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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.23867 of 2011
and M.P.No.1 of 2011

G.Sivakumar

.. Petitioner

Vs.

1. The Principal Chief Conservator of Forests
and Head of Forest Force,
Panagal Buildings, Chennai 15.
2. The Conservator of Forests,
Coimbatore Circle, Coimbatore.
3. The District Forest Officer,
Nilgiris North Division,
Uthagamandalam, Nilgiris District.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records on the file of the 3rd respondent in connection with the impugned order passed in and by his proceedings Na.Ka.No.12635/07/Pa.2 dated 19.10.2009 and the order of the 2nd respondent issued in and by his proceedings No.Pa.2/609/2010 dated 22.06.2010 and that of the 1st respondent proceedings No.BB1-78075/2010 dated 23.03.2011 and quash the same and direct the 1st respondent herein to include the name of the petitioner in the appropriate place in the panel of Forester of the appropriate year and consequently, promote him as Forester with all consequential service and monetary benefits.

For Petitioner : Mr.M.Ravi

For Respondents: M/s.Thanga Vadhana Balakrishnan
Additional Government Pleader
(Forest)



O R D E R

This Writ Petition is filed challenging the punishment of stoppage of increment for a period of two years with cumulative effect passed by the 3rd respondent, which was modified by the 2nd respondent as stoppage of increment for a period of two years without cumulative effect and dismissal order of the 1st respondent and for a direction to include the name of the petitioner in the appropriate place in the panel of Forester of the appropriate year and consequently, promote him as Forester with all consequential service and monetary benefits.

2.The grounds on which the petitioner is challenging the punishment are that:

(i) The 3rd respondent failed to furnish the documents relied on.

(ii) The witnesses were not examined in his presence and he was not given an opportunity to cross-examine the witnesses.

(iii) The Enquiry Officer asked the petitioner to admit the charges on false promise that the petitioner would be exonerated of the charges and obtained his signature in the alleged admission.

The learned counsel appearing for the petitioner contended that the petitioner brought the above facts to the notice of the 3rd respondent when he submitted his explanation to the Show Cause Notice issued after the Enquiry Officer's report. The 3rd respondent did not consider the same and imposed the punishment. The 2nd respondent reduced the punishment of 'stoppage of increment for a period of two years with cumulative effect' to that of 'stoppage of increment for a period of two years without cumulative effect'. The respondents 1 and 2 also failed to consider that the 3rd respondent did not conduct proper enquiry and enquiry conducted by the Enquiry Officer is irregular and the punishment imposed based on the irregular enquiry is invalid. The punishment imposed by the respondents was an impediment for the petitioner being promoted to the post of Forester in the year 2009-2010.

3.On the other hand, the learned Additional Government Pleader (Forest) appearing for the respondents contended that the petitioner in the questionnaire has stated that he does not want copies of the document and he does not want to examine any witness. An opportunity was given to the petitioner during domestic enquiry. It is not correct to state that Enquiry Officer by coercion and false promises got an admission from the petitioner. The petitioner did not submit any explanation to the 2nd Show Cause Notice, even after time for explanation was extended. The enquiry was conducted properly following the principles of natural justice and punishment imposed on the



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petitioner is proportionate to the misconduct committed by the petitioner. Due to currency of punishment, the petitioner's name was not considered for promotion to the post of Forester in the year 2009-2010. The respondents 1 and 2 have appreciated all the materials and passed order by giving valid reasons and prayed for dismissal of the Writ Petition.

4. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader (Forest) appearing for the respondents and perused the materials available on record.

5. The contention of the learned counsel appearing for the petitioner is that the enquiry was not properly conducted and the Enquiry Officer coerced the petitioner to admit the charges. According to the learned counsel appearing for the petitioner, the irregularity committed by the Enquiry Officer was brought to the notice of the 3rd respondent when the petitioner submitted the explanation. On the other hand, the learned Additional Government Pleader (Forest) contended that the petitioner did not submit any explanation even after extension of time for submitting his explanation. The contention of the learned Additional Government Pleader (Forest) is acceptable as the petitioner has not filed any typed set of papers enclosing the alleged explanation to the 2nd Show Cause Notice submitted to the 3rd respondent. Further, the learned counsel appearing for the petitioner did not dispute that in the questionnaire the petitioner has stated that he does not require copies of the documents and that he did not want to examine any witness. From the records, it is seen that the petitioner has not only admitted the misconduct committed by him, but also on 10.12.2007, the date of occurrence. It is not the case of the petitioner, even that admission was obtained by Flying Squad when they detected the misconduct committed by him. The petitioner has raised these allegations only before the 2nd respondent when he filed appeal. Therefore, the contention of the learned counsel appearing for the petitioner that the petitioner raised these objections before the 3rd respondent before the punishment being imposed is without any basis and is not acceptable. The respondents have given valid reasons for passing the impugned order. There is no reason to interfere in that.

6. As far as promotion to the post of Forester for the year 2009-2010 is concerned, during that time, the punishment of stoppage of increment for 2 years without cumulative effect was in force. In view of the currency of punishment, the petitioner was not considered for the post of Forester for the year 2009-2010.



7. For the above reason, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Principal Chief Conservator of Forests
and Head of Forest Force,
Panagal Buildings, Chennai 15.
2. The Conservator of Forests,
Coimbatore Circle, Coimbatore.
3. The District Forest Officer,
Nilgiris North Division,
Uthagamandalam, Nilgiris District.

+1cc to Mr.M.Ravi, Advocate, S.R.No.62012

+1cc to the Government Pleader, S.R.No.61090

W.P.No.23867 of 2011

NRJK(CO)
CS/18/09/2019