



**WP(MD). No.15339 of 2024**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Date : 10.07.2024**

**CORAM**

**THE HON'BLE MS. JUSTICE R.N.MANJULA**

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1. V.Nagaraj
2. L.Puttusamy
3. M.Mahendrapandian
4. C.Munusamy
5. M.Ramakrishnan
6. K.Gopalakrishnan
7. R.Hari

... Petitioners

**Vs**

1. The Union of India,  
Rep by its Secretary to Government,  
Environment, Forest and Climate  
Change Department, Indira Paryavaran  
Bhawan, Jor Bag, New Delhi..
2. The Union of India,  
Rep by its Secretary to Government,  
Department of Pension and Pensioners Welfare,  
Lok Nayak Bhavan Khan Market, New Delhi.



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3. The State of Tamil Nadu,  
Rep by its Secretary to Government,  
Environment, Climate Change and Forest Department,  
Fort. St. George, Chennai, Tamilnadu State.

4. The Principal Chief Conservator of Forest and Head of Forests,  
Velachery Main Road, Guindy, Chennai,  
Tamilnadu State 600 032.

... Respondents

**PRAYER :-**Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to notionally regularize the petitioners service by relaxing the rules after completion of ten years from the date of initial appointment as a Plot Watcher on daily wage basis along with regular service as qualifying service for the purpose of getting pension and family pension in the light of Hon'ble Supreme Court Judgment delivered in C.A.No.6798 of 2019 dated 02.09.2019 and Orders passed in W.P.No. 21627 of 2021 dated 07.10.2021 and to Confer all Consequential pensionary benefits by the way of considering the representations to the respondents within a time frame fixed by this Court.

For Petitioners : Mr. I.Kannapatel

For Respondents : Mr.K.Govindarajan (R1,R2)  
Deputy Solicitor General of India

Mr.S.Shanmugavel (R3 & R4)  
Additional Government Pleader



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## **ORDER**

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By consent the writ petition itself is taken up for final disposal.

2. Heard Mr.I.Kannapatel, learned counsel for the petitioners, Mr.K.Govindarajan, learned Deputy Solicitor General of India for R1 and R2 and Mr.S.Shanmugavel for R3 and R4, learned Additional Government Pleader for the respondents.

3. The petitioners' name have already been included for regularization. The GO issued in this regard in GO MS No.64, Environment and Forest Department, dated 08.03.1999. In the said G.O., 5,442 names of the workers have been included, under which, the petitioners names found place. The particulars of the petitioners found in the said G.O., is extracted as under.

| <b><i>Sl. No.</i></b> | <b><i>Name</i></b>       | <b><i>SWS No.</i></b> | <b><i>Date from which working</i></b> | <b><i>Initial Appointment Division</i></b> |
|-----------------------|--------------------------|-----------------------|---------------------------------------|--------------------------------------------|
| <i>1</i>              | <i>V.Nagaraja</i>        | <i>5310</i>           | <i>01.04.1991</i>                     | <i>Nilgiris North</i>                      |
| <i>2</i>              | <i>L.Puttusamy</i>       | <i>5312</i>           | <i>01.04.1991</i>                     | <i>Nilgiris South</i>                      |
| <i>3</i>              | <i>M.Mahendrapandian</i> | <i>5324</i>           | <i>01.06.1991</i>                     | <i>The Nilgiris</i>                        |
| <i>4</i>              | <i>C.Munusamy</i>        | <i>5331</i>           | <i>01.07.1991</i>                     | <i>Coimbatore</i>                          |



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|   |                         |      |            |                       |
|---|-------------------------|------|------------|-----------------------|
| 5 | <i>M.Ramakrishnan</i>   | 5334 | 01.08.1991 | <i>Nilgiris South</i> |
| 6 | <i>K.Gopalakrishnan</i> | 5348 | 01.10.1991 | <i>Nilgiris North</i> |
| 7 | <i>R.Hari</i>           | 5384 | 01.04.1992 | <i>WLW Coimbatore</i> |
| 8 | <i>K.Saravanakumar</i>  | 5230 | 01.01.1990 | <i>Coimbatore</i>     |

4.Despite the petitioners' juniors' were regularized and given with benefits, the petitioners were not given with similar benefits. It is submitted that similarly placed persons have already filed W.P.No.21627 of 2021 and got orders in their favor. Subsequent G.O., issued in G.O.Ms.No. 131 Personnel and Administrative Reforms (F) Department, dated 28.11.2020, also stated that those persons, who have attained the age of superannuation before regularization orders were issued, cannot be deprived from getting the benefits of regularization and pensionary benefits and orders were issued for giving notional regularization even post superannuation.

5. The petitioners have given representations and the same are pending without considerations, in the light of G.O., as well as early judicial pronouncement. Hence, the petitioners have filed this writ petition.



