

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30348 of 2013
and
M.P.Nos.1, and 2 of 2013

K. Subramanian

... Petitioner

Vs.

1. The State of Tamil Nadu rep.by
Secretary to Government
Environment and Forest Department,
Secretariat, Chennai - 9.
 2. The Principal Chief Conservator of Forest
and Head of Forest Force,
Panagal Building,
Saidapet, Chennai - 15.
 3. The Chief Conservator of Forest,
(Forest Extension)
Northern Region, Chennai.
- Respondents

...

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent herein in Na.Ka.A2/7714/13 dated 29.07.2013 and quash the same in so far as the petitioner is concerned and to direct the respondents herein to pass appropriate orders declaring the petitioner to have satisfactorily completed his probation as on 06.11.2011 and grant him all consequential service and monetary benefits.

For Petitioner : Mr.Ali Hussain Khan
for Mr.M.Ravi

For Respondents : Mr.E.Monoharan
Addl. Government Pleader (Forest)

O R D E R

The order dated 29.07.2013 issued by the second respondent in respect of declaration of probation of writ petitioner is under challenge in this writ petition. Further, the writ petitioner seeks direction to the respondent to pass appropriate orders to declare the probation of the writ petitioner with effect from 06.11.2011 and grant all consequential and monetary benefits.

2. On a perusal of the impugned order dated 29.07.2013, it is stated that the criminal cases are pending against the writ petitioner and as per Rule 27 (A) of Tamil Nadu State and Subordinate Service Rules the declaration of probation cannot be granted in favour of the writ petitioner.

3. The learned counsel appearing on behalf of the petitioner states that on completion of two years of service, the probation to be declared by the respondents and in the case of the writ petitioner, no action has been taken to declare the probation. Thus, the respondents have violated Rule 27 (A) of the Tamil Nadu State and Subordinate Service Rules.

4. The learned Additional Government Pleader (Forests) appearing on behalf of the respondents opposed the contentions submitted by the writ petitioner by stating that the case of the writ petitioner is not a routine case, wherein the probation to be declared. The writ petitioner has involved in serious allegations and in respect of such serious allegations, criminal cases were also registered and pending before the competent Criminal Court. In this regard, the learned Additional Government Pleader submitted the copy of the instructions given by the principle conservator of Forests to the Additional Government Pleader Forests in Reference No.L2/44686/2013, dated 14.11.2017. It is relevant to extract the instructions given in this writ petition and the same are as under:

1) A charge sheet issued under Rule 17 (b) of Tamil Nadu Civil Services (Discipline & Appeal) Rules in Managing Director, TAF CORN Lr.No.E1(i)/1615/2011, dated 10.02.2014. A full fledged report on the charge sheet for passing final orders has been submitted to the Government in Principal Chief Conservator of Forests(HOD) Lr.No.T1/44511/2010, dated 04.07.2017. Necessary order is awaited from the Government on the above charge sheet.

2) A regular case registered at the Vigilance and Anti-Corruption Cuddalore

Detachment in Cr.No.13/2013, u/s 13(2) r/w 13 (1)(e) of Prevention of Corruption Act 1988 against Tr.K.Subramanian, Assistant Conservator of Forests (U/s). During the course of investigation the house of Thiru.K.Subramanian was searched by the DVAC and among other things the following contraband were found in his possession: a) 117 documents comprising of stamp papers, bond papers, promissory notes, blank cheques etc relating to various transactions by the accused were seized. b) Wildlife articles like 5 pairs of horns of Spotted and Sambar deer, 18 single pieces of horns of spotted and Sambar Deer, 3 pair of Wild Dog claws and a single piece of tanned skin of spotted deer (with holes made by pellet/bullet injuries) were seized. c) Sandal wood logs approximately weighing 10Kgs and sandal wood dust weighing 2 kgs were seized. d) An Unlicensed Double Barrel Load Gun, 24 cartridges of DBBI Gun and a revolving chamber of a revolver were also seized. Further the Government has ordered prosecution of Thiru.K.Subramanian, Assistant Conservator of Forests (U/s) for possession of assets disproportionate to known sources of income under P.C. Act 1988.

3) Further, for the lapses identified by the DVAC mentioned in item:2 above, the Government vide G.O(2D) No.7, E & F(FR.1)Dept, DATED.20.02.2017 has directed to initiate Departmental action against Thiru.K.Subramanian, Assistant Conservator of Forests (U/s). Consequently, a charge sheet has been issued under Rule 17(b) of Tamil Nadu Civil Services (Discipline & Appeal) Rules in Chief Conservator of Forests (FE-NR), Chennai, Charge Sheet No.1/2017 (Lr.No.2809/2013/E), dated.14.09.2017.

