



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

WP(MD)No.29903 of 2023:

1. S.Kantha Gopala Raja
2. S.Sivagananam
3. G.Balusamy
4. S.Kanthasamy
5. R.Selvaraj
6. P.Thangapandi
7. M.Palraj
8. N.Mookkandi
9. P.Thangavelu
10. P.Thavasi

... Petitioners

Vs

1. The Government of Tamil Nadu,
Rep by Secretary to Government,
Finance (Pension) Department,



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

Fort St. George,
Chennai 9.

2. The Principal Chief Conservator of Forests,
Panagal Building,
Chennai 15.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to regularize the service of Petitioners on completion of ten years from date of initial appointment as a Plot Watcher on daily wage basis for the purpose of getting pension and family pension in the light of Hon'ble Supreme Court judgement delivered in C.A.No.6789 of 2019 dated 02.09.2019 confer all consequential pensionary benefits by the way of considering the petitioners' joint representation dated 12.10.2023 to the respondents.

WP(MD)No.2137 of 2024:

1. P.Muniasamy
2. N.Karuppasamy
3. S.Gunasekar



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

4. V.Arumugam

5. R.Kumaraguru

6. P.Duraisingam

7. A.Thangaraj

8. Bose @ D. Sundarabose

... Petitioners

Vs

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Rep. by Secretary to Government,
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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to regularize the service of petitioners on completion of ten years from the date of initial appointment as a Plot Watcher on daily wage basis for the purpose of getting pension and family pension in the light of Hon'ble Supreme Court Judgement delivered in C.A.No. 6789 of 2019 dated 02.09.2019 confer all consequential pensionary benefits by



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

the way of considering their joint representation to the respondents dated 16.10.2023.

In both writ petitions:

For Petitioner : G.Chandrasekar

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

COMMON ORDER

Since the issue involved in these two writ petitions are one and the same, these two writ petitions are taken up together and disposed of by way of this common order.

2. Heard Mr.G.Chandrasekar, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader for the respondents.

3. These writ petitions have been filed for issuance of a Writ of Mandamus to issue a direction to the respondents to regularize the service of Petitioners on completion of ten years from date of initial



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

appointment as Plot Watcher on daily wage basis for the purpose of getting pension and family pension in the light of Hon'ble Supreme Court judgement delivered in C.A.No. 6789 of 2019 dated 02.09.2019 confer all consequential pensionary benefits by the way of considering the petitioners' joint representation dated 12.10.2023 and 16.10.2023 to the respondents.

4. The petitioners joined as Plot Watchers on temporary basis between the year 1984-1987 and they are paid with daily wages. With effect from 2009, they had been absorbed into regular post of Forest Watcher and thereafter retired after attaining superannuation. Since regularisation has been given effect from 2009, after the cut off date on 01.04.2003, the petitioners were not given with the pensionary benefits.

5. Mr.G.Chandrasekar, learned counsel for the petitioners submitted that similarly placed persons have filed W.P.Nos.19023 of 2021 and 21267 of 2021 to consider their regularization by giving effect from the date of initial appointment as Plot Watchers on daily wage



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

basis for the purpose of getting pension. The same was allowed and consequently, the orders were complied by passing G.O.(2D)No.127 Environment and Climatic Control of Forest Department dated 03.06.2023. Hence, the present writ petitioners have also filed this writ petition seeking the similar relief.

6. At the time of absorption of Forest Watchers, who were working on daily wage basis, as Plot Watchers, a Statewide Seniority list has been prepared in the year 1994. The petitioners who were also working as Plot Watchers at the relevant point of time were also included in the list. At the time of absorption, the basic educational qualification was fixed as SSLC. In this regard, a Government Order has been passed in G.O.Ms.No.332 Environment and Forest Department dated 22.12.1994. Therefore, 421 Plot Watchers who had the educational qualification as prescribed in the above Government Order alone were identified for absorption. Since many of the Plot Watchers did not have the required qualification of SSLC, they filed original application before the Tamilnadu Administrative Tribunal in O.A.No.197 of 1995 etc.,



