



W.P.(MD)No.14417 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2023

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.14417 of 2017
and
W.M.P.(MD)No.11745 of 2018

S.Sivamalaya

... Petitioner

Vs.

1. State of Tamil Nadu represented by
District Collector,
Nagercoil,
Kanniyakumari District.
2. District Forest Officer,
Kanniyakumari District,
Vadasery, Nagercoil,
Kanniyakumari District.
3. Conservator of Forest,
Wild Life Circle Southern Region,
N.G.O.'B' Colony,
Near R.T.O. Office,
Thirunelveli.
4. Principal Chief Conservator of Forest,
Government of Tamil Nadu,
Panagal Maligai, Saidapettai,
Chennai – 15.



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5. The Principal Secretary to Government,
State of Tamil Nadu,
Secretariat, Chennai.

6. The Principal Accountant General (A&E),
State of Tamil Nadu,
Chennai.

... Respondents

Prayer : This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other appropriate writ or direction in the nature of writ, directing the respondents to issue the illegal recoveries made in the salary of the petitioner and return the increment and other emoluments illegally stopped due to the petitioner according to rules prevailing with 12% interest from the dates of actual due.

For Petitioner : Mr.P.F.Ferlin Castro
for Mr.S.Titus

For R1 to R5 : Mr.T.Amjadkhan
Government Advocate

For R6 : Mr.P.Gunasekaran

ORDER

The present Writ Petition has been filed for issuance of a writ of mandamus, to direct the respondents to issue the illegal recoveries made in the salary of the writ petitioner and return the increment and other emoluments illegally stopped due to the writ petitioner according to rules prevailing with 12% interest from the dates of actual due.



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2. The writ petitioner was appointed as Forester on 12.12.1964. He was allowed to retire on 31.10.2001 in the position of Forest Station Ranger, Kanniyakumari Division at Nagercoil. While he was working as Forest Station Ranger, certain charges were levied against the writ petitioner and cash recoveries had been made. The said order was passed by the District Forest Officer, Kanniyakumari District. Since it was passed by an incompetent officer, the writ petitioner made a representation to the Government of Tamil Nadu. By an order, dated 17.09.2012, the Government was pleased to pass the following order:

□5. எனவே, திரு.எஸ்.சிவமாலையா, வனச்சரகருக்கு, தமிழ்நாடு குடிமைப்பணிகள் (ஒழுங்கு மற்றும் மேல்முறையீடு) விதிகளில் விதி 17(b)-ல் வழங்கப்பட்ட குற்றத்தாள் மீது ஒழுங்குமுறை அதிகாரி அல்லாத வனப்பாதுகாவலர், திருநெல்வேலி அவர்களினால் வழங்கப்பட்டுள்ள வழவுள்ள தண்டனை ஆணை எண்.E2/9987/93-3, நாள் 25.07.2000-ஐ மட்டும் இரத்து செய்யலாம் எனவும், சரகருக்கு கன்னியாகுமரி மாவட்ட வன அலுவலர் அவர்களது குறிப்பாணை எண்.9947/97 ப2, நாள் 11.09.97ல் தமிழ்நாடு குடிமைப்பணிகள் (ஒழுங்கு மற்றும் மேல்முறையீடு) விதி 17(b)ன் கீழ் வழங்கப்பட்ட குற்றத்தாளின் மீது தமிழ்நாடு ஓய்வூதிய வீதிகளின் கீழ் உரிய மேல் நடவடிக்கையினை அரசளவில் தொடரலாம் எனவும் முடிவு செய்து அவ்வாறே



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அரசு ஆணையிடுகிறது.□

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3. By that order, the charges against the writ petitioner in Memo No. 9947/97 B2 dated 11.09.1997 were dropped without prejudice to the punishment granted in the proceedings E2/9987/93-3 dated 25.07.2000. Subsequently, by an order, dated 14.11.2014, the following order was passed:

□ஆணை : திரு.சி.சிவமாலையா, வனச்சரக அலுவலருக்கு மாவட்ட வன அலுவலர், கன்னியாகுமரி க.எண்.9947/1997 ப2 நாள் 11.09.1997ன் மீது வழங்கப்பட்ட வனப்பாதுகாவலர், திருநெல்வேலி செயல்முறை ஆணை எண். ப2/9987/98-3 நாள் 25.07.2000 குற்றத்தாளுக்கு குந்தகமின்றி இரத்து செய்யப்படுகிறது.□

4. In other words, the Government came to a conclusion that the order of recovery of the District Forest Officer is without jurisdiction and deserved to be set aside. Once the punishment is set aside by the Government, the recoveries that have been made under the said proceedings have to be returned to the writ petitioner. In other words, on account of setting aside the punishment, the writ petitioner is entitled to be in the same position that he would be before the recovery is made.



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5. Mr.P.F.Ferlin Castro, learned counsel appearing for the writ petitioner submitted that a sum of Rs.40,608/- had been recovered from the writ petitioner on 10 charges.

6. Since the Government has set aside the punishment that has been imposed as against the writ petitioner, he will be entitled to reimbursement of the amount recovered from him. Accordingly, this Writ Petition succeeds. The second respondent is directed to calculate the amount that has been recovered from the writ petitioner and inform the sixth respondent for the purpose of reimbursement of the amount recovered. The said exercise shall be completed within a period of eight (8) weeks by the second respondent from the date of receipt of a copy of this order and he shall forward the papers for processing to the sixth respondent within a period of four (4) weeks thereafter.

7. The learned counsel appearing for the writ petitioner seeks for interest on the amount, which has been retained. The writ petitioner retired from service in 2001. But the proceedings ended before the Government only in the year 2014. The writ petitioner has contributed to the delay for



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the proceedings and hence, I not inclined to award interest for the same.

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8. With the above directions, this Writ Petition is allowed.

Consequently, connected Miscellaneous Petition is closed. No costs.

21.11.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

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Nagercoil,
Kanniyakumari District.
2. District Forest Officer,
Kanniyakumari District,
Vadasery, Nagercoil,
Kanniyakumari District.
3. Conservator of Forest,
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V.LAKSHMINARAYANAN,J.

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