



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.01.2017

CORAM :

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P(MD)No.2223 of 2014

and

M.P(MD)No.1 of 2014

V.S.Ramaiah

... Petitioner

vs.

1)The Principal Secretary of Government
Environment and Forest Department,
St. George Fort,
Chennai.

2. The Principal Chief Conservator of Forest,
Chennai - 15.

3. The District Forest Officer,
Kanyakumari Division at Nagercoil,
Kanyakumari District.

4. The Managing Director,
Arasu Rubber Corporation Limited,
Vadasery,
Nagercoil,
Kanyakumari District.

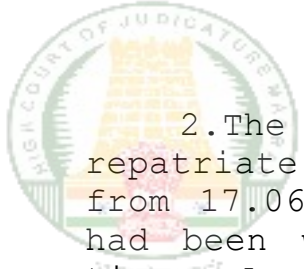
... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, by call for the records pertaining to the impugned order passed by the 3rd respondent vide Na.Ka.No.598/2011 Ra dated 25.03.2011 and quash the same and consequently direct the 2nd and 3rd respondents to revert back the petitioner to forest department and regularise the service of the petitioner with all monetary benefits in par with other similarly placed person.

For Petitioner	: Mr.K.P.Narayanakumar
For R1 to R3	: Mr.K.P.Krishnadass, Government Advocate
For R4	: Mr.T.R.Janarthanam

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the 3rd respondent vide Na.Ka.No.598/2011 Ra, dated 25.03.2011 and consequently direct the respondents 2 and 3 to revert the petitioner to Forest Department and regularise his service with all monetary benefits on par with other similarly placed persons.



2.The case of the petitioner is that he is a Srilankan repatriate and has been working as Forest Watcher at Mylar Factory from 17.06.1996. He was deputed from the Forest Department and had been working in Arasu Rubber Corporation Ltd., for a long time. According to the petitioner, no extension of deputation to foreign service shall sanctioned for the fourth year. Rule 110(4) of the Fundamental Rules is extracted hereunder:-

'4(i)The initial deputation of a Government servant shall be sanctioned for a block period of three years at a stretch. The period of the said deputation shall lapse on the expiry of the said period of three years or on the date of his retirement from service on superannuation or on the date when he is transferred from the services of the foreign employer by the competent authority, whichever is earlier.

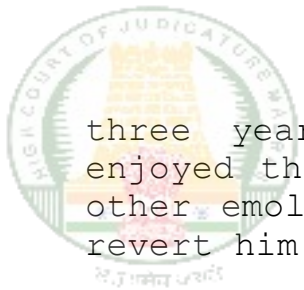
4(ii)No extension of deputation of any Government servant shall be sanctioned for the fourth year. However, the Government may, in exceptional and special circumstances in public interest, sanction the extension of deputation for the fourth year in respect of any Government servant.

4(iii) In case the Government require the services of Government servants in the middle of three years period for administrative reason the competent authority may revert them to their parent department.'

3.The petitioner in the present writ petition has sought to quash the order dated 25.03.2011 wherein, his request for reversion to parent department has been rejected on the ground that his request has not been made within the age limit prescribed and hence, his request cannot be acceded. The petitioner has sought for a consequential direction to the respondents to revert him back to the Forest Department and regularise his services with all monetary and other benefits on par with similarly placed persons. The petitioner would submit that he has been making frequent representations and it is the duty of the respondents to revert him back to the parent department from the foreign service and for the mistake committed by the respondents, the petitioner should not be put to hardship.

4.The 4th respondent has filed a counter affidavit on behalf of all the respondents. The sum and substance of the counter is that the respondents have no objection to revert the petitioner to the parent department namely, Forest Department provided, the order of transfer of the petitioner was received by the appropriate authority.

5.Learned Government Advocate appearing for the respondents 1
<https://hdservices3.ecourts.gov.in/hdservices3> recently contended that the petitioner ought to have sought for reversion to the parent department within a period of



three years and having continued deputation at his will and enjoyed the benefits namely, better service facilities, wages and other emoluments, at the verge of retirement, he cannot seek to revert him back to the parent department.

