

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2017

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.8531 of 2014

Ravichandran

... Petitioner

Vs.

1. The District Forest Officer,
O/o the District Forest Office,
Villupuram District.
2. The Principal Chief Conservator of Forests,
Panagal buildings, Chennai 15. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records on the file of the first respondent issued in S.O. No.1306/2014M dated 03.03.2014 and quash the same and consequently direct the respondents to reinstate the petitioner in service as a Forest Watcher.

For Petitioner : Mrs.Selvi George

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

O R D E R

The petitioner approached this court, seeking the following relief :

"to call for the records on the file of the first respondent issued in S.O. No.1306/2014M dated 03.03.2014 and quash the same and consequently direct the respondents to reinstate the petitioner in service as a Forest Watcher".

2. The case of the petitioner is as follows:

The petitioner joined the Tamil Nadu Forest Department as a Watcher on daily wages basis from 01.01.1987 and continued to serve as daily wages Watcher till 2009. Thereafter, by virtue of Government Order Nos.64 and 95 dated 07.08.2009, the petitioner was brought on special scale pay of Rs.2500-5000-500 per month with effect from 07.08.2009 in the supernumerary post created as Plot Watcher. The petitioner, thereafter, continued in service as Plot Watcher. Thereafter, vide proceedings dated 14.02.2014 the name of the petitioner was also included in the seniority list of Plot Watcher drawn for appointment to the post of Forest Watcher. While so, a charge memo was issued on 05.02.2014 for certain acts of misconduct. In response to the said charge memo, the petitioner offered his explanation denying the charges.

3. According to the learned counsel appearing for the petitioner, thereafter, there was no enquiry conducted into the charges and nothing was heard from the respondents. However, by proceedings dated 03.03.2014 the first respondent has passed the orders, terminating the service of the writ petitioner. Although the order refers to some kind of enquiry conducted into the charges, but this Court, after summoning of the original documents and going through the same did not find any semblance of enquiry conducted into the charges.

4. Upon notice Mr.M.Santhanaraman, learned Additional Government Pleader entered appearance on behalf of the respondents and would submit that the petitioner was afforded reasonable opportunities for defending himself. He would also submit that the post of Plot Watchers does not fall within the code of regulation and therefore, it is not incumbent upon the respondents to follow and conduct a detailed enquiry in the matter as in the case of the regular employees. However, he would point out that the petitioner was given an opportunity to explain his case and a fair opportunity was afforded to him and there was overwhelming evidence against the petitioner to hold that the charges framed against him proved.

5. This Court, after perusing the files and materials placed on record, and on consideration of the pleadings, is of the firm view that no reasonable opportunities were afforded to the petitioner after framing of the charges against him on 05.12.2014, except bare reply of the petitioner, that too the said reply does not contain any statement admitting the charges framed against him, there is absolutely no other material on

record, which can be relied upon for establishing the charges framed against the petitioner.

6. Even, in the absence of rules governing the service conditions of the employee, like the petitioner herein, it is needless to mention that the basic principles of natural justice demand that before any prejudicial or adverse action is taken against a person, he must be given an opportunity to be heard. In the instant case, though the petitioner has been working from 1987 till 2014, his services can not be terminated without following the very basic principles of natural justice and without affording reasonable opportunity to him to defend himself in the enquiry. It has been reiterated here that the original files which were produced before this Court, for perusal, did not disclose that any worthwhile enquiry has been conducted into the charges. In such view of the matter, this Court is inclined to allow the writ petition, by setting aside the order of termination passed by the first respondent dated 03.03.2014.

7. In the above circumstances, the writ petition is allowed, the impugned order is set aside.

8. It is represented by the learned counsel appearing for the petitioner that the petitioner was included in the panel for being appointed to the post of Forest Watcher however he could not be appointed in view of the charges. It is made it clear that since the impugned order has been set aside, the petitioner shall also be given the benefit of being appointed as Forest Watcher, if he is otherwise eligible for such appointment and grant consequential benefits. The said order shall be implemented within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

msvm/maya

To

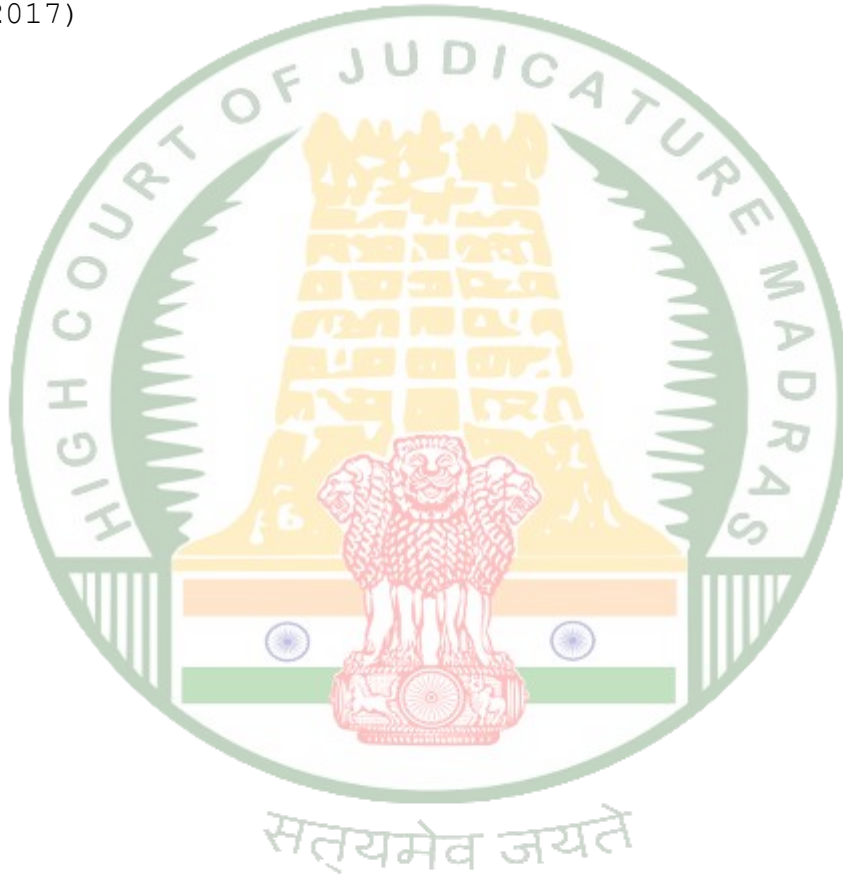
1. The District Forest Officer,
O/o the District Forest Office,
Villupuram District.

2. The Principal Chief Conservator of Forests,
Panagal buildings, Chennai 15.

+1cc to M/S.Selvi George, Advocate Sr. 53022
+1cc to the Government Pleader, Sr. 52982

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CP (CO)
VR(04/09/2017)



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