

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23277 of 2013

N.Sivakumar

... Petitioner

Vs.

1. Government of Tamilnadu
Represented by Secretary to Government
Environment and Forest Department,
Secretariat,
Chennai – 600 009.
 2. The Principal Chief Conservator of Forests
And Head of Forest Force,
Chennai – 600 015.
 3. The Conservator of Forests,
Coimbatore Circle,
Coimbatore – 641 018.
 4. The Assistant Conservator of Forests,
Forest Protection Squad,
Coimbatore – 641 043.
- सत्यमेव जयते... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1 to 4 respondents herein in (1) G.O.(3D) No.92, Environment and Forest (FR. 9A) Department, dated 28.12.2010 of the

first respondent, (2) Pro.No.S2/27763/2010 dated 30.07.2010 of the second respondent (3) Pro.No.Pa.2/13460/2008 dated 12.06.2009 of the third respondent and (4) Pro.No.37/2007 dated 25.07.2008 of the 4th respondent to quash the same and to issue consequential directions to the 4th respondent to restore the increments withheld if any, and to grant all consequential benefits to the petitioner.

For Petitioner : M/s.M.Ravi
For Respondents : Mr.M.Elumalai
Additional Government Pleader

ORDER

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records on the file of the respondents 1 to 4 in G.O.(3D) No.92, Environment and Forest (FR. 9A) Department, dated 28.12.2010 of the first respondent; Pro.No.S2/27763/2010 dated 30.07.2010 of the second respondent; Pro.No.Pa.2/13460/2008 dated 12.06.2009 of the third respondent; and Pro.No.37/2007 dated 25.07.2008 of the fourth respondent to quash the same and to issue consequential directions to the fourth respondent to restore the increments withheld, if any, and to grant all consequential benefits to the petitioner.

2.The case of the petitioner is that the petitioner was initially appointed as Cleaner during the year 1992 and was appointed as Driver during November, 1996. The fourth respondent vide proceedings dated 29.01.2007, initiated disciplinary proceedings against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules. Thereafter Enquiry Officer was appointed and enquiry was conducted and the Enquiry Officer vide report dated 31.01.2008 held that the charges against the petitioner had been proved.

3.It is the further case of the petitioner that a copy of the enquiry report was furnished to the petitioner and the petitioner made a representation dated 30.04.2008 stating that the findings of the Enquiry Officer are perverse, however, the fourth respondent passed final order dated 25.07.2008 imposing penalty of stoppage of increment for three years with cumulative effect on the petitioner. Aggrieved by the same, the petitioner preferred appeal before the third respondent. The third respondent vide order dated 12.06.2009 rejected the appeal filed by the petitioner.

4.It is the further case of the petitioner that aggrieved by the order of the third respondent dated 12.06.2009, the petitioner preferred revision petition before the second respondent on 29.12.2009 and the second respondent vide order dated 30.07.2010, rejected the revision filed by the petitioner. Thereafter, the petitioner preferred review petition before the first respondent and the first respondent vide order dated 28.12.2010 rejected the review filed by the petitioner. Hence, this writ petition.

5.The learned counsel appearing for the petitioner would submit that based on the statement obtained by the then Assistant Conservator of Forests from some of the persons working in the Forest Department, charge memo was issued to the petitioner and based on the Enquiry Officer's report, the fourth respondent imposed the punishment on the petitioner. The appeal filed by the petitioner was also rejected by the appellate Authority by a non-speaking order, which is un-tenable one.

6.The learned Additional Government Pleader would submit that the Enquiry Officer's report, the explanation given by the petitioner

were properly examined by the fourth respondent before passing the order of punishment. The petitioner failed to prove that he has not committed the charges. He would further submit that the Appellate Authority examined the matter independently along with the connected records and held that the witness, diaries, Enquiry Officer report and connected records clearly establish the charges against the petitioner and rightly rejected the appeal filed by the petitioner.

7.This Court perused the impugned orders. The order dated 12.06.2009 passed by the third respondent in the appeal preferred by the petitioner does not reveal anything about the factual aspects or about the Enquiry Officer's report. Hence, this Court is of the opinion that the appeal filed by the petitioner has been mechanically rejected by the third respondent. Hence, this Court is inclined to remand the matter back to the Appellate Authority to consider the same afresh, on merits, after giving opportunity to the petitioner.

8.The impugned orders dated 28.12.2010 passed by the first respondent; dated 30.07.2010 passed by the second respondent; and dated 12.06.2009 passed by the third respondent are set aside. The

matter is remanded back to the third respondent to consider the appeal filed by the petitioner afresh, on merits and in accordance with law, after giving opportunity to the petitioner.

9.The writ petition is accordingly disposed of. No costs.

30.09.2020

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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