

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2421 of 2019

And

W.M.P.No.2671 of 2019

S.Chandrasekaran

... Petitioner

Vs

1. The Principal Chief Conservator of Forests
(HoFF),
Tamil Nadu Forest Department,
Office of the Principal Chief Conservator of
Forests,
Panagal Maligai, No.1, Jeenis Road,
Saidapet,
Chennai-600 015.

2. The District Forest Officer,
Gudalur Division,
The Nilgiris.

... Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the proceedings No.T2/12710/2007, dated 15.6.2018 on the file of the first respondent in seeking petitioner consent for recovery of loss by way of imposing punishment under Rule 9 of the Tamil Nadu Pension Rules, 1978 and quash the same.

For Petitioner

: Mr.R.Balachanderan

WEB COPY
O R D E R

The show cause notice issued by the first respondent in proceedings dated 15.6.2018, inviting explanations/objections of the writ petitioner in respect of the proposed punishment to be imposed under Rule 9(1)(a) of the Tamil Nadu Pension Rules, 1978, is under challenge in the present writ petition.

2. On account of certain allegations, disciplinary proceedings were initiated against the writ petitioner and after completion of the enquiry, the impugned show cause notice has been issued by the first respondent.

3. In view of the fact that the writ petitioner attained the age of superannuation and allowed to retire from service, the competent authorities invoked the provisions of the Tamil Nadu Pension Rules, 1978 and issued the show cause notice proposing the punishment of recovery from the pension as punishment. In respect of the proposed punishment, the writ petitioner is directed to file his objections/explanations.

4. Instead of submitting the explanations/objections, the writ petitioner has chosen to file the present writ petition, challenging the impugned show cause notice.

5. The learned counsel for the writ petitioner states that the writ petitioner has already submitted his explanations/objections to the show cause notice. Such being the fact, the writ petitioner has shown the purpose for which the final orders to be passed on the explanations submitted by him.

6. No writ proceedings can be entertained against the show cause notice in a routine manner. In the present case on hand, the show cause notice has been issued with reference to the Pension Rules in force and the proposed punishment was informed to the writ petitioner, enabling him to submit his explanations/objections.

7. Under these circumstances, the present writ petition is filed on the ground that the explanations/objections earlier submitted by the writ petitioner has not been considered by the authorities competent.

8. The learned counsel for the writ petitioner states that the very allegations as against the writ petitioner are untenable and the procedures followed by the authorities are also not in accord with the Rules.

9. All such grounds can be raised only after passing of the final orders at the show cause notice. Such grounds on merits are impermissible. A writ against a show cause notice can be entertained only on exceptional circumstances. If the show cause notice is issued by the authority having no jurisdiction or competency, if an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even in case of raising the allegation of mala fides, the authority against whom such an allegation is raised to be impleaded as a party in writ proceedings in his personal capacity. In the

absence of any of these legal grounds, no writ can be issued against a show cause notice.

10. In the present case on hand, the writ petitioner has raised the ground on merits and it deserves no further adjudication. It is left open to the authorities to consider all those objections/ explanations submitted by the writ petitioner, take decision and pass orders on merits and in accordance with law and thereafter, the writ petitioner is at liberty to approach the Appellate Authority or the Competent Court of Law, as the case may be, in the manner known to law.

11. Accordingly, the present writ petition deserves no adjudication on merits and the same stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Principal Chief Conservator of Forests
(HoFF),
Tamil Nadu Forest Department,
Office of the Principal Chief Conservator of
Forests,
Panagal Maligai, No.1, Jeenai Road,
Saidapet,
Chennai-600 015.

2. The District Forest Officer,
Gudalur Division,
The Nilgiris.

+1cc to the Special Government Pleader, S.R.No.9337

W.P.No.2421 of 2019

RV(CO)
CS/13/03/2019