



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD)No.9940 of 2009

P.Krishnan Nair

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Environment and Forest,
Fort St. George, Chennai - 600 009.

2.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 002.

3.The Principal Chief Conservator of Forests,
Panagal Buildings,
Chennai - 600 015.

4.The Conservator of Forests Research,
Kolapakkam Post,
Chennai - 600 048.

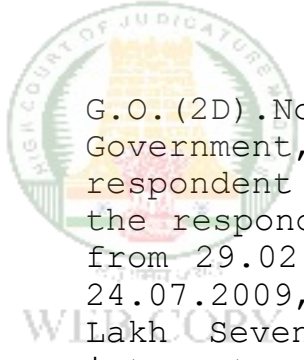
... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to G.O.(2D).No. 26 dated 22.05.2008 on the file of the Secretary to Government, Environment and Forest (FR-1) Department, the first respondent herein and to quash the same and direct the respondents to pay at least 12% interest to the Gratuity amount from 29.02.1996, the date of Superannuation of the petitioner till 24.07.2009, the date of payment of gratuity of Rs.1,70,363/- (One Lakh Seventy thousand three hundred sixty three only) without interest.

For Petitioner	: Mr.K.Sreekumaran Nair
For RR 1, 3 & 4	: Mr.J.Gunaseelan Muthiah, Additional Government Pleader.
For R - 2	: Mr.K.K.Senthil

ORDER

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records relating to



G.O.(2D).No.26 dated 22.05.2008 on the file of the Secretary to the Government, Environment and Forest (FR-1) Department, the first respondent herein and to quash the same and consequently, directing the respondents to pay at least 12% interest to the Gratuity amount from 29.02.1996, the date of Superannuation of the petitioner till 24.07.2009, the date of payment of gratuity of Rs.1,70,363/- (One Lakh Seventy thousand three hundred sixty three only) without interest .

2.The learned counsel appearing for the petitioner submitted that petitioner was promoted as Deputy Conservator of Forests on 09.02.1996 and he was permitted to retire from service on attaining the age of superannuation on 29.02.1996 stating that without prejudice to the detailed enquiry by the appropriate enquiry authority and the departmental disciplinary action pending against him.

3.The learned counsel appearing for the petitioner further submitted that while the petitioner was working as Divisional Forest Officer, Varushanadu Soil Conservation Scheme, Theni, the first respondent issued a charge-memo dated 21.07.1998 stating while he was working in the said place from 11.09.1992 to 04.08.1994, the petitioner in connivance with P.Marichamy-Forest Range and S.P.Amalraj (Formerly Divisional Forest Officer, Theni) created false records as if miscellaneous plantation were raised during 1994-95 in 180 hectares of forest lands in 1994 Vasimalai Bit-I to V and 1994 Elumalai Fodder Plot, but actually raised miscellaneous plantations only in 111.20 hectares, leaving 68.80 hectares without raising any miscellaneous plantations and claimed false expenditure of Rs.2,90,126/- and the petitioner has failed in his duties in ensuring proper supervision over the work of the Forest Ranger in proper implementation of the above plantation work and thereby caused loss to the Government. Out of the total amount, the petitioner is responsible for Rs.11,395.75. He further stated that only in month of April, the said saplings were brought to the nursery. Due to non-availability of water, they were not properly maintained and no procedures were followed and the place of planting trees was also not surveyed properly.

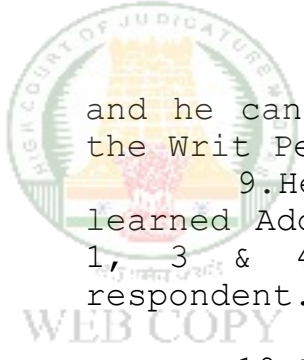
4.The learned counsel appearing for the petitioner submitted that the occurrence took place during the year 1994-95 and he was transferred to Social Forestry Division, Madurai by order dated 29.07.1994 and S.P.Amalraj was posted in his place and he assumed office on 05.08.1994. On 14.07.1994, the petitioner issued a charge-memo to the Forest Ranger-Marisamy stating that he has miserably failed in his duty to bring up the nursery and called for explanation why disciplinary action should not be taken against him. The Conservator of Forests inspected the nursery on 30.09.1994 and found that there were sufficient quantity of seedlings for planting 180 hectares and sent a report on 05.10.1994 and issued a charge-memo dated 21.07.1998 against the petitioner and two others on 21.07.1998. After detailed enquiry, the first respondent vide

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supervise

6.It is further stated that once final orders are passed on the disciplinary proceedings, the pensionary benefits will be settled according to rules in force and apart from the recovery of amount from the Death-cum-Retirement Gratuity, the remaining benefits were settled to the petitioner by order dated 22.05.2008.

