

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1365 of 2015 and M.P.No.1 of 2015

- 1.The Principal Chief Conservator of Forests,
Chennai-15.
- 2.The Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai-9. ... Appellants

-vs-

T.Paramasivam ... Respondent

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.4749 of 2012 dated 11.09.2012.

WP.4749 OF 2012

Petition presented to this court to issue a writ of Certiorari Calling for the records of the respondents in connection with the impugned order passed the 1st respondent in Ref.No.T1/55975/94 dt.30.04.97 and by the 2nd respondent in GO (3D) No.75 Environment and Forest (B9A) Dept dt.27.12.2011 and quash the same and grant such other further reluy

For Appellants :: Mr.M.Santhanaraman,
Additional Government Pleader

For Respondent :: Mr.M.Muthappan

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This writ appeal has been filed by the State, against the order passed by this Court in W.P.No.4749 of 2012 dated 11.09.2012, wherein a learned single Judge of this Court, set

aside the order imposing punishment upon the respondent herein / writ petitioner, on the ground that there was unexplained and inordinate delay in completing the disciplinary proceedings.

2.The learned Additional Government Pleader appearing for the appellants, amongst other grounds, mainly contended that the learned single Judge has failed to give credence to the averments made in the counter affidavit filed by the appellants herein before the writ Court, elucidating the fact that there was no delay at all right from the initiation of charges till the passing of impugned order which has been challenged in the writ petition. He also submitted that the reliance placed upon by the learned single Judge on the judgment of the Hon'ble Supreme Court on the aspect of delay, warrants interference as the same cannot be made applicable to the case on hand.

3.Per contra, the learned counsel for the respondent has submitted that the learned single Judge has passed the impugned order quashing the disciplinary proceedings, considering all the facts and circumstances of the case and relying upon relevant judgments and hence the same does not require any interference.

4.Heard the learned counsel on either side and perused the materials available on record.

5.The charge initiated against the respondent is that he, along with three others, extracted illegal gratification of Rs.500/- each from the witnesses by putting them under the fear of arrest and remand and subsequently foisted cases of illicit cutting of the firewood from the reserve forest against them and thereby he failed to maintain absolute integrity of a Government servant and conducted himself in a manner unbecoming of a Government servant. Subsequently, after conducting enquiry, the said charge has been proved. But the learned single Judge has quashed the disciplinary proceedings on technical grounds, ie., on the ground of delay and laches. The learned single Judge relied upon the judgment of the Hon'ble Supreme Court in State of A.P. v. N.Radhakrishnan reported in 1998 (4) SCC 154 to come to such conclusion. In that case, the respondent therein was appointed as Assistant Director of Town Planning in the year 1976. A report was sent by the authorities against him alleging certain irregularities in deviations and unauthorised constructions and on the basis of the report, memos were issued in the year 1987 and till 1995, no charges have been framed. Taking note of the same, the disciplinary proceedings was quashed in the present case. In the case on hand, the charge in respect of illegal gratification has been proved. Further, it is seen that against the order of punishment, the respondent herein preferred an appeal before the second appellant and the same was

rejected. Thereafter, this Court in W.P.No.23179 of 2005, by order dated 21.03.2011, set aside the punishment order and remanded the matter for fresh consideration by the appellate authority. After remand, once again the appellate authority rejected the appeal by order dated 27.12.2011 and challenging the same, W.P.No.4749 of 2012 was filed. Thus, it is seen from the records that both the original authority as well as the appellate authority have given concurrent findings. Even after remand by this Court, the appellate authority has rejected the appeal. In such circumstances, it appears to be strange to come to the conclusion which has been arrived at by the learned single Judge quashing the disciplinary proceedings. It also appears from the submission made by the learned counsel for the respondent that the respondent has retired from service and he is now aged 65 years.

6. In view of the above stated circumstances and also taking note of the nature of charge, the impugned order passed by the learned single Judge quashing the entire disciplinary proceedings is modified to the effect that there shall be an order of punishment of stoppage of increment for two years with cumulative effect. Taking note of this order, the terminal and pensionary benefits shall be calculated and be released to the respondent, within a period of three months from the date of receipt of a copy of this judgment, if not already released.

7. The writ appeal is disposed of accordingly. Consequently the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Principal Chief Conservator of Forests,
Chennai-15.

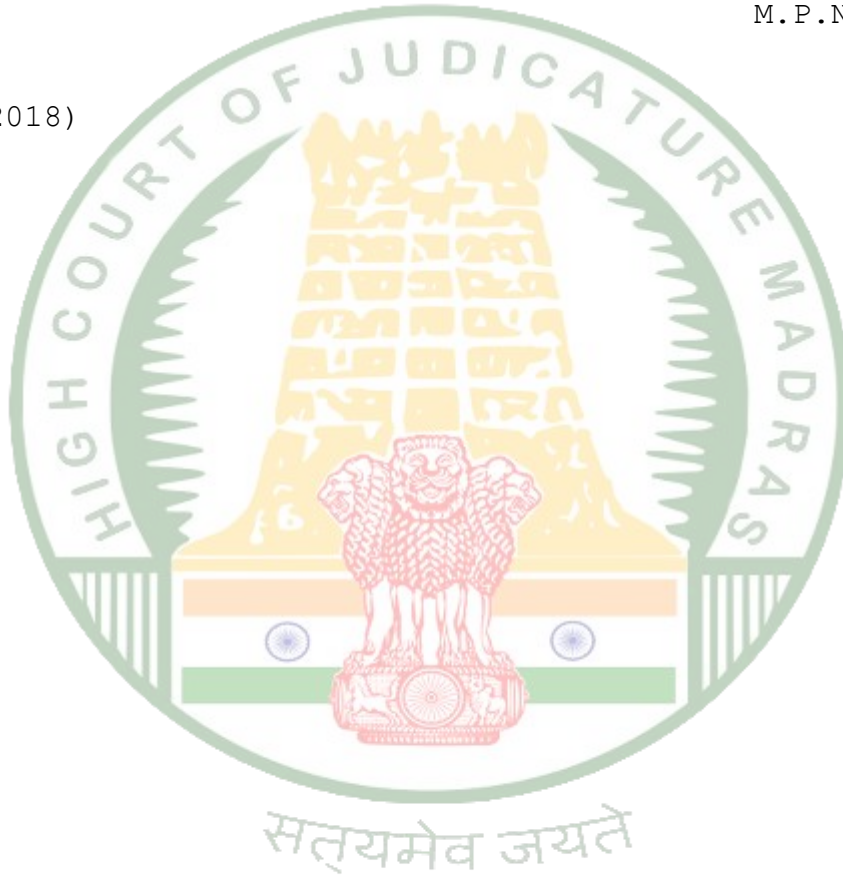
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2.The Secretary to Government,
Government of Tamil Nadu,
Environment and Forest Department,
Fort St.George, Chennai-9.

+1cc to Mr.M.MUTHAPPAN, Advocate, S.R.No. 85750
+1cc to the Government Pleader, S.R.No. 85653

W.A.No.1365 of 2015
and
M.P.No.1 of 2015

NM(CO)
TR(04/01/2018)



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