



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.19927 of 2018

and

W.M.P. (MD) .No.17713 of 2018

T.Captain Nepolean

.. Petitioner

Vs.

1. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Maaligai,
Saidapet, Chennai - 15.
2. The Chief Conservator of Forests,
Dindigul Circle, Dindigul, Dindigul District.
3. The District Forest Officer & Wildlife Warden,
Kodaikanal Division, Kodaikanal - 624 101,
Dindigul.
4. Ravi Kant Upadhyay,
5. Rakesh Kumar Dogra

... Respondents

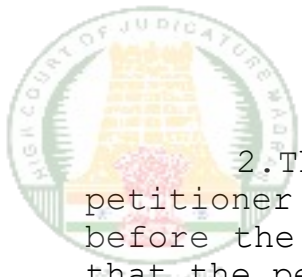
Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for records pertaining to the impugned order of the 1st respondent in Ref. No.B2/1151/2018, dated 11.09.2018 and quash the same as illegal and consequentially direct the 1st respondent to allow the petitioner to continue to serve in the same place till the petitioner retirement dated 31.01.2019.

For Petitioner : Mr.R.Rajaraman

For Respondents : Mr.R.Sethuraman for R1 to R3
Special Government Pleader
No Appearance for R4 & R5

O R D E R

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus to call for records pertaining to the impugned order of the 1st respondent in Ref. No.B2/1151/2018, dated 11.09.2018 and quash the same and consequentially direct the 1st respondent to allow the petitioner to continue to serve in the same place till his retirement i.e., upto 31.01.2019.



2.The sum and substance of the issue on hand is that the petitioner had made a complaint against an officer which is pending before the Department of Vigilance and Anti Corruption, Chennai and that the petitioner being a complainant has to give evidence in that matter, due to which, false charges have been made against the petitioner which culminated into framing of charges under Rule 17(b) of the Tamilnadu Civil Services (Discipline and Appeal) Rules. The Enquiry Officer found that the charges are not proved, but the same was not accepted by the Disciplinary Proceedings Authority and the same is pending. In the meantime, taking note of the allegations against the petitioner, he was initially transferred to Kanniyakumari, which is about 300 kilometres away from the present place.

3.When this Court expressed that the petitioner being a witness, should not be posted to a far off place from the place where he has to give evidence and that he is going to retire on 31.01.2019, the transfer order was modified and the petitioner was posted at Chennai on the ground that he is going to give evidence.

4.The Enquiry Officer has found the delinquent not guilty of charges. Taking note of the charges and that the Disciplinary Authority is entitled to disagree with the finding of the Enquiry Officer and the same is yet to be finalized, the respondents have chosen to post him in a non-sensitive post, in Madurai District. Two places have been identified by the respondents, namely Melur Research Range of Madurai Agro Forestry Division and Thirumangalam Social Forestry Range of Madurai Division. The petitioner is willing to report at Melur Research Range of Madurai Agro Forestry Division.

5.Taking note of the submission of both parties, there shall be a direction to the petitioner to report before the Melur Research Range of Madurai Agro Forestry Division, within a period of one week from the date of receipt of a copy of this order.

6.With the above direction leaving open the issue as to whether the petitioner would be entitled to wages for non-working days on account of non-joining of transferred place, applying the principles of no work-no pay, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-II)



To

1. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Maaligai,
Saidapet, Chennai - 15.
2. The Chief Conservator of Forests,
Dindigul Circle, Dindigul, Dindigul District.
3. The District Forest Officer & Wildlife Warden,
Kodaikanal Division, Kodaikanal - 624 101,
Dindigul.

+1cc to Mr.R.Rajaraman, Advocate Sr.No.86967

+1cc to SPL.Govt.Pleader, Sr.No.87162

TM

MK/RSK/SAR2/06.12.2018/3P/6C

W.P. (MD) No.19927 of 2018
26.09.2018