

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.675 of 2020m against WP.9507/2020

and C.M.P.Nos.9362 and 9364 of 2020

S.Suresh Kumar .. Appellant

-vs-

1.The Principal Chief Conservator of Forests,
(Head of Forest Force), Panagal Maligai,
Saidapet, Chennai-15.

2.The Joint Director,
O/o.The Principal Chief Conservator of
Forests (Head of Forest Force),
Panagal Maligai, Saidapet,
Chennai-15.

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

4.R.Murugadevan .. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 22.07.2020 passed in W.P.No.9507 of 2020 on the file of this Court.
W.P.No.9507 of 2020:

This Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus to Call for the entire records pertaining to the Proceeding W2/27345/2017 dated 4.7.2020 issued by the First Respondent (issued by the Second Respondent for and in the name of the First Respondent) quash the same and direct the respondents to allow the petitioner to continue to serve as Superintendent in the Present Post and Station.

For Appellant : Mr.M.Ravi

For Respondentst : Mr.S.Prabhu
Addl. Govt. Pleader
for RR 1 and 2

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant and learned Additional Government Pleader for the Forest Department, Mr.S.Prabhu.

2.We had passed the following order on 31.08.2020:-

" Learned Additional Government Pleader prays for time to file a counter affidavit.

2. Mr.M. Ravi, learned counsel for the appellant contends that as a matter of fact the appellant had not made any request of mutual transfer inasmuch as the Government Order in G.O.Ms.No.249 Finance (Budget General-1) Department dated 21.05.2020 which permits mutual transfer was not in existence nor was it prayed for in the application moved by the appellant on 27.05.2020. In effect, he submits that if the Government Order dated 21.05.2020 is taken into account, then the application could not have been accepted and as a matter of fact, his request was not accepted which was unilateral in nature.

3. The learned counsel further submits that it is only when the fifth respondent viz., Mr.R. Murugadevan, moved an application, the said application was connected with the request of the appellant and an order was passed on 04.07.2020.

4. He further submits that as a matter of fact, contest was made before the learned Single Judge only on legal grounds which has been adversely commented upon by the learned Single Judge and a cost of Rs.25,000/-(Rupees twenty five thousand only) has been imposed.

5. The issue with regard to imposition of cost of Rs.25,000/-(Rupees twenty five thousand only) and the adverse comments shall be considered after exchange of affidavits.

6. The appellant will be permitted to join in

the transferred place as per the order dated 04.07.2020 and the merit or otherwise of the said order shall be considered after exchange of affidavits.

7. In the interregnum period, the direction for payment of cost of Rs.25,000/- (Rupees twenty five thousand only) shall remain stayed and if the appellant joins the transferred place within one week from today, no further action shall be taken against him on this count except with the leave of the Court.

8. Let service of all the papers be effected on the respondents.

9 Issue notice to the fourth respondent, returnable at an early date.

List on 12.10.2020."

3. Having heard learned counsel for the parties, it would be expedient and in the interest of justice in the present state of circumstances to allow the appellant to move a fresh representation with regard to his request for transfer before the competent authority and in the event any such representation is filed within ten days from today, the same shall be disposed of within three weeks thereafter. The appellant has admittedly joined at the place of transfer as we had observed in paragraph 6 of the order quoted above.

4. In the wake of the aforesaid order that we are passing, we find that the interest of justice would be served if the adverse comments and the imposition of costs of Rs.25,000/- as made in the impugned judgment dated 22.07.2020 are eclipsed. Accordingly that part of the judgment is set aside.

The Writ Appeal stands disposed of in the said terms. No costs. Consequently, C.M.P.Nos.9362 and 9364 of 2020 are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

1. The Principal Chief Conservator of Forests,
(Head of Forest Force), Panagal Maligai,
Saidapet, Chennai-15.

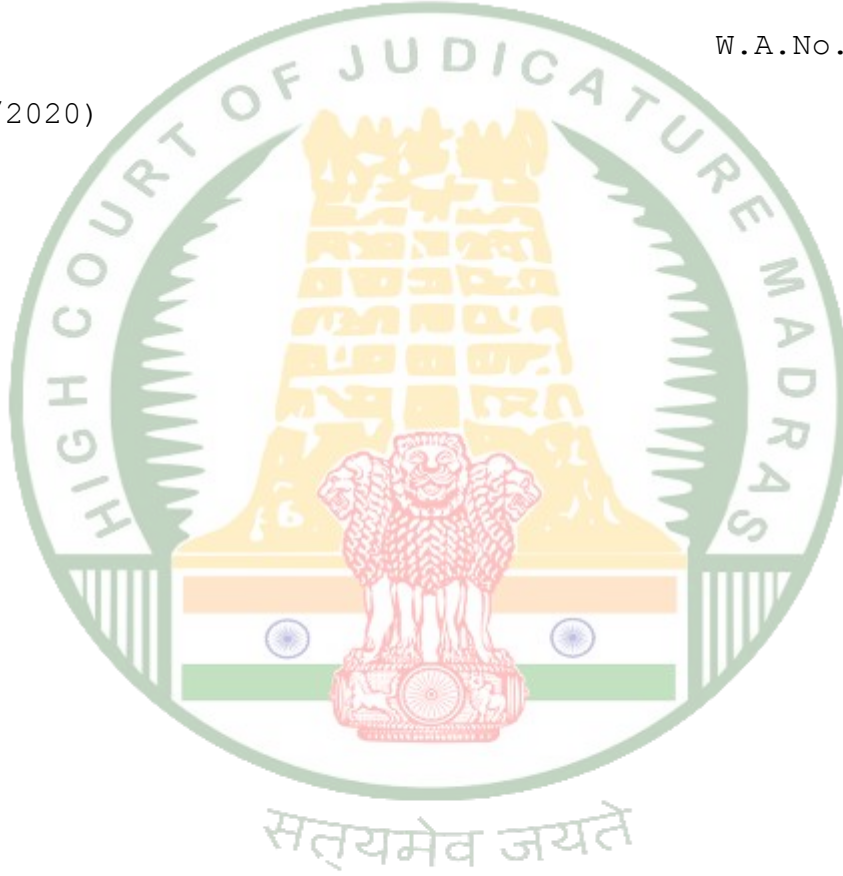
2.The Joint Director,
O/o.The Principal Chief Conservator of
Forests (Head of Forest Force),
Panagal Maligai, Saidapet,
Chennai-15.

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

+1 cc to The Government Pleader, Sr.No. 33779

W.A.No.675 of 2020

RSV(CO)
RMP(22/10/2020)



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