

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.10919 of 2009

V.Selvaraj

... Petitioner

-vs-

1.Government of Tamil Nadu,
rep. by Secretary to Government,
Environment & Forest Department,
Secretariat,
Chennai - 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Buildings, Chennai 600 015. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified mandamus calling for the records relating to the order in (1) G.O. (3D) No.7, Environment and Forest (FR 9A) Department, dated 20.02.2008 (served on 07.07.2008) of the first respondent and (2) Pro.No.B2/34516/94 dated 22.10.1998 of the second respondent, quash the same and issue consequential direction to the respondents to sanction the postponed increments for two years and also give retrospective effect to the promotion of the petitioner as Draughting Officer on par with his immediate junior in the feeder category and refix his pay in the promoted post and to disburse all consequential monetary benefits with interest.

For Petitioner:: Mr.M.Ravi

For Respondents:: Ms.Thangavadhana Balakrishnan,
Additional Government Pleader

ORDER

The writ petition has been filed challenging the correctness of the impugned G.O. (3D) No.7, Environment and Forest (FR 9A) Department, dated 20.02.2008 passed by the first respondent and Pro.No.B2/34516/94 dated 22.10.1998 issued by the second respondent and seeking a direction to the respondents to sanction the postponed increments for two years and also give

retrospective effect to the petitioner as Draughting Officer on par with his immediate junior in the feeder category and refix his pay in the promoted post and to disburse all consequential monetary benefits with interest.

2.Learned counsel appearing for the petitioner submitted that the petitioner joined the service as Junior Draughting Officer in the Forest Department on 02.01.1984 and thereafter, he was promoted as Draughting Officer on 08.01.2002. According to the learned counsel appearing for the petitioner, the second respondent in his Proceeding in Ref.No.B3/34516/94 dated 07.11.1994 initiated disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (D&A) Rules alleging that there was a delay of 1 year and 7 months in the scrutiny of completion report dated 09.10.1990, submitted by one A.Syed Alimuddin, Forest Ranger in C.S. Nos.26/89-90, 29/89-90 and 189/89-90 and due to the alleged delay, subsequent action against the said Ranger could not be dealt with in time, resulting in defective framing of charges against him prior to his retirement, while the petitioner was serving as Junior Draughting Officer. Though the petitioner submitted his detailed explanation, finding no merit in the same, the Conservator of Forests, Social Forestry Circle, Salem was appointed as Enquiry Officer on 04.03.1996. However, the Enquiry Officer, although found the petitioner guilty, considered his case on humanitarian ground, but the second respondent, without showing any leniency, accepting the report of the enquiry officer, passed final orders imposing punishment of stoppage of increment for two years with cumulative effect, by Proceedings dated 22.10.1998.

3.Learned counsel appearing for the petitioner would further submit that the petitioner preferred a Review Petition dated 14.02.2002 before the first respondent, who also confirmed the order passed by the second respondent, rejecting the Review as time barred and suffered from various infirmities. As against the same, the petitioner has come to this Court.

4.Assailing the order passed by respondents 1 and 2, learned counsel appearing for the petitioner would contend that when there was an allegation against the petitioner that there was an inordinate delay in the scrutiny of completion report dated 09.10.1990, it is not open to the respondents to frame charges against the petitioner in an unexplained delay of more than two years in initiating disciplinary proceedings against him and in the further proceedings. When the petitioner suffered an order of punishment for two years with cumulative effect on 22.10.1998, preferred a Review on 14.02.2002, but the first respondent has taken almost six years and rejected the case only on 20.02.2008 which is wholly unjustified.

5.Learned counsel appearing for the petitioner would further submit that on similar allegations, namely, when the disciplinary action initiated against one K.Jayaraman, Personal Assistant was withdrawn, one P.G.Kandraj, Superintendent, was treated as settled, one T.S.Ramasamy, Superintendent, was let off with a warning and one S.Balamurugan, Assistant Draughtsman, the penalty of stoppage of increment with cumulative effect for one year, ordered by the second respondent, was set aside by the Government in G.O. (D) No.349, Environment & Forest (FR1) Department dated 03.12.2004, the petitioner's case alone was not considered and punishment of stoppage of increment for two years with cumulative effect was imposed, which had resulted not only in recurring monetary loss, but also in the postponement of his promotion as Draughting Officer. Therefore, the learned counsel appearing for the petitioner prays for quashing the same.

6.Learned Additional Government Pleader appearing for the respondents would submit that though the Enquiry Officer rendered his findings that there was a delay in taking action on completion of report, considered the case of the petitioner on humanitarian ground showing leniency on the petitioner. Pursuant to the enquiry officer's report, finding no merit in the petitioner's further representation, the second respondent by Proceedings dated 22.10.1998, passed final orders imposing stoppage of increment for two years with cumulative effect, but after a lapse of three years, the petitioner filed a Review Petition before the first respondent, who has passed an order dated 14.02.2002, rejecting the petition, after examining all the connected records and observing that the enquiry officer held that the charges are proved and the second respondent imposed the punishment for the proven charges against the petitioner. Moreover, the punishment imposed against the petitioner is also minor in nature and therefore as per Rule 37 the petitioner cannot claim any right under Rule 37 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

7.It is not in dispute that the petitioner was issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules alleging that he had committed delay of one year and seven months in the scrutiny of completion report dated 09.10.1990, submitted by one A.Syed Alimuddin, Forest Ranger, while serving as Junior Draughting Officer in the Office of the District Forest Office, Salem and due to the alleged delay, subsequent action against the said Ranger could not be dealt with in time, resulting in defective framing of charges against him prior to his retirement. However, the Enquiry Officer found him guilty and based on the enquiry, the explanation offered by the petitioner and considering the gravity of the charges levelled against the petitioner, the

second respondent, disciplinary authority has imposed the punishment of stoppage of increment for two years with cumulative effect and as against the same, the petitioner preferred a Review Petition with a huge delay of three years and seven months. Considering the inordinate delay, the first respondent has rejected the case of the petitioner on 14.02.2002. Therefore, as the petitioner slept over the matter in not properly filing the Review and finding that the petitioner was imposed only with a minor punishment for the delay committed by him, this Court is not inclined to interfere with the impugned order. Accordingly, the writ petition fails and the same is dismissed. Consequently, connected W.M.P. is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Secretary to Government,
Environment & Forest Department,
Secretariat,
Chennai - 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Buildings, Chennai 600 015.

+1cc to M/S.M.Ravi, Advocate Sr.25237

W.P.No.10919 of 2009

vsn Ii[co]
srg 23/04/2019

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