary benefits.

3. It is seen from the order of the learned Single Judge that the then counsel for the respondent/writ petitioner has canvassed the case before the learned single Judge that the case was covered by the order of this Court in W.P(MD)No.1008 of 2014 dated 10.01.2014 and in Paragraph No.6 of the said order, it was recorded that the learned Government Advocate for the respondents/appellants was not disputing the same. Thereafter, the learned single Judge proceeded to extract the relevant portion of the order in W.P(MD)No.1008 of 2014 and passed the order in terms thereof. That order is now under challenge.

4.1. Mr.Muthu Vijayan, learned Special Government Pleader appearing for the appellants submitted that the apparent consensus given by the learned Government Advocate as has been recorded in Paragraph No.6 of the



W.A(MD)No.1179 of 2020

impugned order appears to have been given by him on certain misconception on both law and facts.

4.2 Developing his argument, the learned Special Government Pleader submitted that:

- a) The very right of the respondent to be regularized itself springs from G.O.(Ms.)No.64, Environment and Forest Department dated 08.03.1999, but, he now seeks *inter se* seniority from 24.01.1995, which is plainly untenable;
- b) When the state-wide seniority list was made pursuant to G.O.(Ms.)No. 64, Environment and Forest Department dated 08.03.1999, the petitioner did not challenge it. On the other hand, he accepted the seniority and his regularization based on the seniority and appointment to the post of Forest Watcher. He did not challenge it till 31.05.2014 when he superannuated;



W.A(MD)No.1179 of 2020

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c) The learned single Judge very unfortunately was not informed about this and was misled to adopt the reasoning of the order in W.P(MD)No.1008 of 2014.

5. This Court only intended to ascertain whether the statement made by the learned Government Advocate before the learned Single Judge which formed the foundation of the learned Single Judge for passing the order under challenge, was wrongly made.

6.1 The learned counsel for the respondent has circulated G.O.(Ms)No.01 Environment and Forests(FR.2-II) Department, dated 01.01.2021. Operative portion of the said G.O., is extracted hereunder:

“8.The Government after careful examination, have decided to implement the orders of Hon’ble Courts and accord permission to the Principal Chief Conservator of Forests(Head of Department) as follows:



W.A(MD)No.1179 of 2020

- i. *To regularize the services of 7 persons (Annexure-I) in the above proposals, who have possessed minimum general educational qualification (i.e., SSLC) as Forest Watcher and to fix their pay notionally from the date on which their immediate Juniors services were regularized.*
- ii. *To regularize the services of 71 persons (Annexure-II), who did not possess minimum general educational qualification as Forest Watcher and to fix their pay notionally from the date of issue of G.O.(Ms).No.64, Environment and Forests (FR.2) Department, dated 08.03.1999 i.e., from 08.03.1999.*
- iii. *To fix the seniority of 71 persons (Annexure-II) only after 08.03.1999 and to place them above their juniors, who were appointed as Forest Watcher after 08.03.1999, since they were eligible for their appointment as Forest Watcher only after the issue of G.O.(Ms)No.64, Environment and Forests (FR.2) Department, Dated 08.03.1999.*
- iv. *To allow the aforesaid 78 persons (Annexure-I and Annexure-II) to get monetary benefits from the date of issue of orders only and in case of retired individuals, to allow the pensionary benefits notionally from the date of retirement of the individuals.*



W.A(MD)No.1179 of 2020

WEB COPY

v. *Not to regularize the services of 32 persons (Annexure-III and Annexure-IV) who are not eligible for regularisation as Forest Watcher for various reasons.*

6.2 Paragraph 8(ii) of the above G.O., is relevant and it conveys that for those who were later absorbed as Forest Watcher but did not possess the requisite qualification, regularisation had been given based on the State-wide seniority list earlier referred to in this order from the date of G.O.(Ms)No.64, Environment and Forests (FR.2) Department, Dated 08.03.1999. It satisfies that the statement made on behalf of the appellants herein before the learned Single Judge was not a statement mistakenly made.

7. It may be true that this G.O.(Ms).No.1 dated 01.01.2024, had come after passing of the order of the learned Single Judge. But, the spirit behind this only fortifies the decision of the learned Single Judge. Indeed, it should not be forgotten that the very G.O., referred to some of the earlier orders of this Court and G.O.(Ms).No.1 dated 01.01.2024 came to be passed only pursuant to the decision of this Court in some writ petitions.



W.A(MD)No.1179 of 2020

8. In view of the same, the respondent herein is entitled to parity of treatment.

This Court finds that the order of the learned Single Judge, dated 14.03.2019 made in W.P(MD)No.6644 of 2016, is in order and does not warrant interference.

9. It is underscored that the notional regularisation from 1999 will be reckoned only for calculating pension as would be payable on the date of retirement and no other monetary benefits can be sought based on this order.

10. In the result, this writ appeal is accordingly disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

(N.S.S., J.) (L.V.G., J.)
14.06.2024

NCC : Yes/No
Index : Yes/No

PM



W.A(MD)No.1179 of 2020

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Government of Tamil Nadu,
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