4) Further in connection with the Wildlife articles mentioned in item:2 above, the Government in LR.No.22072/F.R.1/2016-4, dt.20.02.2017 has directed the Principal Chief Conservator of Forests to take appropriate action against the accused officer Thiru.K.Subramanian in accordance with law. Consequently, as per the Government

direction a draft charge sheet under 17(b)) of Tamil Nadu Civil Services (Discipline & Appeal) Rules has been sent the DVAC for vetting in Chief Conservator of Forests (FE-NR) Chennai Lr.No.2809/2013/E, dated 27.07.2017.

5. This apart, Rule 27(A) enumerates automatic declaration of probation. The rules stipulates that notwithstanding anything contend in Rule 27 of this rules except in cases where serious charges were pending, all officers appointed by direct recruitment or by promotion or by transfer before 1st January 1957 and whose probation has not yet been declared, shall under these Rule and without further examination of individual cases being declared to complete their probation from the date of which they were eligible for such a declaration.

6. Thus, the rule itself is very clear that such a automatic declaration of probation can be granted only if no serious charges are pending against the officers. However, in the case of the writ petitioner serious charges are pending against him and the criminal cases are also pending for trial. Thus, the arguments advanced by the learned counsel for the petitioner cannot be accepted and the case of the writ petitioner cannot be fit in with the provisions of Rule 27 (A) of the Tamil Nadu State and Subordinate Service Rules.

7. Under these circumstances, the relief as such sought for cannot be granted. In view of the pendency of the criminal cases as well as serious allegations in relation to the disciplinary proceedings, accordingly no further adjudication is required in this writ petition.

8. Thus, the writ petition stands dismissed. No Costs. Consequently, the connected Miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
State of Tamil Nadu
Environment and Forest Department,
Secretariat, Chennai - 9.

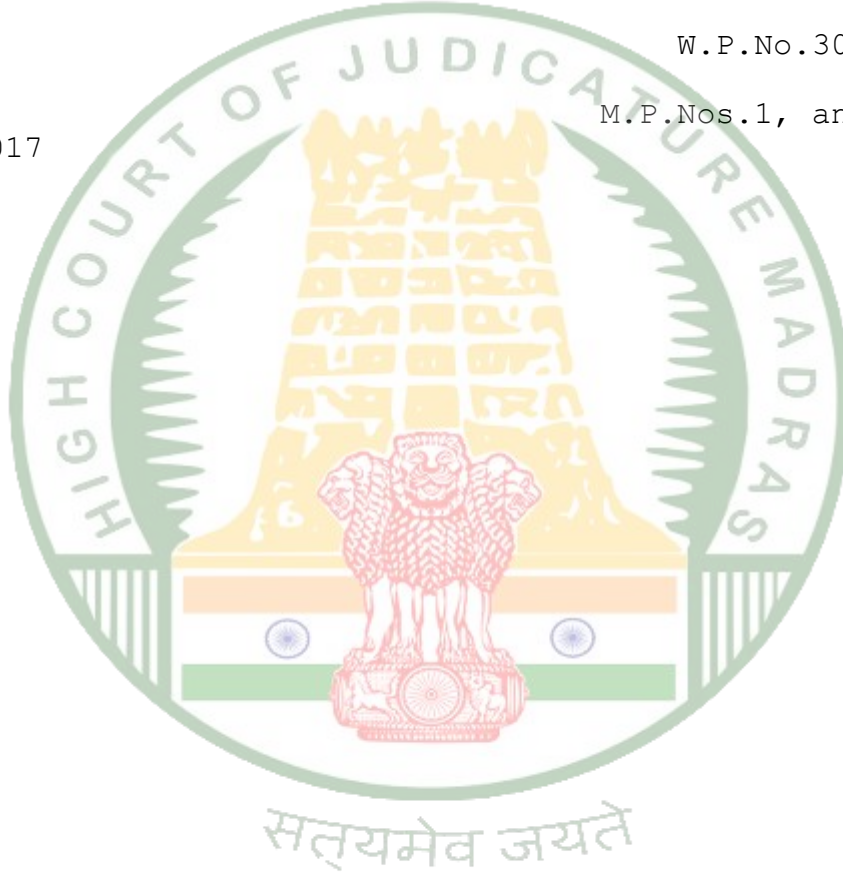
2. The Principal Chief Conservator of Forest
and Head of Forest Force,
Panagal Building,
Saidapet, Chennai - 15.

3. The Chief Conservator of Forest,
(Forest Extension)
Northern Region, Chennai.

+lcc to Mr.M.Ravi, Advocate SR.No.80715
+lcc to the Government Pleader SR.No.80741

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sm:4.12.2017



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