

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.11.2018
CORAM
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN
W.P. 1844 of 2014
and
W.M.P.s 1 & 2 of 2014

S.Ramasamy

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Environment and Forest Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Principal Chief Conservator
of Forest,
Panagal Maligai,
Saidapet, Chennai-15.
3. The Conservator of Forest,
Salem Circle,
Salem.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 2nd respondent dated 09.10.2013 made in Proceedings No.V/42870/2011-4, quash the same and direct the respondent to pay the consequential monetary benefits.

For Petitioner : Mr.M.Devaraj

For Respondents : Mr.Santhanamoorthy AGP

O R D E R

This Writ Petition has been filed challenging the order of dismissal from service passed by the 2nd respondent under Rule 17(c)(i)(1) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

2. The petitioner was working as Forest Range Officer and he has been convicted for an offence under Sec.147, 342 r/w 149 I.P.C. and 3(2)(iii), 3(1)(x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 in S.C.No.1 of 2008 on the file of District Sessions Court, Dharmapuri by judgement dated 29.09.2011 and he was sentenced to undergo as follows :-

Sections under which convicted	Punishment awarded
1) IPC 147-Rioting	2 years Rigorous Imprisonment
2) IPC 342 r/w 149 wrongfully confined any person - the above offence committed by any member of an unlawful assembly, every other member of such assembly shall guilty of the offence	1 year Rigorous Imprisonment and fine Rs.1000 in default to undergo 3 months simple imprisonment
3) 3(2) (iii) of SC & ST (Prevention of Atrocities) Act, 1989 - For committing mischief by fire or any explosive substance intending to cause or knowing to be likely that he will there by causing damage to any property belonging to the member of the SC or ST.	3 years Rigorous imprisonment and fine Rs.1000/- in default to undergo 9 months Simple Imprisonment
4) 3(1)(x) of SC & ST (Prevention of Atrocities) Act, 1989 insulting members belonging to the SC and ST	3 years Rigorous imprisonment and fine Rs.1000/- in default 4 months to undergo Simple Imprisonment

Based on the above said conviction, the 2nd respondent imposed the penalty of removal from service under Rule 17 (c)(i)(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against the petitioner. Now, challenging the above order, the present Writ Petition has been filed by the petitioner.

3. The learned counsel appearing for the petitioner submitted that challenging the conviction and sentence imposed on the petitioner, now, he has filed an appeal before this Court in C.A.No.625 of 2011 and the appeal is pending before this Court. Pending appeal, the 2nd respondent cannot remove the petitioner from service invoking Rule 17(c)(i)(1) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. Hence, the impugned order is liable to be set aside.

4. The learned counsel appearing for the respondents would contend that even though the petitioner has filed an appeal and the appeal is pending, so far, the conviction was not suspended by this Court. In the said circumstances, the 2nd respondent is empowered to impose the punishment

under Rule 17(c)(i)(1) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

5. I have considered the submissions and perused the relevant records carefully.

6. It is an admitted fact that the petitioner has been convicted and sentenced to undergo imprisonment, and even though the appeal has been filed against the conviction and sentence, this Court did not suspend the conviction. Now, only the appeal is pending, the conviction was not suspended till date. In the above circumstances, it is always open to the 2nd respondent to remove the petitioner invoking the power under Rule 17(c)(i)(1) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and I find there is no illegality in the order passed by the 2nd respondent. In the event of the appeal is being allowed and the conviction and sentence is set aside by this Court, the petitioner is entitled for reinstatement, and at this stage the petitioner cannot challenge the order of removing him from service, and I find no merit in the Writ Petition.

7. In the result, the Writ Petition stands dismissed. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/--

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Secretariat, Fort St. George,
Chennai-600 009.

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

3. The Conservator of Forest,
Salem Circle,
Salem.

+1cc to Mr.M.Devaraj , Advocate SR.No. 78663

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and

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A.SK(15/02/2019)