



W.P.No.27348 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 31.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.27348 of 2023

- 1.P.Rengaraj
- 2.K.Thangavel (Died)
- 3.V.Karupppasamy
- 4.P.Nagarajan
- 5.M.Muniyandi
- 6.V.Ramalingam
- 7.M.Mariyappan
- 8.G.Thottaiyasamy
- 9.K.Ammachi
- 10.S.Saminathan
- 11.M.Makali
- 12.K.Manickam
- 13.P.Murugesan
- 14.T.Gopal
- 15.T.Kavitha
- 16.T.Dhanapal

...Petitioners

****P14 to P16 are substituted as LR's of P2**

-Vs-

- 1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Environment, Climate Change and Forest Department,
Fort St.George,
Chennai – 9.



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2.The Principal Chief Conservator of Forests &
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 Mandamus, to call for the records in Ref.No.LL3/25480/2022 dated 02.12.2022 on the file of the 2nd respondent and quash the same with consequential direction to the respondents to regularize the petitioners service 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 juniors namely, P.Karupiah, 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 the Division Bench in W.A.No.1703 of 2014 dated 20.01.2015 and pass such further orders.

For Petitioners : M/s.K.Jenitha

For Respondents : Mr.S.Rajesh,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the second respondent vide Ref.No.LL3/25480/2022 dated 02.12.2022 and a consequential direction to the respondents to regularize the petitioners' service in the cadre of Forest Watcher for the purpose of getting a



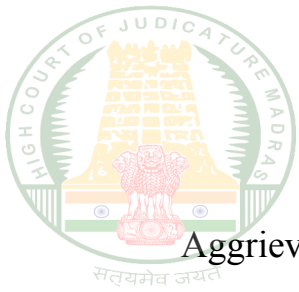
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minimum pension / Family Pension by giving relaxation in respect of height

on par with juniors, 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, the same was affirmed by the Division Bench in W.A.No.1703 of 2014 dated 20.01.2015.

2. The case of the Petitioners is that they were originally appointed as Plot Watchers/Social Forestry Workers on a daily wage basis in the Forest Department between 1979 and 1985, respectively. Thereafter, as per G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999, their names were included in the Statewide Seniority List. Thereafter, their services came to be regularized as per G.O.Ms.No.95, Environment and Forest Department, dated 07.08.2009, as a Supernumerary Plot Watcher and thereafter the Petitioners were appointed as Mali Watchers in 2014, where they have rendered more than 40 years of service.

3. The respondents issued a Government Order in G.O.Ms.No.332, dated 22.12.1994, fixing the educational qualification for the post of Forest Watcher as SSLC and appointed 445 Plot Watchers as Forest Watchers. By this Government Order, the juniors were appointed over the seniors.



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Aggrieved by this G.O., the Plot Watchers approached the Administrative Tribunal to quash the G.O., As a result G.O.332 was cancelled, and the respondent issued G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999, and the eligibility of read and write was fixed. By this Government order a State-wide Seniority list was prepared, and the vacancies of Forest Watcher and Mali were to be filled up by appointing the Plot Watchers and Social Forestry Workers as per their seniority.

4. After preparing the statewide seniority list, the first batch of appointments was made on 31st December 1999. The Chief Conservator of Forests, Chennai, under the instruction of the Principal Chief Conservator of Forests, had issued proceedings in Se.Mu.Na.Ka.No.AB3/ 86100/99 dated 23.12.1999 for the appointment of 401 Plot Watchers/Social Forestry workers in the post of Forest watchers and Malis. At that time no physical qualification was fixed for the post of Forest Watcher and Mali.

5. Subsequently from 2002, the respondent department separated the Plot Watcher and Social Forestry Workers into two categories as persons having a physical qualification of 163 c.m., height and not having 163 c.m., height. In view of the separation, the persons having 163 c.m., height were



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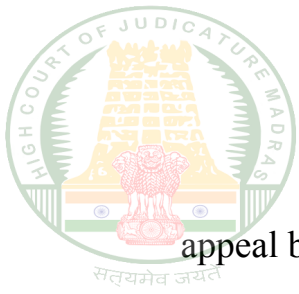
alone appointed in the regular post of Forest watcher. The persons not having

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163 cm., height were made to work as daily wagers and they were made to wait for a regular appointment in the post of Mali. Since the post of Mali is the newly added post and less vacancies in number, the vacancies in Mali post had not aroused till 2014.

6. Similarly placed persons like the Petitioners, one Mr.Sivanesan, who was appointed as Forest Watcher and subsequently reverted for want of height, filed O.A.No.2248 of 1992 before the Hon'ble Administrative Tribunal, in which the Tribunal issued orders directing respondents to appoint him as Forest Watcher by relaxing the rule of height. As such, the first respondent issued G.O(2D) No.56, Environment and Forest Department dated 06.09.2006, relaxing the Rules and he was given an appointment as Forest Watcher.

