

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W P NOS.12998 & 16859 of 2017 &
WMP.NoS.13870, 13871 & 18330 of 2017

K.Duraisamy Petitioner in both W.Ps.

Vs.

1. The Principal Chief Conservator of forests,
Head of Forests Force, No.1, Genies Road,
Panagal Maligai, Saidapet, Chennai - 15.

2. The District forest Officer,
Vellore Forest Division, Vellore - 9.

...Respondents in both W.Ps.

Prayer in W.P.No.12998 of 2017: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned orders passed by the 2nd respondent herein vide Ref.No.863/2017/M dated 28.04.2017, and its consequential order vide Proc.No.863/2017, M dated 29.04.2017, and quash the same, consequently direct respondents to allow the petitioner to retire from service and pay all service and monitory benefits including pension.

Prayer in W.P.No.16859 of 2017: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned charge memo issued by the 2nd respondent herein vide Ref.No.863/2017/Pa 3 dated 12.05.2017 and quash the same.

For Petitioner : Mr. M.R.Jothimanian
(in both Wps)

For Respondents : Mr.M. Santhana Raman
(in both Wps) Add Govt Pleader (Forest)

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C O M M O N O R D E R

The Writ Petitioner was initially appointed as Amidhi Zoo Watcher during June, 1979 and was working as such for more than fifteen years in the Department of Forest. Subsequently, he was appointed as a Forest Watcher on 27.02.2003 on regular basis in the time scale of pay and thereafter, promoted as Forest Guard on 24.09.2010. The service of the petitioner also was regularised.

2.The second respondent placed writ petitioner under suspension through his proceedings dated 28.04.2017, on the allegation that his School Transfer Certificate is bogus and the date of birth entered therein was also incorrect. Consequent to the order of suspension, the second respondent by invoking the powers under F.R. 56(1)(c) not allowed the writ petitioner to retire from service and retained him in service, by his proceedings dated 29.04.2017. Both these orders are under challenge in W.P.No.12998 of 2017.

3.The suspension is inevitable. Since the writ petitioner was due to retire on 30th April 2017, following the order of suspension, the order not permitting him to retire from service was passed on 29.04.2017.

4.During the pendency of W.P.No.12998 of 2017, a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (D&A) Rules was issued by the second respondent through his Proceedings dated 12.05.2017. Challenging the same, the writ petitioner also filed another Writ Petition in W.P.No. 16859 of 2017.

5.Now the question arises for consideration is as to whether the writ petitioner is entitled for the relief as sought for in these two Writ Petitions ?

6.The allegations against the writ petitioner set out in the charge memo is that the petitioner submitted a bogus educational certificate and obtained appointment and the date of birth recorded in the School Record is incorrect. On these two aspects, a charge memo was issued by proceedings dated 12.05.2017.

7.Looking into the nature of allegations and considering the fact that the petitioner was due to retire from service on 30th April, 2017, he was placed under suspension and his services are retained under F.R.56 (1)(c) and without any further delay, the second respondent issued the charge memo also. In these circumstances, the process set out by the respondents are very much in order and in accordance with the provisions of the Tamil

Nadu Civil Services (D&A) Rules. Now, the only ground raised by the learned counsel for the petitioner is that though the petitioner was retained in service, no subsistence allowance not exceeding the provisional pension has been paid to him.

8. Under such circumstances, it is for the respondents to obtain necessary certificate or undertaking from the writ petitioner and pay the subsistence allowance not exceeding the provisional pension to the petitioner without any further delay. In respect of challenge to the orders viz., suspension, not allowing the petitioner to retire from service and issuance of a charge memo, this Court is not inclined to grant any relief in favour of the writ petitioner and the writ petitioner has to face a domestic enquiry by submitting his explanations and undergoing the enquiry proceedings.

9. With the above observations, both the Writ Petitions are dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rpa

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+1 cc to M/s.M.R.Jothimani Advocate sr 46329
+1 cc to the Government Pleader sr 46398,46399

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