



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.12.2017

CORAM:

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THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P (MD) No.4934 of 2014

and

M.P (MD) No.1 of 2014

N.Tamizharasan

... Petitioner

Vs.

1. The Principal Chief Conservator of Forests
(Head of Forest Force),
No.1, Jeenis Road,
Panagal Building,
Saidapet, Chennai-600 015.

2. The District Forest Officer,
Madurai Forest Division,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the first respondent i.e. the Principal Chief Conservator of Forests (Head of Forests Force), Chennai, relating to proceedings No.B3/48175/2012-1, dated 27.01.2014 and quash the same.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.Kumar
Additional Government Pleader

ORDER

This writ petition has been filed, challenging the order passed by the first respondent the Principal Chief Conservator of Forests (Head of Forests Force), Chennai, relating to proceedings No.B3/48175/2012-1, dated 27.01.2014 and quash the same.

2.The learned counsel appearing for the petitioner submits that the petitioner was serving as Forest Ranger, Madurai Range, Madurai Division, under the control of the District Forest Officer, Madurai. He was allowed to retire on 30.04.2010, by the Principal Chief Conservator of Forests, Chennai vide his



proceedings No.B3/18975/2010, dated 23.04.2010. While, the petitioner got retired, the District Forest Officer, Madurai Division, Madurai has also furnished certificates that no charge sheet/vigilance enquiry, no recovery were pending and no provisional pension was sanctioned.

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3.The Principal Chief Conservator of Forests who is the head of the Forest Force has sent a proceedings No.B3/48175/2012-1, dated 27.01.2014, to initiate departmental proceedings under Rule 9(2)(b)(i) of Tamilnadu Pension Rules, 1978, by the District Forest Officer. Accordingly, the District Forest Officer, Madurai Division, Madurai has also issued departmental proceedings, under Rule 9(2)(b)(i) of Tamil Nadu Pension Rules, 1978, as per R.C.No.11787/2011, dated 26.02.2014. According to the above said disciplinary action, the alleged delinquency relates to dated 28.08.2009 and 06.09.2009. Further, as per Rule 9(2)(b)(ii) of Tamil Nadu Pension Rules, 1978, such delinquency shall not be in respect of any event which took place more than four years, before such institution. Therefore, the impugned proceedings dated 27.01.2014, is without jurisdiction and beyond the period of limitation and hence, liable to be quashed.

4.The learned Additional Government Pleader appearing for the respondents submitted that the petitioner was working in the above said post in Madurai Range of Madurai Division from 16.02.2007 to 30.04.2010. As per G.O(D)No.352, Environment and Forests Department, dated 16.12.2008, a comprehensive project to raise teak plantations and its maintenance from 2008-2009 to 2013-2014 has been approved and it had been implemented accordingly. For the year 2009-2010, a physical target of 1500 ha for raising teak plantations was allotted to Madurai Division. The target of 500 ha was re-distributed to Madurai range where the petitioner worked as Forest Range Officer, Madurai. During this period, the petitioner had submitted the estimates for raising of teak plantations for 500 ha and 1,00,592 seedlings had planted in the Vaigai River Bed areas. During November-2010, 71,410 teak seedlings had washed away by flood and resulting the loss to the Government to a tune of Rs.21,42,473/- due to wrong selection of planting site for which, the petitioner was responsible. Since the petitioner was retired from the government service on 30.04.2010, the action has been initiated in exercise of the powers conferred under Rule 9(2)(b)(i) of the Tamil Nadu Pension Rules, 1978, as per order in G.O.(Ms) No.31, Personnel and Administrative Reforms (N) Department, dated 23.02.2012 and in G.O.Ms.No.349, Finance (Pension) Department, dated 12.08.2013. Hence, a charge sheet as against the petitioner, for the loss of Rs.21,42,473/- has been issued by the second respondent in his proceedings No.P/11787/2011, dated 26.02.2014. The petitioner in his proceedings No.P/11787/2011, dated 21.03.2014 has stated that he would submit his explanation to the above said charge sheet, after disposal of the present writ petition.



5.Further, the learned Additional Government Pleader submitted that as per the orders issued in G.O(Ms) No.31, Personnel and Administrative Reforms (N) Department, dated 23.02.2012 and in G.O.Ms.No.349, Finance (Pension) Department, dated 12.08.2013, the first respondent was the competent authority to initiate action against the petitioner. Further, the petitioner was retired from government service on 30.04.2010 and the works in question were executed during 2009-2010 and maintenance of nursery was also carried out by the petitioner during April, 2010. Hence, the departmental proceedings have been instituted within the period, as allowed under Rule 9 (2) (b) (ii).

6.Further, he submitted that since the first respondent is vested with powers to initiate action as against the petitioner, as per the orders issued in G.O(Ms).No.31, Personnel and Administrative Reforms (N) Department, dated 23.02.2012, wherein the Government direct that the disciplinary cases of the pensioners, who belong to State service alone be sent to the Government and other cases shall be dealt with by the Heads of Department concerned. He also submitted that the order issued by the first respondent in his proceedings No.B3/48175/2012-1, dated 27.01.2014, is within the jurisdiction of the powers delegated to the first respondent and it is maintainable before the eye of law.

7.Heard the learned counsel for both sides and perused the materials available on record.

8.Since the enquiry initiated had already been concluded, this Court directs the respondents to pass final orders, as per the prevailing Rules and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

9.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Chief Conservator of Forests
(Head of Forest Force), No.1, Jeenis Road,
Saidapet, Chennai-600 015.



2. The District Forest Officer,
Madurai Forest Division, Madurai.

+ 1 cc TO Mr.S.Visvalingam , Advocate in SR No. 93279

SSS

AE/SV MMS/SAR1/21.03.2018/4P/4C

ORDER MADE IN
W.P(MD)No.4934 of 2014
and
M.P(MD)No.1 of 2014
18.12.2017