



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P(MD) No.16575 of 2021

and W.M.P. (MD) Nos.13452 & 13453 of 2021

WEB COPY

M.Ganesan

... Petitioner

Vs.

1.The Principal Chief Conservator of Forest,
O/o. Principal Chief Conservator of Forest,
Panagal Maaligai, 8th Floor, Jennis Road,
Saidapet, Chennai - 15.

2.The Conservator of Forest cum Field Director,
Kalakad Mundanthurai Tiger Reserve,
Tirunelveli.

3.The District Forest Officer/Wild Life Warden,
Kanyakumari Division,
Vadasery,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Pa.Aa.No.77/2021 on the file of the Respondent No.2 dated 08.09.2021 and quash the same as illegal and consequently for a direction, directing the respondent No.1 to transfer the petitioner in the post of Forest Range Officer in any of the existing vacancy on the basis of the request transfer application submitted by the petitioner dated 03.12.2020 within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Shanmugavel,

Standing Counsel for State.

O R D E R

This Writ Petition has been filed challenging the impugned transfer order dated 08.09.2021, passed by the second respondent and for a consequential direction to the respondent No.1 to transfer the petitioner in the post of Forest Range Officer in any of the existing vacancy on the basis of the request transfer application submitted by the petitioner dated 03.12.2020.

2. The learned counsel for the petitioner submitted that the impugned transfer order passed by the second respondent is *per se* illegal on the ground that the second respondent has no jurisdiction to pass the same and in this regard has relied upon Section 48 of



the Tamil Nadu Government Service (Condition of Service) Act, 2016, which is extracted hereunder:

"48. Posting and transfer:

(1) A member of a service or class of service may be required to serve in any post borne on the cadre of such service or class for which he is qualified.

(2) All postings and transfers shall be made by the appointing authority:

(3) Notwithstanding anything contained in this Act or in any special rules or adhoc rules, the Government may transfer any Government servant from one revenue district to another revenue district within the State, on administrative grounds."

The learned counsel for the petitioner has also relied upon Rule 3 of the Tamil Nadu Forest Subordinate Service Rules and would submit that insofar as the Ranger category is concerned, the appointing authority is the Principal Chief Conservator of Forests, who is the competent authority to issue the transfer order and hence, the impugned transfer order passed by the second respondent is liable to be set aside.

3. The third respondent has filed a counter affidavit, wherein in ground No.(b) it is stated that the second respondent has passed the impugned transfer order after obtaining permission from the first respondent, who is the appointing authority in accordance with Rule 12 of Tamil Nadu Forest Subordinate Service Rules. The learned Standing Counsel appearing for the respondents has produced a copy of the order dated 28.08.2021, passed by the Principal Chief Conservator of Forests, Chennai, addressed to the Conservator of Forests, Tirunelveli Circle, Tirunelveli, wherein, it is stated that the Conservator of Forests is permitted to transfer the Forest Range Officer and posting orders may be issued to any non-sensitive Range (outside of Kanyakumari Division) within the Circle.

4. I have anxiously considered the rival submissions and also perused the materials on record.

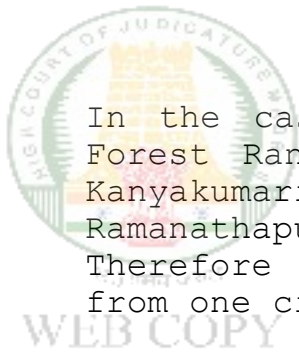
5. At the outset, it is relevant to extract Rule 12 of the Tamil Nadu Forest Subordinate Service Rules:

"12.Postings and transfers:- Postings and transfers of members of the service shall be made -

(i) From one circle to another, by the Principal Chief Conservator of Forests.

(ii) From one division to another within a circle or within a division in the case of Rangers, by the Conservator of Forest concerned; and

(iii) Within a division, by the officer in-charge of that division except in the case of Rangers.



In the case on hand, the petitioner, who is in the category of Forest Ranger, has been transferred from Kaliyalal Forest Range, Kanyakumari Division, which comes within Tirunelveli Circle to Ramanathapuram Forest Range, which comes within Virudhunagar Circle. Therefore it is evident that the petitioner has been transferred from one circle to another.

6. Though it is the contention of the respondents based on the counter affidavit of the third respondent that the impugned transfer order has been passed by the second respondent after obtaining necessary permission from the first respondent, who is the appointing authority and also in accordance with Rule 12 of the Tamil Nadu Forest Subordinate Service Rules, a perusal of Rule 12 (i) extracted above reveals that, order of transfer of Ranger from one circle to another can be passed only by the first respondent/Principal Chief Conservator of Forests and the Tamil Nadu Forest Subordinate Service Rules does not speak about delegation of powers in respect of passing of transfer orders.

7. Even as per Section 48 of the Tamil Nadu Government Service (Conditions of Service) Act, 2016 as well as Rule 3 of the Tamil Nadu Forest Subordinate Service Rules, the first respondent / appointing authority viz., the Principal Chief Conservator of Forests is the competent authority to issue the transfer order. Therefore, this Court has no hesitation to hold that the second respondent has no jurisdiction to pass the impugned transfer order and the same is liable to be set aside.

8. In view of the aforesaid reasons, the writ petition stands allowed and the impugned transfer order dated 08.09.2021, passed by the second respondent is set aside. It is also made clear that this order will not stand in the way of the first respondent to pass consequential orders. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (AD-II)

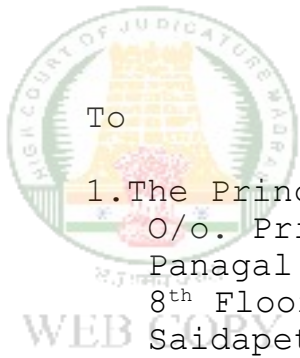
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Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

1.The Principal Chief Conservator of Forest,
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2.The Conservator of Forest cum Field Director,
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3.The District Forest Officer/Wild Life Warden,
Kanyakumari Division,
Vadasery,
Nagercoil, Kanyakumari District.

+1 CC to M/s.SPL. GP (SR-30157[F] dated 24/09/2021)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-30117[F] dated
24/09/2021)

W.P(MD) No.16575 of 2021
23.09.2021

DKS (CO)
KB(29.11.2021) 4P 6C