7. It is also further stated that the petitioner was holding a controlling charge as per Section 4 of the Forest Department Code and he was expected to inspect the on-going works and facilitate speedy execution ensuring its quality and quantity. The petitioner was in-charge of the division upto 04.08.1994 and during that period, he failed to supervise the work of the Ranger, which resulted in improper maintenance of nursery and caused loss to the Government and the concerned ranger was also punished by way of recovery for a sum of Rs.2,17,596/- from the Death-cum-Retirement Gratuity from his pension.

8. It is further stated that the petitioner was punished for the proven charges and the petitioner had worked at Varushanadu Soil Conservation Scheme, Theni Division upto 04.08.1994 and during his tenure, he released a sum of Rs.1,20,000/- for works and he had failed to supervise the works which resulted in loss to the Government. The petitioner was awarded the punishment of a pension cut of Rs.300/- for a period of three months besides recovery of a sum of Rs.11,396/- by order dated 22.05.2008. The petitioner being a supervisory officer had failed to supervise the work of the Ranger and to inspect the nurseries, which resulted in improper maintenance



and he cannot evade his responsibility and prayed for dismissal of the Writ Petition.

9. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1, 3 & 4 and the learned counsel appearing for the second respondent.

10. From the materials available on record it is seen that while the petitioner was working as Divisional Forest Officer, a nursery was started in the year 1994 and the same was maintained by the Ranger-P.Marichamy for planting miscellaneous plantation. On 14.07.1994, the said Divisional Forest Officer had inspected the said nursery and found that the Ranger has miserably failed in his duty to bring up the nursery in a proper manner and issued a charge-memo to the Ranger-P.Marichamy and called for explanation and to give his reply within three days from the date of receipt of the order, which was received by him on the same date, but what had happened to the said charge was not known to this Court and on 29.07.1994, the petitioner was transferred from the said post to the Social Forestry, Madurai and the petitioner was directed to hand over the charge to S.P.Amalraj and the said S.P.Amalraj assumed charge on 05.08.1994.

11. The petitioner's case is in a very pitiable situation. After issuing charge-memo on 14.07.1994, the petitioner was transferred within 15 days and he was not in a position to proceed the issue, as he has handed over the charge to S.P.Amalraj on 05.08.1994. It is also very clear that if there was any collusion between the petitioner and the Ranger, he would not have issued charge-memo to the Ranger on 14.07.1994. The petitioner was transferred to the Social Forestry, Madurai on 29.07.1994. The Conservator of Forests filed a report on 05.10.1994 and the transplantation work has been started two weeks after the inspection by the Conservator of Forests.

12. At this length of time, there cannot be any further enquiry in this issue, as it is clear that the petitioner had taken steps on the said P.Marichamy by sending a memo and to submit his reply. Pursuant to the issuance of charge-memo, on administrative reasons, the petitioner was transferred to Social Forestry, Madurai on 29.07.1994. The petitioner, in his enquiry, has stated that he has taken appropriate action against the concerned officer and only on transfer, he was not in a position to pursue the matter further. If that being the case, at this length of time, the petitioner, who is aged 96 years, cannot be penalized further and the mental agony itself is sufficient for the petitioner. It is also further stated that the pension cut of Rs.300/- for a period of three months and also the recovery amount of Rs.11,396/- have not been recovered till date. Hence, the impugned order is liable to be set aside.

13. Accordingly, the impugned order dated 22.05.2008 is set aside.



aside and the Writ Petition is allowed. The first respondent is directed to pay a sum of Rs.1,70,363/- being the amount payable towards gratuity to the petitioner. No costs.

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Sd/-

Assistant Registrar (AS)

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Secretary to the Government,
Rep. by the State of Tamil Nadu,
Environment and Forest,
Fort St. George,
Chennai - 600 009.

2.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 002.

3.The Principal Chief Conservator of Forests,
Panagal Buildings,
Chennai - 600 015.

4.The Conservator of Forests Research,
Kolapakkam Post,
Chennai - 600 048.

+1 CC to M/s.K.SREEKUMARANNAIR, Advocate (SR-10699[F] dated 10/03/2020)

+1 CC to M/s.SPL.GP (SR-10758[F] dated 10/03/2020)

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