

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.19452 of 2015
and
M.P.Nos.1 and 2 of 2015

Mir Ziauddin

... Petitioner

vs.

1. The Secretary to Government,
Environment & Forests (FR.9) Department,
Secretariat, Chennai - 9.
2. The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai - 15.
3. Assistant Conservator of Forests,
Forest Protection Squad,
No.6, Cherry Road, Salem - 7.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the first respondent herein in G.O.(Ms) No.88, Environment and Forests (FR.9) Department, dated 26.04.2000 placing the petitioner under suspension and the consequential order passed by the first respondent herein in G.O.(3D) No.9, Environment and Forests (FR.9) Department dated 28.4.2000 not permitting the petitioner to retire from service with effect from 30.4.2000 and quash the same and consequently direct the respondents herein to permit the petitioner to retire from service with effect from 30.4.2000 with all consequential monetary and retirement benefits with interest for the delayed payment of retirement benefits.

For petitioner : Mr.Ravi Shanmugam

For respondents : Mr.N.Inbanathan,
Government Advocate (Forests)

ORDER

Mr.N.Inbanathan, learned Government Advocate, takes notice for the respondents.

2. The petitioner was working as Assistant Conservator of Forests. He was placed under suspension by order dated 28.4.2000. He was not permitted to retire from service on 30.4.2000, when he attained the age of superannuation.

3. The petitioner has filed this Writ Petition seeking to quash Government Order in G.O.(Ms) No.88, Environment and Forests (FR.9) Department, dated 26.04.2000 placing the petitioner under suspension as well as the consequential order passed by the first respondent in G.O.(3D) No.9, Environment and Forests (FR.9) Department dated 28.4.2000.

4. When the matter came up for admission, this Court passed an order dated 2.7.2015 and it is useful to extract the same.

"The petitioner was placed under suspension by an order dated 26.4.2000. He was not permitted to retire from service on 30.4.2000 vide G.O.(3D) No.9, Environment and Forests (FR.9) Department dated 28.04.2000.

2.The grievance of the petitioner is that he was not paid subsistence allowance from the date of suspension and not permitted to retire from service and though he was retained in service, no charge memo was issued.

3.It is averred by the petitioner in the affidavit filed in support of the writ petition that he was imposed with a punishment of recovery of a sum of Rs.1,60,225/-, pursuant to the order dated 27.12.1992 passed in the disciplinary proceedings under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

4. Challenging the aforesaid order dated 27.12.1992, the petitioner filed Original Application in O.A.No.1821 of 1993 before the Tamil Nadu Administrative Tribunal and the same was transferred to this Court and renumbered as W.P.No.13941 of 2006 and this Court allowed the writ petition vide order dated 26.09.2006. No writ appeal is pending against the aforesaid order passed by this Court as on date.

5. However, the learned Government Advocate for the respondents has stated that against the aforesaid order of this Court, writ appeal is pending in M.P.No.1 of 2009 in W.A.SR.No.112 of 2009 and it is yet to be numbered.

6. According to the learned counsel appearing for the petitioner, no disciplinary and criminal proceedings are pending. Hence, the Government Order in G.O.(3D) No.9, Environment and Forests (FR 9) Department dated 28.4.2000 not permitting him to retire and placing him under suspension is liable to be quashed.

7. In my view, if the aforesaid facts are true, the Government Order in G.O.(3D) No.9, Environment and Forests (FR 9) Department dated 28.04.2000 is liable to be quashed. There is no use in not permitting an employee to retire from service for the past 15 years, without any disciplinary proceedings or criminal proceedings.

8. Mr. N. Inbanathan, learned Government Advocate (Forests) takes notice for the respondents.

9. ..."

5. Now, it is stated by the learned counsel for the petitioner that W.A.SR No.112 of 2009 was dismissed on 24.7.2015. I have already categorically stated in the order dated 2.7.2015 that "if the aforesaid facts are true, the Government Order in G.O.(3D) No.9, Environment and Forests (FR 9) Department dated 28.4.2000 is liable to be quashed".

6. In the light of the above facts, there is no use in keeping the petitioner under suspension for 15 years. Without any disciplinary proceedings, the petitioner cannot be placed under suspension. The petitioner was not permitted to retire on the ground that proceedings in W.P.No.13941 of 2006 was pending and that Writ Petition was also allowed by order of this Court dated 26.9.2006. Subsequently, W.A.SR.No.112 of 2009 filed against the said order, was also dismissed.

7. Hence, the present Writ Petition deserves to be allowed. Accordingly, the Writ Petition is allowed and G.O.(Ms) No.88, Environment and Forests (FR.9) Department, dated 26.04.2000 and G.O.(3D) No.9, Environment and Forests (FR.9) Department dated 28.4.2000 are quashed. Consequently, a direction is issued to the first respondent to settle terminal benefits in accordance with

relevant rules within a period of 12 weeks from the date of receipt of a copy of this order. No order as to costs. The connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Secretary to Government,
Environment & Forests (FR.9) Department,
Secretariat, Chennai - 9.
2. The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai - 15.
3. Assistant Conservator of Forests,
Forest Protection Squad,
No.6, Cherry Road, Salem - 7.

+1cc to Mr.Ravi Shanmugam, Advocate, S.R.No.38304

+1cc to the Special Government Pleader(Forest), S.R.No.38127

W.P.No.19452 of 2015
and
M.P.Nos.1 and 2 of 2015

CA(CO)
CA(14/08/2015)

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