6. The 3rd respondent has filed a separate counter affidavit, wherein, he has stated that the petitioner was deputed as Office Watcher under the 4th respondent and that he was appointed as Office Assistant in 1988 and he was reverted back in 1991 as he was in the cadre strength of the 3rd respondent and the petitioner continued as Factory Watcher. It is further stated by the 3rd respondent that the case of one P. Manickam who is said to have been promoted in 1997, cannot be compared with the case of the petitioner and the said Manickam was appointed as Reserved Watcher and not as Office Watcher.

7. It is further submitted that the petitioner has crossed the age of 53 years and as per Rule 12 of the Tamil Nadu Forest Subordinate Service Rules read with G.O.No.41, Environment and Forest (FR.2) Department, dated 12.03.2001, the age of the personnel has been prescribed as upto 35 and after that 45 years for selection from Basic Service to Forest Guard. The petitioner having enjoyed better benefits under the 4th respondent, now at the verge of retirement, cannot seek for reversion to parent department, so that he would be getting better benefits after retirement.

8. Heard both sides.

9. A reading of Fundamental Rule 110(4) mentioned supra, is very clear that initial deputation of a Government servant will be for a block period of three years at a stretch and no extension of deputation to any Government servant shall be sanctioned for the fourth year, except in exceptional and special circumstances in public interest. A reading of the entire provision would make it very clear that maximum period of deputation is only for a period of three years. Even without a representation from the petitioner seeking reversion, the respondents ought to have reverted the petitioner to the parent department.

10. It has been denied by the petitioner in reply that the petitioner had better benefits under the 4th respondent. It is submitted that ever since his deputation, he is getting payment only from the parent department and not from the 4th respondent and at no point of time, he had the better benefits and further submitted that a person who is employed in the lower post under the 4th respondent, was getting more pay than that of the petitioner. Whether the petitioner had better benefits under the 4th respondent or not, need not be gone into in this writ petition, as the petitioner is entitled to be posted to the parent



department after the period of three years and the respondents have continued the deputation of the petitioner under the 4th respondent, which is contrary to the Rule mentioned supra. Naturally, the petitioner will have to be reverted to the parent department on completion of three years. Therefore, if the petitioner is otherwise eligible for any other benefits including promotion, the same should be extended. Further, the petitioner is a Srilankan repatriate.

11. Even though it has been disputed by the respondents that G.O.Ms.No.979, Public (Services-A) Department, dated 28.04.1970 and G.O.Ms.No.2024, Revenue Department, dated 15.05.1974, would be applicable only in case of initial appointment, a cursory glance at G.O.Ms.No.2024 makes it clear that the petitioner would be entitled to all service benefits and the relevant relevant portion of the said G.O., is extracted hereunder:-

''..... When the Government have recognised the need for relaxing certain rules prescribed for the recruitment to various jobs in Public Services in favour of the repatriates, they should not be deprived of the benefits like seniority, increments etc., accruing out of making such relations effective from the date of their appointment to such posts, by making them effective from the date of the order. Government therefore direct that the relaxation of rules relating to age and educational qualifications made in favour of repatriates appointed to various categories in Public Services should be made effective from the date of their appointment to such posts.''

12. In view of the above discussion, the impugned order dated 25.03.2011 is set aside and the petitioner shall be reverted to the parent department within a period of one month from the date of receipt of a copy of this order and the case of the petitioner with regard to service and monetary benefits including promotion, shall be considered in accordance with law and the rules applicable to him and appropriate orders shall be passed and communicated to the petitioner within the time stipulated supra.

With the above direction, this Writ Petition is allowed. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-
Assistant Registrar (CS-I)

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Sub Assistant Registrar



To

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Chennai.

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3. The District Forest Officer,
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Kanyakumari District.

4. The Managing Director,
Arasu Rubber Corporation Limited,
Vadasery,
Nagercoil,
Kanyakumari District.

+1 cc to MR.K.P.Narayanakumar, ADVOCATE, SR NO: 3678
+1 CC to Special Government Pleader, SR NO: 3784

nbi

JS-CM-MA/10.2.2017/5p-7c

W.P (MD) No.2223 of 2014
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