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6. In this regard, it is relevant to refer the judgment of Hon'ble Supreme Court in ***Prem Kumar Singh Vs State of Uttar Pradesh (CA No. 6798 of 2019 dated 02.09.2019)***, wherein, the Hon'ble Supreme Court has dealt with the case of the persons rendered service in work-charged establishment, but whose services have not been taken into consideration for receiving pension. In the said case, the Hon'ble Supreme Court has held that such persons, who entered the work-charged establishment, shall have benefits of 20 years of regular services for getting pensionary benefit. The relevant portion of the decision is extracted hereunder:

*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*



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*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 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.*

*36. In view of reading down Rule 3(8) of the U.P. Retirement Benefits Rules, 1961, we hold that services rendered in the work-charged establishment shall be treated as qualifying service under the aforesaid rule for grant of pension. The arrears of pension shall be confined to three years only before the date of the order. Let the admissible benefits be paid accordingly within three months. Resultantly, the appeals filed by the employees are allowed and filed by the State are dismissed.”*

7. In a subsequent judgment rendered by this Court in W.P.No.19023 of 2021, a reference was made to G.O.Ms.No. 131 Personnel and Administrative Reforms (F) Department, dated 28.11.2020 and it is held that the petitioners involved in that petition are entitled to get the benefits on expiry of 10 years or on the date on which they were originally appointed. The relevant part of the above judgment is extracted below:

*“7. The learned counsel for the petitioners submits that a similar*



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*provision in G.O.Ms.No.131, Personnel and Administrative Reforms (F) Department dated 28.11.2020 has been issued. In this connection, the learned counsel for the petitioners has referred to Paragraphs 4 to 6 of the aforesaid Government Order which reads as under:-*

*“4. In the above said “Umadevi case”, among other things, the Constitution Bench of the Supreme Court of India, emphasized that if rules have been made under Article-309 of the Constitution, then the Government can make appointments only in accordance with the rules. If sanctioned posts are vacant, the State will take immediate steps for filling those posts, by a regular process of selection. The State Government and their instrumentalities should take steps to regularize, as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts, but not under cover of orders of the courts or of Tribunals, and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that required to be filled up, in cases, where temporary employees or daily wages are being now employed. If sanctioned posts are vacant, the State will take immediate steps for filling those posts, by a regular process of selection. There should be no further bypassing of the Constitutional requirement, regularizing or making permanent, those not*



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*duly appointed as per the Constitutional scheme.*

*5. In view of the above, it is hereby reiterated that in case of posts governed by Rules, in all the Services, including Tamil Nadu Basic Service, appointment shall be made only with reference to the existing rules. While selecting candidates for appointment, the claim of the contesting candidates shall be weighed with reference to the rules, in force, as emphasized in the “Umadevi Case” [State of Karnataka Vs. Umadevi (2006)4 SCC 1].*

*6. All the appointing authorities should adhere to the above instructions scrupulously, failing which, it will be viewed seriously and necessary disciplinary action will be initiated as per rules, against the persons responsible for the said lapses. All Heads of Departments are directed to ensure that the above said instructions are followed, without fail.”*

*“8. If the above view of the Hon'ble Supreme Court in State of Karnataka Vs. Umadevi (2006)4 SCC 1 has been followed by the Government of Tamil Nadu in G.O.Ms.No.131, Personnel and Administrative Reforms (F) Department dated 28.11.2020, the petitioners services was to be regularized at the expiry of ten years on the date of which they were originally appointed.*

*9. Considering the fact that they were appointed ten years earlier, they are also entitled to pension and the other attendant benefits. Further, Government Order in G.O.Ms.No.131, Personnel and*



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*Administrative Reforms (F) Department dated 28.11.2020 is binding on the respondents. Merely because the petitioners have attained the age of superannuation prior to the aforesaid date would not mean that the petitioners should not be given the benefit for the services rendered by them with the respondents Forest Department. Under these circumstances, this Writ Petition deserves to be allowed and is accordingly allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.”*

8.In fact, the above G.O.Ms.No. 131 Personnel and Administrative Reforms (F) Department, dated 28.11.2020 has been issued following the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***State of Karnataka v. Uma Devi*** reported in ***2006(4) SCC 1***. The cumulative effect of the judgment would only crystallize the decision that the employees, who have entered into work-charged establishment, shall be considered as persons rendered regular services. Even according to the dictum laid down in ***State of Karnataka v. Uma Devi***, the persons, who have rendered 10 years of service in such establishment, should also be regularized as stated in ***Prem Kumar Singh Vs State of Uttar Pradesh (CA No. 6798 of 2019 dated 02.09.2019)***, where, the Hon'ble Suupreme Court has gone one step ahead and held that if the very service of the employee is rendered in the



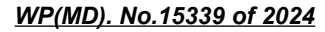
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work-charged establishment, it has to be considered as regular service and hence, they are entitled to count the service rendered in the work-charged establishment for the purpose of pensionary benefits.

9.In the result, this petition is allowed and the respondents are directed to regularize the service of the petitioners notionally. After the completion of 10 years of service, initial appointment as plot watcher and count the same along with the regular service for the purpose of pensionary benefits in the light of orders of Supreme Court rendered in CA 6798 of 2019 and in light of various judgments of High Court following the same and pass appropriate orders within a period of four weeks from the date of receipt of copy of this order. No costs.

**10.07.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes  
**PNM**



1. The Secretary to Government,  
Environment, Forest and Climate  
Change Department, Indira Paryavaran  
Bhawan, Jor Bag, New Delhi..

3. The Secretary to Government,  
Environment, Climate Change and Forest Department,  
Fort. St. George, Chennai, Tamilnadu State.

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**R.N.MANJULA,J**

**PNM**

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