

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.14503 of 2006

S.Soundararajan

...Petitioner

Versus

1. The Conservator of Forests,
Tiruchirapalli Circle,
Tiruchirapalli.
2. The District Forest Officer,
Tiruchirapalli Division,
Tiruchirapalli.

... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the second respondent relating to the order in Pro.Na.Ka.No.4741/94/Pa.2, dated 15.03.2006, quash the same.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.K.K.Ramesh, G.A. (Forest)

सत्यमेव जयते
O R D E R

The petitioner has filed this writ petition challenging the recovery order passed by the second respondent, dated 15.03.2006, wherein the second respondent has fixed proportionate amount of 45% against the petitioner and ordered for recovery of Rs.18,604/-.

2. The case of the petitioner is that while he was serving as Forest Ranger in Salem District, the second respondent issued a charge memo under Section 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules for failing to collect Minor Forest Produce Mahasool in Thuraiyur Forest Range, during the year 1988 - 1990, which ultimately

culminated in passing the order of recovery of Rs.41,343/- from the petitioner in 45 installments from his salary, vide order, dated 18.03.1993.

3. Aggrieved by the said order, the petitioner preferred an appeal before the Chief Conservator of Forests (Forest Administration), Chennai. Simultaneously, the petitioner also filed O.A.No.7007 of 1995 on the file of the Tamil Nadu Administrative Tribunal and obtained order of interim stay. The Chief Conservator of Forests (Forest Administration), Chennai, vide his order dated 04.10.2001, set aside the order of recovery passed by the first respondent.

4. Thereafter, without any fresh enquiry and without giving any opportunity to the petitioner, based on the observation made by the appellate authority, the second respondent fixed 45% of the total loss i.e.18,604/- against the petitioner. Aggrieved by the said order, the petitioner submitted a representation on 21.04.2006 to cancel the order of recovery. The same was not considered, hence the present writ petition.

5. The learned counsel appearing for the petitioner would submit that against the initial order of recovery, though the Tribunal granted interim order and the appellate authority cancelled the same, without conducting any enquiry, a fresh show cause notice was issued fixing 45% responsibility against the petitioner and order for recovery was passed for an amount of Rs.18,604/- from the petitioner, which is unsustainable one and it is a clear violation of the principles of natural justice.

6. The learned counsel appearing for the respondents would submit that in the absence of any interim order against the impugned order of recovery of the amount, the entire amount was recovered from the petitioner and the petitioner also retired from service. Hence, nothing survives in this writ petition.

7. On a perusal of the order dated 04.10.2001, it is seen that the appellate authority, viz., the Chief Conservator of Forests (Forest Administration), Chennai, had set aside the order dated 18.03.1993 on the ground that the entire recovery against the petitioner, is unsustainable. In the said order, it was made clear that the loss of amount should be fixed at proportionately. As against the said order, the petitioner did not prefer any appeal. Thereafter, the second second respondent passed the present impugned order, fixing 45% responsibility against the petitioner and ordered for recovery of Rs.18,604/- from the petitioner.

8. In view of the fact that the entire amount of Rs.18,604/- was recovered from the petitioner and the petitioner also retired from service, nothing survives for adjudication in this matter. This Court does not want to unsettle the settled issue. Accordingly, this writ petition is closed. No costs.

Sd/-
Deputy Registrar(cs)

//True Copy//

Sub Assistant Registrar

1. The Conservator of Forests,
Tiruchirapalli Circle,
Tiruchirapalli.

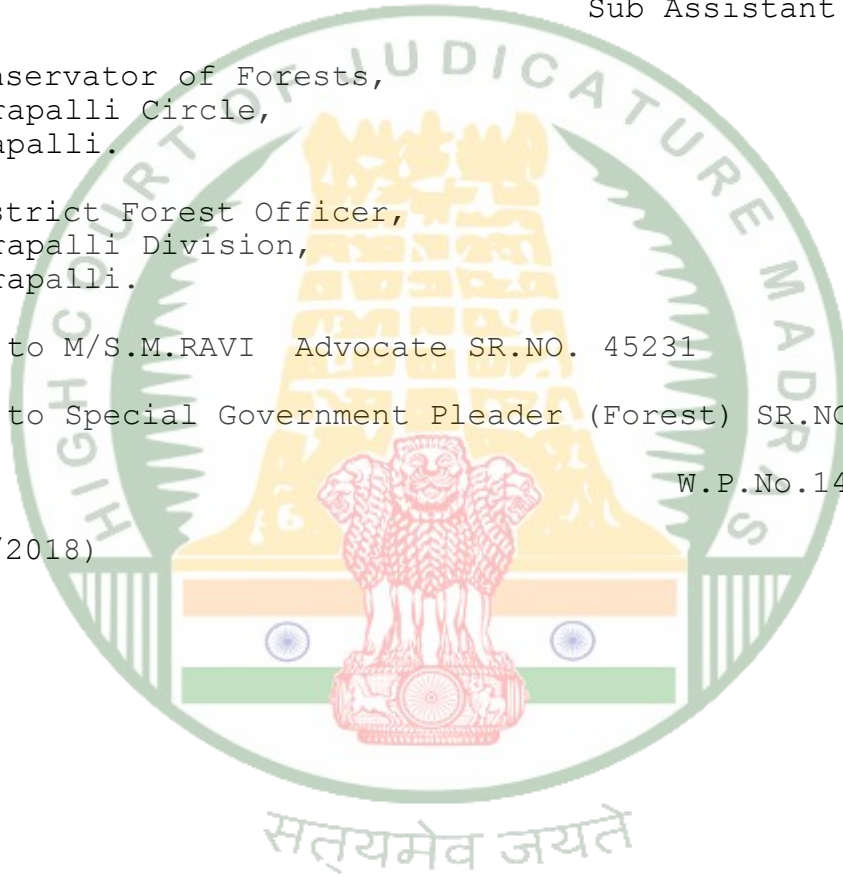
2. The District Forest Officer,
Tiruchirapalli Division,
Tiruchirapalli.

+1 C.C. to M/S.M.RAVI Advocate SR.NO. 45231

+1 C.C. to Special Government Pleader (Forest) SR.NO. 45079

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BM(CO)
ASK(01/08/2018)



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