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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 01.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.23388 of 2019

M.Kizer Mohammed

...Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Environment and Forest Department,
Secretariat, Chennai - 600 009.

2.The Principal Chief Conservator
of Forest,
Head of the Forest Department,
Panagal Building,
Saidapet, Chennai - 15.

3.The Chief Conservator of Forest &
Field Director,
Anamalai Tiger Reserve,
Pollachi, Coimbatore.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent relating to the order in Ref No.LL.1/35420/2017 dated 19.02.2018 to quash the same and to issue consequential direction to the respondents to fix the petitioner seniority on par with his Junior Thiru C.Chinnadurai, Forest Watcher in the post of Forest Watcher and to promote the petitioner on that basis as Forest Guard by including the petitioner name in the panel for the year 2013-2014 and grant all consequential monetary benefits.

For Petitioner : Mr.L.Chandrakumar
for Mr.I.Abrar Md.Abdullah

For Respondents: Mr.K.V.Sajeev Kumar
Government Counsel

O R D E R

By consent of both the parties, this writ petition is taken up for final disposal.



2. The petitioner herein, while working as a Forest Watcher, was implicated in a criminal case and subsequently, entered in an acquittal on 30.05.2011. The earlier punishment of removal from service was reconsidered, pursuant to the order passed by this Court in W.P.No.34747 of 2013 dated 20.12.2013 and the petitioner was reinstated through order dated 21.03.2016. However, the consequential service and monetary benefits were not extended to the petitioner. The impugned order dated 19.02.2018, rejecting such benefits, states that the delay in granting reinstatement was due to the petitioner's absenteeism and therefore, he is not entitled to such service and monetary benefits. Aggrieved against the same, the present writ petition has been filed.

3. Mr.L.Chandrakumar, representing the learned counsel for the petitioner would submit that earlier when this Court had directed the respondents to reinstate the petitioner, there was a specific direction for extension of all consequential service and monetary benefits, which direction has been violated.

4. Per contra, the learned Government Counsel appearing for the respondents, by placing reliance on the justification sought to be given by the respondents in the impugned order, submitted that there was no administrative delay on the part of the respondents and owing to the petitioner's involvement in a criminal case, the punishment was imposed. Hence, the petitioner would not be entitled for the consequential service or monetary benefits.

5. I have given careful consideration to the submissions made by the respective counsels.

6. The reasoning adopted by the second respondent herein for rejecting the petitioner's claim for service and monetary benefits is as follows:-

"5) From the above, it is evident that the delay in the petitioner's appointment to the post of Forest Watcher engenders from judicial inquisition and the petitioner's absenteeism alone. There was no administrative delay in appointing the petitioner to the post of Forest Watcher on as on conclusion of the Wildlife Case and as per the directive of the Hon'ble High Court in the reference 1st cited, the petitioner had been appointed as Forest Watcher."

7. I am not in agreement with the above reasoning, in view of the fact that when the petitioner had earlier approached this Court, there was a positive direction to the respondents to reinstate the petitioner together with all consequential service and monetary benefits. The relevant portion of the order reads as follows:-



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"11. Under such circumstances, the impugned order dated 20.07.2013 issued by the second respondent is hereby quashed and the second respondent is directed to re-consider the claim of the petitioner for reinstatement in the regular time scale of pay in the post of Forest Watcher, based on his seniority in serial No.2623 in the State wide seniority list, with all consequential service and monetary benefits and pass appropriate orders within a period of three months from the date of receipt of a copy of this order."

8. As rightly pointed out by the learned counsel for the petitioner, when this Court had, in specific terms, directed extension of the consequential service and monetary benefits, while reinstating the petitioner, the second respondent herein has no other option, but to comply with the directions of this Court. As such, the reason adopted by the second respondent in rejecting the petitioner's claim, is incorrect.

9. For the foregoing reasons, the impugned order dated 19.02.2018 passed by the second respondent is quashed. Consequently, there shall be a direction to the second respondent to fix the petitioner's seniority immediately above his junior Forest Watcher and pass appropriate orders granting all consequential service and monetary benefits to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

10. The writ petition stands allowed accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

hvk
To

1.The Principal Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai - 600 009.

2.The Principal Chief Conservator
of Forest,
Head of the Forest Department,
Panagal Building,
Saidapet, Chennai - 15.



3.The Chief Conservator of Forest &
Field Director,
Anamalai Tiger Reserve,
Pollachi, Coimbatore.

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+1cc to Mr.Mr.I.Abrar Md.Abdullah, Advocate SR.No. 30647
+1 cc to Government Pleader Sr.No. 30810

W.P.No.23388 of 2019

PMK(CO)
B.VC(23.07.2021)