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W.P.(MD)No.17605 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2024

CORAM

**THE HONOURABLE MS JUSTICE R.N.MANJULA**

W.P.(MD)No.17605 of 2024

M.Arjunan

... Petitioner

Vs.

- 1.The State rep.by  
The Principal Secretary to Government,  
Environment & Forests (FR-2),  
Department, Secretariat,  
Chennai-600 009.
- 2.The Principal Chief Conservator of Forests,  
(Head of Department), Forest Head Quarters,  
Guindy-Velachery Main Road,  
Guindy, Chennai-600 0032.
- 3.The District Forest Officer,  
Office of the District Forest Officer,  
Dindigul.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to consider the petitioner for regularization on par with his juniors from 24.01.1995 with notional monetary benefits and take into account the regularization from 24.01.1995 for the purpose of retirement and reckoning pensionary benefits.

For Petitioner : Mr.K.Appadurai  
For Respondents : Mr.J.Ashok  
Additional Government Pleader



W.P.(MD)No.17605 of 2021

## **ORDER**

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Heard Mr.K.Appadurai, learned counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader for the respondents.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3.The petitioner was appointed as a Plot Watcher. Thereafter, the petitioner was posted as Driver from eligible Plot Watcher/Social Forestry Workers. Despite the petitioner's juniors' were regularized and given with benefits, the petitioner was not given with similar benefits. In this regard, in a batch of writ petitions filed by the similarly placed persons like that of the petitioner, this Court directed the respondents to fix seniority of the writ petitioners therein on par with their juniors and to grant notional promotion with monetary benefits from the date of order. However, the respondents herein has not complied with the said orders. Hence, the petitioner made several representations before the second respondent in this regard. Since the same were not considered so far, the petitioner has filed this writ petition.

4.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***

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



**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 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.*



WEB COPY



W.P.(MD)No.17605 of 2021

*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.”*

5. 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 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*



WEB COPY

W.P.(MD)No.17605 of 2020



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 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 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



W.P.(MD)No.17605 of 2020

allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.”

WEB COPY

6.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 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.

7.In the result, this petition is disposed of directing the second respondent to consider the petitioner's representation dated 06.04.2016 and to regularize the service of the petitioner notionally in the light of orders of the



W.P.(MD)No.17605 of 2024

Hon'ble Supreme Court rendered in C.A.No.6798 of 2019 (referred supra) and in light of the 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.

**30.07.2024**

NCC:yes/no  
Index:yes/no  
Internet:yes/no  
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To

- 1.The Principal Secretary to Government,  
Environment & Forests (FR-2),  
Department, Secretariat,  
Chennai-600 009.
- 2.The Principal Chief Conservator of Forests,  
(Head of Department), Forest Head Quarters,  
Guindy-Velachery Main Road,  
Guindy, Chennai-600 0032.
- 3.The District Forest Officer,  
Office of the District Forest Officer,  
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WEB COPY



W.P.(MD)No.17605 of 2024

**R.N.MANJULA, J.**

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W.P.(MD)No.17605 of 2024

30.07.2024