

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.02.2019
CORAM:

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P. No.15367 of 2009 and
M.P. No.1 of 2009

K.A.Natarajan

.. Petitioner

-vs-

The District Forest Officer,
Vellore Division, Vellore.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari by calling for the record of the respondent passed in his proceedings notice No.1003/06 Va I dated 07.07.2008 and quash the same.

For petitioner : Mr.K.Bhasker

For respondent : Ms.Thangavadhana Balakrishnan,
Additional Government Pleader

ORDER

The writ petition has been filed challenging the impugned Proceedings No.1003/06 Va I dated 07.07.2008 issued by the respondent.

2.Learned counsel appearing for the petitioner would submit that the petitioner, after serving the respondent department in the year 1973 as Forest Watcher, was permitted to retire from service on reaching the age of superannuation on 28.02.2007 and thereafter, he was permitted to receive the monthly pension. While so, the petitioner received a show cause notice dated 07.07.2008 on 06.07.2009 under 17(a) of the Tamil Nadu Civil Service (Conduct and Appeal) Rules calling upon him to offer his explanation for alleged charge of dereliction of duty in failing to prevent illegal stone quarry and thereby caused loss to the Forest. According to the learned counsel appearing for the petitioner, after the retirement of the petitioner, there is no Master and Servant or Employer and Employee relationship in the light of 9(2)(b) of the Tamil Nadu Pension Rules 1978 and therefore, the writ petition is liable to be allowed.

3.Counter affidavit has been filed by the respondent.

Learned Additional Government Pleader appearing for the respondent is unable to give any reply as to whether the impugned show cause notice under 17(a) of the Tamil Nadu Civil Service (Conduct and Appeal) Rules was issued after obtaining prior sanction from the State Government.

4.A perusal of 9(2)(b) of the Tamil Nadu Pension Rules 1978 shows that the departmental proceedings, if no instituted while the Government servant was in service, whether before his retirement or during his re-employment, shall be conducted by the authority concerned and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service. It is relevant to extract the same as under:

'(b)The departmental proceedings, if no instituted while the Government servant was in service, whether before his retirement or during his re-employment-
(i)shall not be instituted save with the sanction of the Government;
(ii)shall not be in respect of any event which took place more than four years before such institution; and
(iii) shall be conducted by the authority concerned and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.'

5.As rightly contended by the learned counsel appearing for the petitioner, there is no Master and Servant or Employer and Employee relationship after the retirement of the petitioner. Therefore, the impugned show cause notice dated 07.07.2008 issued by the respondent to the petitioner on 06.07.2009, namely, after two years from the date of retirement of service under 17(a) of the Tamil Nadu Civil Service (Conduct and Appeal) Rules is liable to be quashed in the light of 9(2)(b) of the Tamil Nadu Pension Rules 1978 and the same is quashed. Accordingly, the writ petition is allowed. Consequently, connected W.M.P. is closed. No costs.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

vga

To

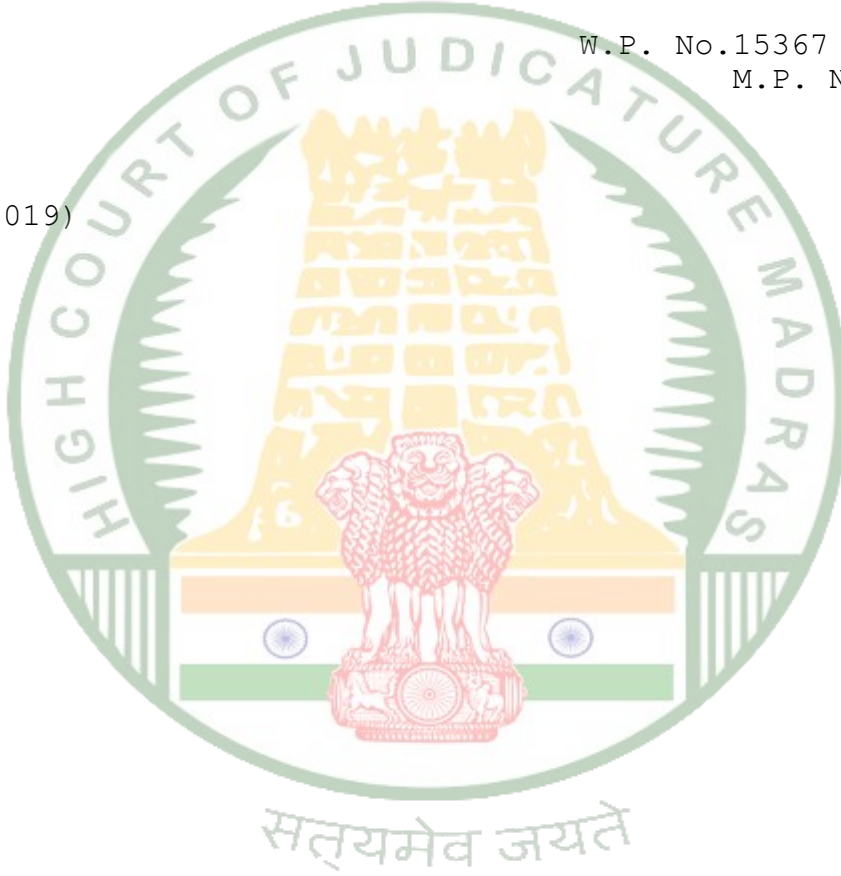
The District Forest Officer,
Vellore Division, Vellore.

+1cc to Mr. K.Baskar, Advocate, S.R.No. 16413

+1cc to the Special Government Pleader(Forest), S.R.No. 15677

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