



W.P.No.28017 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.28017 of 2023

- 1.R.Muthulakshmi
- 2.S.Selvaraj
- 3.K.Manickam
- 4.A.Annamalai
- 5.C.Natarajan
- 6.C.Lakshmanan
- 7.K.Boomadevi
- 8.M.Varatharajan
- 9.A.Kandhasamy
- 10.M.Boobathi

...Petitioners

-Vs-

- 1.The State of Tamil Nadu,
Rep., by its Secretary to Government,
Environment, Climate Change and Forest Department,
Fort.St.George,
Chennai.
- 2.The Principal Chief Conservator of Forest &
Head of Forest Force,
Joint Forest Management,
Velachery Main Road,
Guindy,
Chennai-32.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a direction in the nature of Writ of Certiorarified



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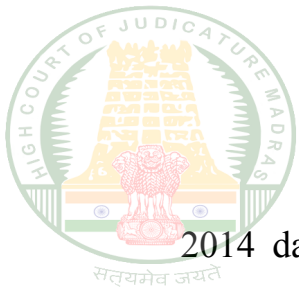
Mandamus to call for the records in Ref.No.LL3/5006/2022 dated 13.06.2022 on the file of the second respondent and quash the same consequential direction to the respondents to regularize our services in the cadre of forest watcher for the purpose of getting minimum pension/Family Pension by giving relaxation in respect of height on par with junior namely P.Karuppiah S.No.4608 with effect from 24.01.1995 in the light of the order passed by this Court in W.P.No.9708 of 2014 dated 12.09.2014 same was affirmed by Division Bench in W.A.No.1703 of 2014 dated 20.01.2015 within a time limit that may be fixed by this Court.

For Petitioner : Mr.K.Jenitha

For Respondents : Mr.S.Rajesh
Government Advocate for R1 & R2

ORDER

This writ petition has been filed seeking a direction to call for the records in Ref.No.LL3/5006/2022 dated 13.06.2022 on the file of the second respondent and quash the same consequential direction to the respondents to regularize our services in the cadre of forest watcher for the purpose of getting minimum pension/Family Pension by giving relaxation in respect of height on par with junior namely P.Karuppiah S.No.4608 with effect from 24.01.1995 in the light of the order passed by this Court in W.P.No.9708 of



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2014 dated 12.09.2014 and the same was affirmed by Division Bench in

W.A.No.1703 of 2014 dated 20.01.2015 within a time limit that may be fixed by this Court.

2. The case of the petitioners is that they were appointed as Social Forest Workers from Employment Exchange from 1981 to 1983 and subsequently, as per G.O.Ms.No.95 Environment and Forest Department, dated 07.08.2009, their services have been brought into regular time scale of pay as plot Watcher (Supernumerary post) in the year 2009. The petitioners have worked in the forest department for more than 40 years. However, the petitioners were denied of the benefit of accommodating them in the cadre post of forest watcher only on the ground that they did not possess requisite height as per the service Rules. According to the petitioners, similarly placed persons have filed Writ petition before this Court in W.P.No.15561 of 2006 and W.P.No.23374 of 2008 and the same were disposed of on 10.03.2008 and 30.10.2009 with a direction to consider their claim for appointment as Forest Watcher on par with their junior. As against this order, the Government preferred an appeal in W.A.No.690 of 2008 and 607 of 2010 which were dismissed by the Division Bench of this Court on 13.10.2009 and 29.03.2010 respectively. Pursuant to the dismissal of the appeals, the



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respondents have implemented the said orders by G.O.Ms.No.49, dated 01.09.2020. as per the orders of this Court and Hon'ble Apex Court the petitioners also entitled for appointment to the post of Forest Watcher with effect from the date of junior's appointment relaxing the rule of height. Hence, they made representation to the respondents to appoint them as forest watchers with effect from the date on which their juniors were appointed as Forest Watchers on 24.01.1995 by granting the benefits of relaxation of rule. But the 1st respondent, without considering the claim of the petitioners has erroneously issued the rejection order. Hence the petitioner approached this Court by filing the present writ petition.

3. Learned counsel appearing for the petitioners submitted that in a similar case, this Court has passed an order in W.P.No.26164 of 2023 dated 07.09.2023 and the same has been complied by the respondents vide G.O.(2D) No.133 E, CC & F(FR.2(ii)) Environment, Climate Change and Forest Department, dated 28.11.2024.