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

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batch, the Tribunal granted an order of stay the operation of G.O.No.332 dated 22.12.1994. Out of 421 Plot Watchers, who have SSLC as educational qualification, only 171 have joined and rest of the officers did not join in view of the stay order passed by the Tribunal. Later another Government Order in G.O.Ms.No.64 Environment and Forest Department dated 08.03.1999 was issued cancelling the earlier Government Order in G.O.Ms.No.322 dated 22.12.1994. So, the basic qualification has been reduced from SSLC pass to mere read and write in view of G.O.Ms.No.64 dated 08.03.1999. Again statewide seniority list was prepared in the year 1999. Since some of the Plot Watchers have been absorbed as Forest Watchers as per their SSLC qualification and they are also promoted as Forest Guard. The petitioners were not able to get pension as they got their regularisation after 01.04.2003.

7. Reference was made to the judgment of the Hon'ble Supreme Court in ***Prem Singh v. State of Uttarpradesh and others*** dated 02.09.2019 wherein the Hon'ble Supreme Court has held as under:

“35. There are some of the employees who have not been



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W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

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.

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



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

accordingly within three months. Resultantly, the appeals filed by the employees are allowed and filed by the State are dismissed.”

8. In the above judgment the Hon'ble Supreme Court has also made reference about the Uttarpradesh Retirement Benefit Rules, 1961 which would state that the service rendered in non-pensionable establishment work-charged establishments or in a post paid from contingencies fall between two periods of temporary service in a pensionable establishment or between a period of temporary service and permanent service in a pensionable establishment, will not constitute interruption of service. The Government of Tamilnadu has also issued Government Order in the spirit of the above Rule in G.O.Ms.No.131 Personnel and Administrative Reforms(F) Department dated 28.11.2020.

9. In the said Government Order, it is observed that the State Government and their instruments should take steps to regularize as a one-time measure, the services of such irregularly appointed as a one-time measure, but who had worked for 10 years or more in duly



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

sanctioned posts and that the State will take immediate steps by filling up the sanctioned posts. Following the same, in all services including Tamilnadu Basic Services, appointment shall be made only with reference to the existing Rules. So in view of the above judgement of the Hon'ble Supreme Court, the petitioners claimed that their past temporary services should also be included with their permanent service in order to account the qualifying service for the purpose of pension. Some of the similarly placed persons have filed a writ petition in W.P.No.19023 of 2021 by citing the above judgment of the Hon'ble Supreme Court and in which the following orders has been passed:

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



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

WEB COPY

10. As the petitioners claimed that they have been absorbed in the year 2009, despite they had completed 10 years of service in the year 1997, it is claimed that they should be given with the same benefit as it was so given to the other similarly placed persons.

11. Even in the above writ petition, it has been ordered that the petitioners have given with the benefit of getting their services regularized on expiry of 10 years or on the date on which they were originally appointed to the post of Forest Watcher.

12. Even though the petitioners' services have been regularised, the regularization had not been given effect on the date when the petitioners had completed 10 years of service. Since similarly placed persons have given with the benefit of the orders given in the above orders passed consequent to the compliance of the issuance of the Government Order, the petitioners also be given with the similar benefit.



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

WEB COPY

13. In view of the above stated reasons, this writ petition is **allowed** and the respondents are directed to regularize the service of the petitioners notionally after the completion of 10 years of service from the date of the initial appointment as Plot Watchers and count the same along with the regular service for the purpose of pensionary benefits in the light of the orders of the Apex Court rendered in C.A.No.6789 of 2019 and in light of various judgments of the High Court following the same and pass appropriate orders within a period of six weeks from the date of receipt of copy of this order. No costs.

19.07.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJJ

To

1. The Secretary to Government,
Government of Tamil Nadu,
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Fort St. George, Chennai 9.

2. The Principal Chief Conservator of Forests,
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Page No.12 of 14



WEB COPY



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024



WEB COPY



W.P.(MD)Nos.29903 of 2023 & 2137 of 2024

R.N.MANJULA, J.

PJL

W.P.(MD)Nos.29903 & 2137 of 2024

19.07.2024