

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.21521 of 2014 and

M.P.No.1 of 2014

A.Sheik Abdul Khader

... Petitioner

vs.

- 1.The Government of Tamil Nadu
rep. by its Principal Secretary,
Environment and Forest Department,
Secretariat, Chennai-600 009.
- 2.The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1 Geenis Road,
Saidapet, Chennai-15.
- 3.The Conservator of Forest,
Salem Region, Salem.
- 4.The District Forest Officer,
Harur Forest Division,
Harur, Dharmapuri District. ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus, call for the records relating to the Government Order in G.O.(D) No.172, Environment and Forest (F1) Department, dated 30.05.2012 passed by the 1st respondent herein and quash the same in so far as it remitted the matter to 2nd respondent to pass final orders under the Tamil Nadu Pension Rules in respect of proceedings initiated against the petitioner based on the Charge Memo issued in letter No.16526/PA dated 24.11.1997 by the 3rd respondent herein under Rule 17(b) of Tamil Nadu Civil (Discipline and Appeal) Rules and consequently, set aside the show cause notice in Na.Ka.No.Aa.Aa.2/36723/2010 dated 23.1.2014 issued by the 2nd respondent herein as void and without jurisdiction and direct the respondents to grant all service benefits including arrears of increments etc. which was withheld on the account of the punishment issued against the petitioner by an order dated

31.03.1999 issued by the 3rd respondent herein.
(Prayer amended as per order dated 13.10.2014 in M.P.No.2 of 2014)

For Petitioner : Mr.M.R.Jothimanian
For Respondents : Mr.N.Inbanathan,
Government Advocate (F)

O R D E R

The petitioner has come up with the present writ petition challenging the Government Order in G.O.(D) No.172, Environment and Forest (F1) Department, dated 30.05.2012 passed by the 1st respondent herein and quash the same in so far as it remitted the matter to 2nd respondent to pass final orders under the Tamil Nadu Pension Rules in respect of proceedings initiated against the petitioner based on the Charge Memo issued in letter No.16526/PA dated 24.11.1997 by the 3rd respondent herein under Rule 17(b) of Tamil Nadu Civil (Discipline and Appeal) Rules and consequently, set aside the show cause notice in Na.Ka.No.Aa.Aa.2/36723/2010 dated 23.1.2014 issued by the 2nd respondent to grant all service benefits including arrears of increments etc. which was withheld on account of the punishment issued against the petitioner by an order dated 31.03.1999 issued by the 3rd respondent herein.

2. The case of the petitioner is as follows:

(i) The petitioner was appointed as Forest Ranger by order dated 04.10.1980 of the 2nd respondent and posted at Sivakasi Social Forestry Range of Virudhu Nagar Forest Division. Subsequently, he was transferred and posted at Kottapatti Forest Range of the 4th respondent Division.

(ii) While so, on 16.10.1997, a charge memo was issued against him under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules for the charge of dereliction of duty. Thereafter, an enquiry was conducted and a final order was passed by the 3rd respondent in Se.Mu.Aa.No.16256/97/E3 dated 31.03.1999 against him and awarded a punishment of stoppage of increments with cumulative effect for the period of two years. Against which, the petitioner preferred an appeal before the 2nd respondent on 24.04.2001 and the same was also dismissed by order dated 30.10.2001. The review preferred before the 2nd respondent was rejected on 26.10.2007 in Se.Mu.Order No.Aa.Aa.1/48732/05.

(iii) In this regard, the petitioner made an appeal to the 1st respondent, who in turn, passed an order in G.O.(D) No.172, Environment and Forest (F1) Department, dated 30.05.2012 by setting aside the orders of the respondents 2 and 3 and directed the 2nd respondent to proceed against the petitioner based on the letter of the 3rd respondent dated 24.11.1997 under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rule, after considering the Tamil Nadu Pension Rules, 1978.

(iv) ****Subsequently, the 2nd respondent issued a show cause notice to the petitioner on 28.08.2014, proposing to impose the punishment of deduction of Rs.500/- from the salary of the petitioner for ten months.** In this regard, the petitioner submitted a reply on ***2/3/2015** to the 2nd respondent stating that he was allowed to retire from service on 31.10.2007 and the 2nd respondent has no jurisdiction to proceed against him. Hence the present Writ Petition.

3. Though the Writ Petition has been filed seeking larger relief, now the learned Counsel for the petitioner would submit that it would be suffice, if the 2nd respondent is directed to consider the reply of the petitioner dated ***2/3/2015** on merits and in accordance with law and pass final orders within a period stipulated by this Court.

4. Considering the limited prayer now made by the learned Counsel for the petitioner, without expressing any opinion about the merits of the claim made by the petitioner, this Court directs the 2nd respondent to consider the reply of the petitioner dated ***2/3/2015** on merits and in accordance with law and to pass final orders thereon with regard to the payment of consequential pension benefits, within a period of four weeks from the date of receipt of a copy of this Corder.

5. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Asst. Registrar.

Dated:28/09/2016

*,** amended and substituted
as per order dated 20/10/2016
made in W.P.No.21521 of 2014

Sd/-

Assistant Registrar (CS-VII)

Dated:24/10/2016

/true copy/

Sub Asst. Registrar.

tsi

To

1.The Principal Secretary,
Government of Tamil Nadu,
Environment and Forest Department,

Secretariat, Chennai-600 009.

To be substituted for
the order already
despatched on 19/10/2016

2.The Principal Chief
Conservator of Forests,
Head of Forest Force,
No.1 Geenis Road,
Saidapet, Chennai-15.

3.The Conservator of Forest,
Salem Region, Salem.

4.The District Forest Officer,
Harur Forest Division,
Harur, Dharmapuri District.

+1 CC to Mr. M.R.Jothimanian, Advocate Sr.No.52594 *and 59687

+1 CC to Special Government Pleader, Sr.No.52653 * and 59589

W.P.No.21521 of 2014

VSN (CO)

MD : 05/10/2016

srg 24/10/2016