4.The learned Government Advocate appearing for the respondent filed counter affidavit is extracted hereunder:

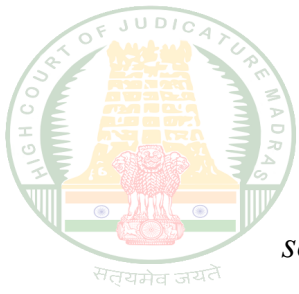


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10. It is respectfully submitted that the writ petitioners do not possess the minimum physical qualification of 163 cm. Hence, they were not eligible to be appointed as Forest Watcher as per the above said Tamil Nadu Forest Subordinate Service Rules. Therefore, they were appointed to the post of Mail/Supernumerary Watcher/Officer Night Watchman. It is noteworthy that the writ petitioners did not object to this and willingly joined duty. Subsequently, they were promoted and retired from Government service on attaining age of superannuation.

11. It is respectfully submitted that I totally deny the averments made in the para. 8 of the affidavit. The number of Social Forestry Workers/ plot Watchers who were waiting for regular appointment was nearly 3000 but the sanctioned posts are very meager in number in the department. The Government decided to regularize the service of the Plot Watchers and Village Social Forestry Workers as a benevolent measure and took a policy decision and issued orders in G.O.Ms.No.95 Environment and Forest (FR.2) Department dated 07.08.2009 to regularize the service of the persons in the supernumerary post created with a special time scale of pay irrespective of height. Accordingly, the writ petitioner and the Social Forestry workers/Plot Watchers in the State wide seniority list were brought under the regular scale of pay on 07.08.2009. They were further promoted to various posts based on their qualification and



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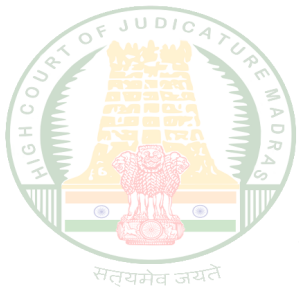
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seniority as Mall, Night Watchman, Driver, Forest Watcher,
etc.,

5. Heard both sides and perused the materials available on record.

6. At this juncture, it is pertinent to extract the relevant portion of the order passed by this Court in W.P.No.26164 of 2023 dated 07.09.2023 is hereunder:

5. Admittedly, the grievance of the writ petitioners is that they are seeking regularization of service for pensionary benefits. It is the contention of the writ petitioners that similarly persons have been given such benefits as per Government Orders in G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, G.O (2D) No. 08 Environment Climate Change And Forests (FR.2ii) Department dated 09.01.2023 and G.O. [2D] No.9, dated 08.02.2022. Based on the Orders of this Court in W.A.No.2072 of 2018, dated 11.08.2021, the Government has issued the Government Order in G.O (2D) No.08 Environment Climate Change And Forests (FR.2ii) Department dated 09.01.2023. As per the above Government Orders, the relief has been extended to similarly placed persons. Hence, the respondents are directed to consider the case of the petitioners in the light the above Government Orders, as the benefit has been extended to similarly placed person. In fact the plot



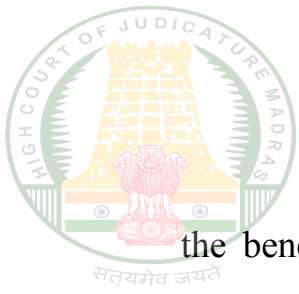
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watchers are frontline soldiers in forest and they are main protectors of the forest. These facts cannot be disputed by any one. Hence, while passing the Orders, the Government shall take into consideration the nature of service rendered by the petitioners and also the fact that when similarly placed persons have already been granted the relief, if the petitioners are not granted such relief, the same is nothing but discrimination and it violates Article 14 of Constitution of India. In such view of the matter, the respondent shall extend the benefits as per above Government Orders as it is extended to similarly situated persons."

6. In view of the aforementioned order, the impugned order dated 13.06.2022 is liable to be set aside, accordingly the same is set aside. The respondents are directed to regularize the services of the petitioners in the cadre of Forest Watcher for the purpose of getting minimum pension/family pension by giving relaxation on par with junior namely P.Karuppiah S.No.4608 with effect from 24.01.1995. However, while passing the orders, the Government shall take into consideration the nature of service rendered by the petitioners and also the fact that similarly placed persons have already been granted the relief and if the petitioners are not granted such relief, the same is nothing but discrimination - a violation under Article 14 of the Constitution of India. In such view of the matter, the respondents shall extend



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the benefit as per above Government orders as it is extended to similarly situated persons within a period of eight weeks from the date of receipt of a copy of this order.

7.In the result, the writ petition stands disposed of with the above observation and direction. No costs.

21.01.2025

vsn

Index : Yes / No

Speaking / Non-Speaking Order

To

- 1.TheSecretary to Government,
Environment, Climate Change and Forest Department,
Fort.St.George,
Chennai.
- 2.The Principal Chief Conservator of Forest &
Head of Forest Force,
Joint Forest Management,
Velachery Main Road,
Guindy,
Chennai-32.

J.SATHYA NARAYANA PRASAD, J.

vsn



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