



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.13736 of 2014

T.Muthukumar

... Petitioner

vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary
to Government,
Environment and Forest Department,
Secretariat, Chennai.

2.The Principal Chief Conservator of Forest
and Head of Forest Force,
Panagal Maaligai,
Saidapet, Chennai -15.

3.The Wild Life Warden,
Megamalai Wildlife Division, Theni.

4.The Conservator of Forest,
Madurai Circle, Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in his proceeding in G.O.(D)No.167, Environment and Forests (FR.1), Department, dated 02.06.2014 (served to the petitioner on 14.08.2014) and quash the same as illegal.

For Petitioner	: Mr.H.Mohammed Imran for M/s.Ajmal Associates
For Respondents	: Mr.D.Muruganandam Additional Government Pleader

O R D E R

This Writ Petition is directed against the order passed by the first respondent in G.O.(D)No.167, Environment and Forests (FR.1), Department, dated 02.06.2014.

2.The brief facts that are necessary for the disposal of this Writ Petition are as follows:



2.1.The petitioner was appointed as Forest Ranger on 01.11.1980 and he was promoted as Assistant Conservator of Forest by including his name in the panel of Rangers fit for promotion as Assistant Conservator of Forest for the year 2007-2008 vide G.O.(D)No.284, Environmental and Forest Department, dated 30.09.2008.

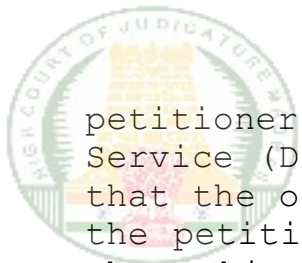
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2.2.The petitioner was appointed as Assistant Conservator of Forest at Cumbum, Theni District, by promotion. Subsequently, the petitioner attained the age of superannuation on 31.05.2012, while he was working as Assistant Conservator of Forest. It is stated by the petitioner that he was allowed to retire from service vide G.O.(3D)No.40, Environment and Forests (FR.1) Department, dated 31.05.2012 without prejudice to the pending departmental proceedings and also subject to the outcome of W.P.(MD)No.7914 of 2010.

2.3.It is not in dispute that a charge memo was issued to the petitioner under Rule 17(a) of Tamil Nadu Civil Services (D&A) Rules, 1955, on 03.07.2007 alleging that the petitioner had not attended a seminar of Join Forest Management Tools and Techniques at NIRD, Hyderabad between 11.09.2006 and 16.09.2006. On receipt of the charge memo, the petitioner gave explanation and simultaneously sought for copies of certain documents. Ultimately, an order of punishment was imposed on the petitioner and the punishment was to recover a sum of Rs.10,500/-, which was being the amount determined as loss to the Government allegedly that was incurred by the Government for the training programme supposed to be attended by the petitioner in Hyderabad. Though the petitioner filed an appeal, the second respondent confirmed the order of fourth respondent in the appeal by order dated 24.08.2009.

3.It is stated that the petitioner's promotion was due even in 2002-2003. It is admitted that a promotion list was drawn during 2007-2008 containing the list of Forest Rangers fit for promotion to the post of Assistant Conservator of Forest. The crucial date for the said panel is 15.08.2007. The petitioner contended that since there was no charge pending under Rule 17(b), he was also eligible to be considered for promotion. It is also admitted that the first respondent by order vide G.O.(D).284, Environment and Forest Department, dated 30.09.2008 appointed the petitioner as Assistant Conservator of Forest at Cumbum, Theni Division by promotion. The petitioner thereafter discharged his duty as Assistant Conservator of Forest till his retirement on Superannuation on 31.05.2012.

4.It is further stated that though an order of recovery was passed against the petitioner for recovery of sum of Rs.10,500/- as loss caused to the Government, the charges against the



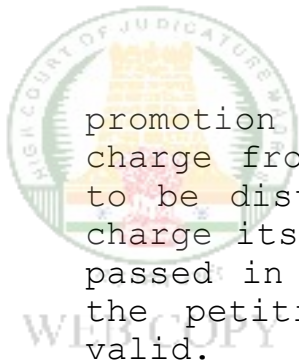
petitioner was only under the rule 17(a) of Tamilnadu Civil Service (Discipline and Appeal) Rules, 1955. It is further stated that the order passed by the Appellate Authority was challenged by the petitioner in a writ petition in W.P.(MD).No.7914 of 2010 and that this Court allowed the writ petition on 17.09.2018 and set aside the order of punishment. Learned counsel for the petitioner therefore, submitted that since the punishment being set aside, the petitioner need not be disturbed from the promotional post, especially, having regard to the fact that the petitioner had attained superannuation long back.

5.Learned counsel appearing for the petitioner submitted that the respondent ought to have considered the fact that the petitioner was allowed to work in the promotional post as Assistant Conservator of Forest and that therefore the impugned order is liable to be quashed not only on account of the subsequent order setting aside the punishment, but also on the grounds of equity.

6.Learned counsel for the respondent relying upon the counter affidavit, reiterated the contentions. From the lengthy counter affidavit filed by the second respondent, it can be gathered that the main contention of the respondent is by relying upon the punishment and the justification for revising the order of promotion on such ground. The respondent have not produced before this Court any other guidelines for ignoring the subsequent events. Since the punishment under 17(a) was under currency, it is contended by the second respondent that the respondents are expected to recall the order of promotion once it is noticed that the promotion given to the petitioner was erroneous or if it is contrary to Regulation.

7.This Court considered the rival submissions of counsels on either side.

8.Admitted facts reveal that the impugned order deleting the petitioner's name from the panel of Forest Rangers fit to appoint to the post of Assistant Conservator of Forest by recruitment by transfer for the year 2007-2008 and to revert the petitioner to the post of Forest Ranger was only on the ground that the promotion was when the order of punishment was in currency. The petitioner was promoted and served in the promotional post till the date of retirement by superannuation. The fact that is recorded in the impugned order is that the petitioner was found guilty of a charge and suffered a punishment of recovery of a sum of Rs.10,500/-. The petitioner's name was included in the panel for the post of Assistant Conservator of Forests. Since only a charge under Section 17(a) alone was pending at that time, the respondent had no reason to revise the



promotion to the petitioner. Only on account of conversion of charge from 17(a) to 17(b) the petitioner's promotion was sought to be disturbed. The conversion will have no impact after the charge itself was set aside by this Court. By virtue of the order passed in the writ petition, when the punishment was set aside, the petitioner's promotion should be treated as one which is valid.

9. In the light of subsequent events, whereby this Court has set aside the order of punishment and on considering the fact that the charges were altered for major punishment only, after the crucial date, this Court has no hesitation to hold that the impugned order, dated 02.06.2014, depromoting the petitioner to his original post is unwarranted and to be quashed.

10. Accordingly, this writ petition is allowed. The impugned order passed by the first respondent in his proceeding in G.O.(D)No.167, Environment and Forests (FR.1), Department, dated 02.06.2014 (served to the petitioner on 14.08.2014) is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

cmr/TM

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Environment and Forest Department,
Secretariat, Chennai.
2. The Principal Chief Conservator of Forest
and Head of Forest Force,
Panagal Maaligai,
Saidapet, Chennai -15.
3. The Wild Life Warden,
Megamalai Wildlife Division, Theni.



4.The Conservator of Forest,
Madurai Circle, Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-87889[F] dated
19/09/2019)

+1 CC to M/s.SPL GP (SR-87907[F] dated 19/09/2019)

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