

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.11.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO. 17028 OF 2018
AND
W.M.P. NO. 20279 OF 2018

Vijay

.. Petitioner

- Vs -

Chief Conservator of Forests
Vellore Circle, Vellore - 9.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records on the file of the respondent made in No.E2/4634/2018 dated 29.5.2018 and quash the same and consequently direct the respondent to reinstate the petitioner in service as Forest Ranger.

For Petitioner : Ms. Selvi George

For Respondents: Mr. K.K.Ramesh, GA

ORDER

Mr. K.K.Ramesh, learned Government Advocate takes notice on behalf of the respondents.

2. It is the case of the petitioner that he was transferred as Forest Range Officer, Vellore Division and on 4.5.2018, he was transferred from Arcot Forest Range Office and posted at Vellore Social Forestry Range and in his place, one Kandasamy was posted as Range Officer. The transfer order was served on 5.5.18. Immediately, the petitioner handed over charge under Form-18 to the relevant officer on the forenoon of 7.5.18. It is claimed by the petitioner that even though the order of transfer was dated 4.5.18, it was served on him only on 5.5.18, i.e., the next day, which was a Saturday and, therefore, he was able to hand over the charge only on the next working day, i.e., 7.5.18. Therefore, there is no question of disobedience of the orders of the superiors. Further, in contemplation of charges, the petitioner has been placed under suspension, though in actuality, even after expiry of six months no charge memo has

been issued to the petitioner. Therefore, the order of suspension has to be quashed.

3. The suspension order reads that in contemplation of enquiry into grave charges, the petitioner is placed under suspension. It is the submission of the learned counsel for the petitioner that till date no charge memo has been issued, though six months have expired from the date of issuance of suspension order.

4. Learned counsel appearing for the respondent submits that apart from disobeying the orders of the superior by not handing over the complete charge immediately after transfer, the petitioner also went on medical leave, which only shows that he is not ready to obey the orders of the official superior and he was also involved in a criminal case in respect of which FIR is pending.

5. Though it is the contention of the learned Government Advocate that the petitioner is involved in a criminal case and that FIR is also pending, however, the copy of the FIR is not placed before this Court. However, it is submitted by the learned counsel for the petitioner that he is not the accused in the FIR registered and that the FIR has nothing to do with the petitioner and in any event, the petitioner will co-operate with the enquiry, if any, initiated by the respondent.

6. A perusal of the counter filed by the respondents, more especially paragraph-5, the logical inference that could be drawn is that the petitioner may have connection with the enquiry that is to be conducted and, therefore, it is all the more necessary that the petitioner should furnish his cooperation for the enquiry to be conducted by the respondent.

7. However, mere pendency of the enquiry does not entail the respondent to keep the petitioner under prolonged suspension by using the phrase 'public interest'. The facts as disclosed before this Court do not indicate any public interest involved to place the petitioner under prolonged suspension. Further, it is evident from the records that no charge memo has been issued to the petitioner till date. Almost six months having passed since the petitioner has been placed under suspension without issuance of any charge memo. Prolonged suspension without conduct of any enquiry has been time and again deprecated by the Supreme Court. In the above circumstances, this court is of the considered view that the prolonged suspension, in the facts and circumstances of the case, is not justified. However, it is open to the respondent to proceed with the enquiry, if any, to be initiated, for which the petitioner shall give his full cooperation.

8. For the reasons aforesaid, the order of suspension dated 29.05.2018 is set aside. The respondent is directed to reinstate the petitioner in service. It is further made clear that any enquiry that may be initiated by the respondents, the petitioner shall fully cooperate in the enquiry. The writ petition is disposed of with the aforesaid observation and direction. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

GLN

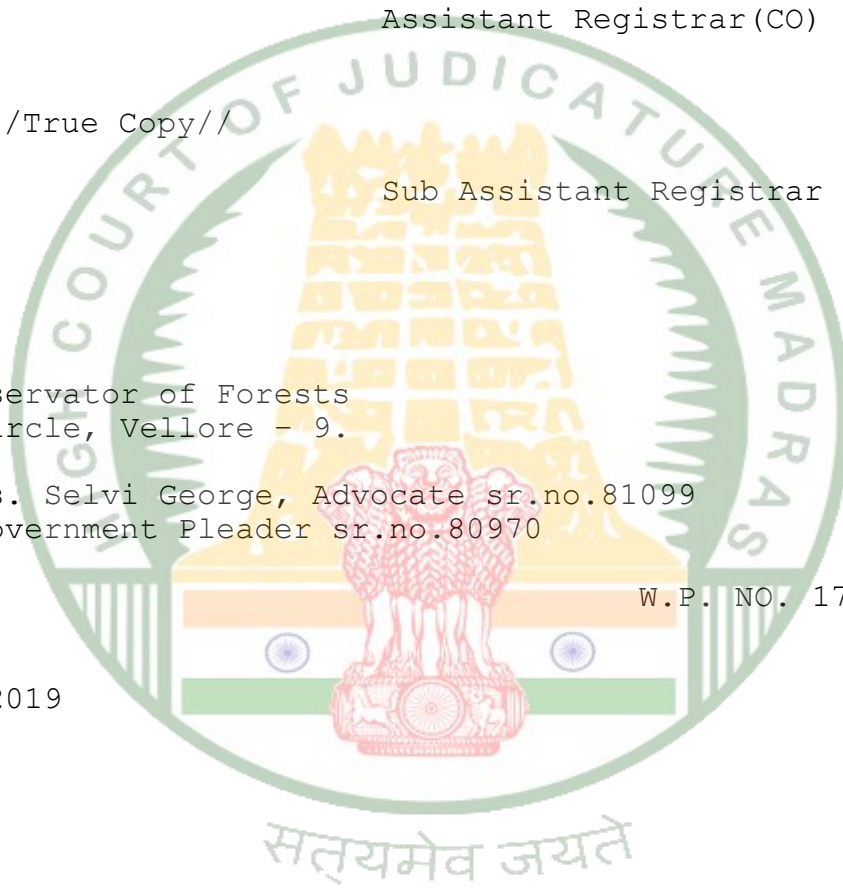
To

Chief Conservator of Forests
Vellore Circle, Vellore - 9.

+1cc to Ms. Selvi George, Advocate sr.no.81099
+1cc to Government Pleader sr.no.80970

W.P. NO. 17028 OF 2018

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