



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2018

CORAM

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.2895 of 2018

and

W.M.P. (MD) No.3054 of 2018

M.Ganesan

... Petitioner

-Vs-

1. The Secretary to State,
Forest Department,
St.Fort George, Chennai.
2. The Principal Chief Conservator of Forest,
8th Floor, Panagal Maligai,
Jeenes Road, Saidapet, Chennai - 15.
3. The Conservator of Forest,
Madurai Circle, Madurai.
4. The District Forest Officer,
Madurai Division, Madurai - 2.

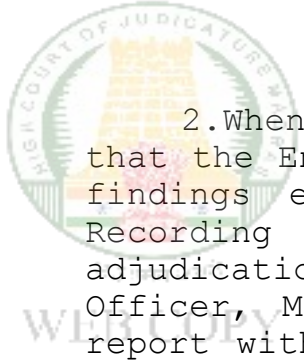
... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to drop the charges against the petitioner in the charge memo in Na.Ka.No.3501/2010/P dated Nil...02/2014 based on the enquiry report dated 05/10/2015 and a consequential direction directing the Respondent to include the name of the Petitioner also in the promotion panel notionally to the post of Forest ranger for the year 2012-13.

For Petitioner : Ms.Porkodi Karnan
for M/s.Polax Legal Solution
For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader.

O R D E R

The petitioner is working as a Forester. He was issued with charge memo, dated 03.03.2014. The issuance of the said charge memo was questioned by the petitioner herein by filing W.P. (MD) No.7275 of 2014.



2. When the matter was taken up for hearing, it was submitted that the Enquiry Officer had conducted the enquiry and rendered the findings exonerating the writ petitioner from all the charges. Recording this, this Court held that nothing survived for adjudication. However, a direction was given to the District Forest Officer, Madurai Division, Madurai to pass orders on the enquiry report within a period of two weeks from the date of receipt of a copy of that order. The writ petition was dismissed with the said direction.

3. Subsequently, the petitioner herein filed a contempt petition in CONT P(MD)No.2070 of 2017 contending that the direction given by this Court in W.P.(MD)No.7275 of 2014 was not complied with. The said contempt petition was opposed on the ground that the District Forest Officer, Madurai Division, Madurai was the sole respondent in the said writ petition and that he is not the authority competent to pass final orders. The direction given to the District Forest Officer, Madurai Division, Madurai, to pass orders on the enquiry report within a period of two weeks was thus not capable of being complied with.

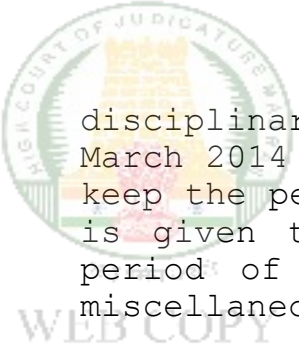
4. In the meanwhile, an application seeking extension of time was also filed. The said contempt petition has since been closed on 31.01.2018. The present writ petition is for directing the respondents to drop the charges against the writ petitioner and for a consequential direction for including his name in the promotion panel for the year 2012-13.

5. If an authority does not conclude the enquiry within the time stipulated by this Court or within the extended time granted by this Court, the authority cannot be permitted to continue the disciplinary action.

6. In this case, such a relief cannot be granted to the writ petitioner, because a direction was given in the earlier instance to an authority who is not competent to pass final orders. Therefore on the ground that final orders were not passed within two weeks from the date of receipt of copy of the order in W.P.(MD)No.7275 of 2014, it is not possible to give a direction for dropping the charges against the writ petitioner. Since the main relief cannot be granted, consequential direction also cannot be granted.

7. An enquiry report is only a material for the consideration of the Disciplinary Authority. It is open to the Disciplinary Authority to either accept the findings of the enquiry report or to differ from it. Therefore, on the basis of the enquiry report in which the findings have been given in favour of the writ petitioner, a direction cannot be issued to the second respondent to drop the charges.

8. There is no merit in the writ petition. The writ petition stands dismissed. However, considering the fact that the



disciplinary action is pending against the writ petitioner since March 2014 and that it is not proper on the part of the authority to keep the petitioner in an indefinite state of suspense, a direction is given to the second respondent to pass final orders within a period of three weeks from today. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

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 4. The District Forest Officer,
Madurai Division, Madurai - 2.
- + 1 CC TO M/s.POLAX LEGAL SOLUTIONS, IN SR No. 49511
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 49791

CMR/SKM

TE/JC/SAR-4 : 21/02/2018 : 3P/7C

W.P.(MD) No.2895 of 2018 and
W.M.P.(MD)No.3054 of 2018
19.02.2018