7. Another similarly placed person as well as junior to the Petitioner, one Mr.Kanniyappan, has approached this Court by way of writ petition in W.P.No.9708 of 2014 for a similar prayer, and this Court disposed of the Writ petition as prayed for. As against this order, the Respondents filed Writ Appeal No.1703 of 2014, and the Division Bench dismissed the writ



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appeal by confirming the order passed in W.P.No.9708 of 2014.

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8. As against the order made in the above Writ Appeal, the respondents filed SLP.No.12056 of 2015, and the same was also dismissed. As against that, a Review petition was also filed, and the same was also dismissed. A contempt petition was filed for not implementing the Order passed in the Original Writ Petition and wherein the respondent submitted a consent letter of Mr.Kanniyappan that he accepted for the post of Mali. The Division Bench held that if the petitioner chooses for Mali, the post should be made from the date of his juniors appointment in the post of Forest Watcher.

9. In view of the above said order of the Division Bench, the Petitioners made a representation to appoint them as Mali from the date of their juniors appointment as Forest Watcher. The Petitioners filed a writ petition in W.P.No.17427 of 2018, since their representation was not considered, and the same was disposed of with a direction to consider their representation. The 2nd respondent passed order rejecting the claim stating that the seniority will be fixed only in the post of Forest Watcher and Mali is not eligible for seniority on par with junior in the post of Forest Watcher.



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10. Thereafter, the Petitioner made another representation to appoint them in the post of Forest Watcher by giving benefit of relaxation to height rule that was not considered and they again approached this Court to direct the respondents to consider their claim. Pursuant to which, the second respondent denied their claim by issuing an order of rejection.

11. Learned counsel appearing for the petitioners would submit that similarly placed persons who were appointed after them and having less than 163 c.m., height, have filed writ petitions to appoint them as Forest Watcher by giving relaxation to Rule 5 and to fix his seniority on par with his junior. The writ petitions were disposed of and the respondents have implemented the orders of this Court by issuing G.O(2D) No.58, Environment, Climate Forests (FR.2(II)) Department dated 20.04.2022.

12. It is further submitted that though they were appointed as Mali Watcher, far juniors to the Petitioners were appointed as Forest Watcher with effect from 24.01.1995. In view of this, up to the serial No.4644 in the Statewide Seniority List has marched over the Petitioners and brought into the old pension scheme. Hence, the Petitioners made representations to the respondents to appoint them as Forest Watcher by relaxing the rule with



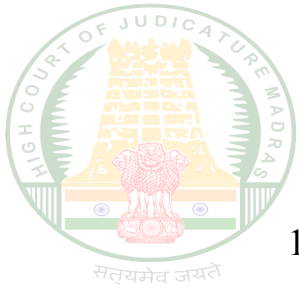
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effect from the date of juniors appointment as Forest Watcher on 24.01.1995.

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But the claims of the Petitioners were not considered by the respondents, and hence they preferred a Writ Petition in W.P.No.21799 of 2021 for direction to the respondents to consider their claim. The Writ Petition was disposed of by directing the respondents to consider the claims of the Petitioner in the light of the benefits given to the similarly placed persons.

13. It is submitted that the 2nd respondent without proper consideration of the claims of the Petitioner and without considering the fact that already several persons were given the benefits of relaxation to Rule 5 in respect of height has erroneously rejected their claim by issuing the impugned order in Ref.No.LL3/5006/2022 dated 13.06.2022. The acts of the Respondents result in violation of Article 14 and 16 of the Constitution of India, since the respondents failed to consider the petitioner's continuous services for more than 30 years without any single promotion and were denied Pensionary benefits. The Petitioners were appointed through employment exchange and also possessed the necessary SSLC qualification for appointment to the post of Forest Watcher and similarly placed persons of the petitioners were appointed as Forest Watcher.



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14. Learned counsel further submitted that a similar case was passed by this Court in **W.P.No.28017 of 2023 (R.Muthulakshmi Vs. The State of Tamil Nadu, Rep. by its Secretary to Government, Environment, Climate Change and Forest Department, Fort St.George, Chennai).**

15. A counter affidavit was filed on behalf of the respondents dated 30.10.2022.

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

17. The order passed by this Court in **W.P.No.28017 of 2023 (R.Muthulakshmi Vs. The State of Tamil Nadu, Rep. by its Secretary to Government, Environment, Climate Change and Forest Department, Fort St.George, Chennai)**, dated 21.01.2025, which held as follows:

“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



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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 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."

7. 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 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.

8. In the result, the writ petition stands disposed of



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with the above observation and direction. No costs.”

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18. In view of the above factual matrix of the case and the ratio laid down by this Court in W.P.No.28017 of 2023, the impugned order passed by the second respondent vide Ref.No.LL3/25480/2022 dated 02.12.2022 is liable to be quashed accordingly the same is quashed.

19. The respondents are directed to regularize the petitioners service in the cadre of Forest Watcher for the purpose of getting a minimum pension / Family Pension by giving relaxation in respect of height on par with juniors, 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 the benefit as per the 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.



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31.01.2025

cda

Index : Yes/No

Speaking/Non Speaking order

To

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