



W.P.No.11709 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

CORAM:

THE HON'BLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.11709 of 2013

A.Pachaiyappan

...Petitioner

-Vs-

- 1.The Government of Tamil Nadu
Rep. by its The Principal Secretary to Govt.
Environment and Forest Department,
Fort St. George, Chennai – 600 009.
- 2.The Principal Chief Conservator of Forests,
Forest Department,
Panagal Building,
1, Geenis Road,
Saidapet, Chennai-15.
- 3.The District Forest Officer,
Salem Forest Division,
Salem-7,
Salem District.
- 4.The Accountant General,
O/o.Accountant General,
Teynampet,
Chennai – 600 018.

...Respondents



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Prayer: Writ Petition filed under Section 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus to call for the records of the third respondent order dated 28.11.2012 in its proceedings Pa.Aa.No.301/2012 E1 and quash the same, consequently directing the respondents to regularize the periods from 12.11.1989 to 27.02.1991 and from 25.04.1992 to 21.03.1995 as duty period and pay the arrears of pension and other monetary benefits to the petitioner within stipulated period and pass such orders.

For Petitioner : Mr.M.R.Jothimanian

For R1 to R3 : Mr.M.Muthusamy
Government Advocate

For R4 : Mr.S.Balaji

ORDER

This Writ Petition has been filed challenging the orders passed by the third respondent in its proceedings Pa.Aa.No.301/2012 E1 dated 28.11.2012 and quash the same, and consequently directing the respondents to regularize the periods from 12.11.1989 to 27.02.1991 and from 25.04.1992 to 21.03.1995 as duty period and pay the arrears of pension and other monetary benefits to the petitioner within stipulated period.



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2. When the matter is taken up for hearing, the learned counsel appearing for the petitioner mainly contended that the impugned order dated 28.11.2012 is passed by the District Forest Officer, Salem Forest Division who is not the competent authority and it is the first respondent who is the competent authority to pass such orders in the case of the petitioner.

3. He further submitted that a Letter No.11619/FR 9A/03-11 dated 25.04.2006 of the Environment and Forests (FR 9A) Department, Secretariat, Chennai -9 addressed to the second respondent, in which it is stated that the leave periods availed by the petitioner Thiru.A.Pachaiyappan, Forest Guard from 22.03.1995 to 28.03.1995 without leave application and from 29.03.1995 to 28.04.1995 (UEL on ML) can be regulated only on receipt of the leave application (Originals) of the individual. The said letter also directed the second respondent to furnish a comprehensive proposal to Government, after examining the issue under relevant provisions of FR along with copies of posting orders of the individuals, with their acknowledgement, their joining reports, and the leave application with relevant records (in respect of Thiru.A.Pachiappan, Forest Guard), the petitioner herein.



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4. He also brought to the notice of this Court vide a letter dated 29.10.2001 in C.No.4130/1999 E issued by the petitioner, Divisional Forest Officer, Interface Forestry Division-II, Salem addressed to the fourth respondent in which it is stated, the above said Forester was placed under suspension in connection with certain Departmental disciplinary action against him from 12.11.1989 to 28.01.1991 and from 25.04.1992 to 21.03.1995, Departmental action has been completed, and the period of suspension pending regularisation for which orders of Government are awaited. After regularisation of the period of suspension revised pension proposals will be sent. Now leaving the period of suspension, pension may be sanctioned. He further submitted that the petitioner retired on 30.11.2000, and on 24.11.2000 he was awarded with the punishment of censure passed by the third respondent.

5. In the light of the communication between the first respondent and the second respondent dated 25.04.2006, the order passed by the third respondent dated 28.11.2012 is liable to be set aside. In view of the above facts and circumstances the impugned order dated 28.11.2012 passed by the



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third respondent is set aside and the matter is remanded to the first respondent for consideration of the case of the petitioner. Hence, the first respondent is directed to consider the case of the petitioner and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition is **disposed of** with the above direction. No costs.

12.07.2022

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

cda



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