

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.32501 of 2018

Dr.N.Paneer Selvam

... Petitioner

Vs

- 1.Union of India
Rep.by its Secretary,
Ministry of Environment and Forest,
Indira Pariyavaran Bhawan
New Delhi - 110 003.
- 2.The Inspector of General Forests
Ministry of Environment and Forest,
CGO Complex, Lodi Road,
New Delhi - 110 003.
- 3.The Director,
National Zoological Park, New Delhi.
- 4.The Principal Registrar,
Central Administrative Tribunal,
Principal Bench, Copernicus Marg,
New Delhi - 110 001.
- 5.The Registrar
Central Administrative Tribunal,
Chennai Bench,
Additional City Civil Court Building,
Chennai - 600 104.

... Respondents

Prayer : Writ Petition filed under 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records on the file of R4, in connection with the Order in P.T./173/2018 dated 12.10.2018 passed by Chairman, Central Administrative Tribunal, Principal Bench, New Delhi, and quash the same as illegal and direct the respondents to retain the said Original Application No.310/1339/2017 before R5 and

prosecute it as expeditiously as possible in accordance with law.

For Petitioner : Mr.P.Ulaganathan

Mr.G.Karthikeyan, ASG
For Respondents : for R1 to R3
R4 & R5 - Tribunal

ORDER

(Order of the Court was made by M.M.SUNDRESH,J)

Seeking to issue a writ of certiorarified mandamus calling for the records on the file of R4, in connection with the Order in P.T./173/2018 dated 12.10.2018 passed by Chairman, Central Administrative Tribunal, Principal Bench, New Delhi, and quash the same as illegal and direct the respondents to retain the said Original Application No.310/1339/2017 before R5 and prosecute it as expeditiously as possible in accordance with law, the present writ petition has been filed.

2. The petitioner is a retired employee of respondents 1 to 3. He retired as a Veterinary Officer. Earlier, he filed an application while in service before the Central Administrative Tribunal, Principal Bench, New Delhi in O.A.No.777 of 2014. This application was permitted to be withdrawn with liberty. The following order was passed by the Tribunal on 13.11.2016:

"While serving as Veterinary Officer, the applicant was communicated adverse remarks in his ACRs for the years 2006-2007, 2007-2008, 2008-2009 and 2009-2010 vide letter dated 27.06.2012. He made a representation against the adverse ACRs. Till the filing of this OA, the respondents had not decided for quashing the adverse entries in his ACRs for the above mentioned years or ignoring them for the purpose of promotion.

2.The respondents were put to notice. They have filed the counter affidavit annexing thereto order dated 18.06.2014 whereby the representation of the applicant had been rejected.

3.In this view of the matter, learned counsel for the applicant seeks to withdraw this OA with liberty to file a fresh OA challenging the rejection order dated 18.06.2014. Learned counsel

also submits that the rejection order was never served upon him. If that is a fact, he is entitled to seek condonation of delay in accordance with law narrating all the necessary facts. Liberty, prayed for, is allowed."

3. Thereafter, the petitioner filed another application in O.A.No.1339 of 2017 which is pursuant to his attaining the age of superannuation. This application has been filed before the Madras Bench and by order dated 12.10.2018, the application filed by the petitioner was transferred to the Principal Bench at New Delhi on the ground that the petitioner having filed the earlier application at New Delhi and respondents 1 to 3 having their office at New Delhi, the same will have to be heard only in that place. The Tribunal took note of the Rules stipulated under the Central Administrative Tribunal (Procedure) Rules, 1987 with a particular reference to Rule 6(2) while holding that despite the same, an order of transfer will have to be made. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner submitted that the aforesaid Rule is very clear and specific. It has been introduced to facilitate the application against respondents 1 to 3. The application has to be verified based upon the documentary evidence. Merely because records are available at New Delhi, it cannot be stated that the applicant will have to go to the said place and conduct his case. It is his further contention that the presence of the respondents is personally not required as the arguments are to be made through the counsel engaged by them. Therefore, the writ petition will have to be allowed.

5. Mr.G.Karthikeyan, learned Assistant Solicitor General appearing for respondents 1 to 3 would submit that even the petitioner filed the application earlier only at the Principal Bench at New Delhi, the respondents are in New Delhi and the records are kept there only and therefore, no interference is required in the order passed by the Tribunal.

6. We do find considerable force in the submission made by the learned counsel appearing for the petitioner. Rule 6 (2) of the Central Administrative Tribunal (Procedure) Rules, 1987 states as follows:

"Rule 6(2):notwithstanding anything contained in sub-rule(1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an

application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application."

7. This Rule certainly facilitates an applicant to file an application with the Registrar of the Bench even whose jurisdiction he/she ordinarily resides. There is no difficulty in holding that the petitioner resides at Madurai and, therefore, the jurisdiction as per Rule 6(2) would be the Central Administrative Tribunal at Chennai. The Tribunal, after noting this Rule nonetheless transferred the matter on the grounds mentioned above. We do not find that is the right way of approaching the litigation. As stated, Rule 6(2) is given to facilitate the applicants. There is no need for respondents 1 to 3 to contest the matter in person. After all, the proceedings are conducted through the counsel appearing for the parties especially on behalf of the official respondents, who are not required to be present, though more often than not the applicant having filed the application would be present before the Court in person. The records having been kept at New Delhi may not be a factor. It is not as if such records are required to be produced in original and perused by the Court on all occasions. The Court is expected to decide the matter on the pleadings supported by documentary evidence. When we talk about the documentary evidence, the same will have to be tendered by them to the Court and the other side and, therefore, looking from any perspective, we do not find any reason to justify the order passed.

8. Accordingly, the impugned order in P.T./173/2018 dated 12.10.2018 passed by the fourth respondent stands set aside and the Writ Petition stands allowed. Consequently, the fifth respondent is directed to decide the application filed in O.A.No.1339 of 2017 by the petitioner. Taking into consideration the fact that more than two years have elapsed, we direct the fifth respondent to dispose of the application within a period of four months from the date of receipt of a copy of this order. Respondents 1 to 3 shall also file counter affidavit within a period of four weeks from the date of receipt of a copy of this order along with the documents to be filed, if any. No costs. Consequently, connected W.M.P.No.37718 of 2018 is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ssm

To

1.The Secretary,
Ministry of Environment and Forest,
Indira Pariyavaran Bhawan
New Delhi - 110 003.

2.The Inspector of General Forests
Ministry of Environment and Forest,
CGO Complex, Lodi Road,
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Central Administrative Tribunal,
Chennai Bench,
Additional City Civil Court Building,
Chennai - 600 104

+1 cc to Mr.P.Ulaganathan advocate sr22526

+1 cc to Mr.G.Karthikeyan Advocate sr23376

W.P.No.32501 of 2018

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