

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.10.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.29496 of 2019
and W.M.P.Nos.29356 & 29357 of 2019

C.Murugesan

..Petitioner

vs

1. The Secretary to Government,
Government of Tamil Nadu,
Department of Personnel & Administrative Reform,
Secretariat, Fort St.George,
Chennai -600 009.
2. The Principal Chief Conservator of Forests,
Panagal Maligai, Saidapet,
Chennai - 600 015.
3. The Additional Principal Chief Conservator of Forests,
Dharmapuri Forest Circle,
Behind District Collector Office,
Collectorate Post,
Dharmapuri - 636 705.
4. The District Forest Officer,
Cauvery North Wildlife Sanctuary-cum-
District Forest Office,
Cattle Farm Campus, Mathigiri Post,
Hosur Taluk, Krishnagiri District.

5. V.Nagarajan

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ, calling for the records of the 2nd and 3rd respondents and quash the 3rd respondent's impugned order in No.9293/2019 G1 dated 11.10.2019 consequently, direct the 3rd respondent to retain the petitioner as Forest Range Officer at Javalagiri Forest Range, Hosur Wildlife Division, Dharmapuri Forest Circle.

For Petitioner : Mr.S.Sathiaseelan
For Respondents : Mr.M.Elumalai,
Government Advocate.

O R D E R

Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd and 3rd respondents and quash the 3rd respondent's impugned order in No.9293/2019 G1 dated 11.10.2019 consequently, direct the 3rd respondent to retain the petitioner as Forest Range Officer at Javalagiri Forest Range, Hosur Wildlife Division, Dharmapuri Forest Circle.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. By consent, the writ petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner was appointed as Forest Guard on 24.03.1997 in Pennagaram Forest Range, Dharmapuri Forest Division, Dharmapuri Forest Circle by direct employment and subsequently he was promoted as Forester and posted at Royakottah Forest Range in Hosur Forest Division on 30.07.2009. Thereafter, he was again promoted as Forest Range Officer on 26.09.2016 and posted at Gudalur Forest Range, Megamalai Division, Madurai Forest Circle and then transferred to Javalagiri Forest Range, Hosur Wild Life Division on 15.03.2017 and till date he has been working at Javalagiri Forest Range and discharging his duties. While being so, the Additional Principal Chief Conservator of Forests, Dharmapuri Forest Circle/3rd respondent herein passed an impugned order dated 11.10.2019 transferring the petitioner to Pennagaram Social Forest Range, Dharmapuri Social Forest Division on administrative reasons without mentioning any sufficient and valid reasons. Challenging the same, the present writ petition is filed.

4. Mr. S.Sathiaseelan, learned counsel for the petitioner would submit that though the impugned order was passed by the competent authority i.e the 3rd respondent herein, the said transfer order was passed based on the earlier transfer order passed by the 2nd respondent transferring one V.Nagarajan, the 5th respondent herein

which is without jurisdiction. The learned counsel would further submit that, if the petitioner having any grievance have to seek remedy by way of appeal before the Head of the Department, who is the 2nd respondent herein. In support of his arguments, the learned counsel for the petitioner has relied upon the decision of the Apex Court reported in 1991 Supp (2) Supreme Court Cases 659 in the case of Shilpi Bose (MRs) and Others Vs. State of Bihar and Others.

"Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department"

5. The learned counsel for the petitioner by relying upon the said judgment, has fairly contended that the 2nd respondent has no jurisdiction to transfer the 5th respondent to the petitioner's place. and further submitted that the impugned order is contrary to Rule 12 (b) of TamilNadu Forest Subordinate Service Rules, which says that within the circle, the 3rd respondent alone is the competent person to pass transfer orders. However, the transfer of the 5th respondent was made by the 2nd respondent which is contrary to the said rules. Hence the petitioner has prayed to allow the writ petition.

6. Per contra, Mr. M.Elumalai, the learned Government Advocate appearing for the respondents submitted that the petitioner joined in Jawalagiri Range on 15.03.2017 i.e he has served more than 2 1/2 years in this present station nearing completion of 3 years period. The Additional Principal Chief Conservator of Forests, Dharmapuri Circle/ the 3rd respondent is representing the government and is delegated with the power to transfer Forest Range Officers within the circle as per the Section 12 (12) of Tamil Nadu Forest Subordinate Service Rules. As per the Government orders in G.O. No. 678-P&AR (Per-S) dated 20.07.1987, the state government can transfer any employee from one Revenue District to another Revenue District on administrative grounds. Due to administrative grounds only the petitioner has been transferred from the present station.

7. Considering the facts and circumstances of the case, it is clear that there is no violation in the impugned order dated 11.10.2019 passed by the 3rd respondent in transferring the petitioner from Javalagiri Forest Range, Hosur Wild Life Division to Pennagaram Social Forest Range,

since both the places are within the circle of Dharmapuri Forest. Further on perusal of the Section 12 (12) of the Tamil Nadu Forest Subordinate Service Rules, the 3rd respondent is the competent authority to transfer the petitioner. Since the transfer was made on administrative grounds, the Court cannot go behind the said reason so long as the power has been exercised properly by the authorities.

8. In the absence of any valid legal grounds and factual pleadings regarding mala fides, the Writ petition deserves to be dismissed and accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed. Filing of appeal by the petitioner before the higher authority has been curtailed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

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Cattle Farm Campus, Mathigiri Post,
Hosur Taluk, Krishnagiri District.

+1 cc to Spl Government Pleader(Forest) Sr.No.89825

+1cc to Mr.S.Sathiaselvan , Advocate SR.No. 89893

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A.SK(30/10/2019)