

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6604 of 2021

K.K. Sampath

... Petitioner

Vs.

1.The Principal Chief Conservator of Forest,
Having Office at Panagal Maaligai,
Saidapet,
Chennai - 600 015.

2.The District Forest Officer,
Thiruvannamalai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to pass final orders in the disciplinary proceeding initiated by the respondents, pursuant to the charge memo issued by the second respondent in Letter No.6343/2014/Va(2) dated 24.10.2014, by considering the report of the enquiry officer dated 21.08.2019, in the light of the proceedings dated 15.09.2020 passed by the first respondent in respect of Tr.Sivasankaran.

For Petitioner : Mr.T.Sella Pandian

For Respondents : Mr.S.Prabhu
Additional Government Pleader

O R D E R

The Petitioner has come up with the above Writ Petition seeking a direction to the respondents to pass final orders in the disciplinary proceeding initiated by the respondents, pursuant to the charge memo issued by the second respondent in Letter No.6343/2014/Va(2) dated 24.10.2014, by considering the report of the enquiry officer dated 21.08.2019, in the light of the proceedings dated 15.09.2020 passed by the first respondent in respect of Tr.Sivasankaran

2. Mr.S.Prabhu, learned Additional Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, while working as Forester, a charge memo was issued against the petitioner by the second respondent in Letter No.6343/2014/Va(2) dated 24.10.2014. He has submitted his explanation on 05.11.2014. Thereafter an enquiry was conducted on various dates and on completion of enquiry against the petitioner and others a report was submitted by the enquiry officer on 21.08.2019 holding that the charges are not proved. The enquiry report was forwarded to the first respondent. As common enquiry was conducted against the Forest Officials, the first respondent is the competent authority to pass final orders in the disciplinary proceedings. Thereafter, there was no progress in the disciplinary proceedings. Later when the petitioner came to know that the first respondent had passed an order against one T.Sivasankaran, one of the co-delinquents, dropping all further proceedings against him. The petitioner has submitted his representation dated 07.12.2020 to the first respondent seeking to extend the same benefits in his favour, but the same was not considered till date. Hence, this petition.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents/disciplinary authority to consider the representation of the petitioner dated 07.12.2020, if not already disposed of and pass final orders on the charge memo dated 24.10.2014 and take a decision in accordance with law, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 07.12.2020 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rsi
To:

1.The Principal Chief Conservator of Forest,
Having Office at Panagal Maaligai,
Saidapet,
Chennai - 600 015.

2.The District Forest Officer,
Thiruvannamalai.

+lcc to Mr.S.Mani, Advocate Sr.16800

W.P.No.6604 of 2021

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srg 06/07/2021