



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.02.2022

Pronounced on : 03.03.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.20124 of 2010

R. Jayakumar

... Petitioner

Vs.

1.The Chief Conservator of Forest,
Panagal Buildings, Saidapet,
Chennai - 600 015.

2.The Conservator of Forest,
Dindigul Range, Dindigul District.

3.The District Forest Officer,
Kodaikanal,
Kodaikanal Range,
Dindigul District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the order passed by the second respondent in his proceedings Se.Mu.Aa.No.16/2010/P2 dated 02.08.2010 confirming the order passed in Se.Mu.Aa.No.1948/2008/P1 dated 30.12.2008 on the file of the third respondent, quash both the orders and consequently direct the respondents to include the name of the petitioner in the panel drawn for promotion to the post of Forest Ranger for the year 2010-2011 so as to enable the petitioner to get promotion as Forest Ranger and pass further suitable orders.

For Petitioners : Mr.S. Mani

For Respondents : Mr.K.H. Ravi Kumar
Government Advocate(Forests)

O R D E R

The petitioner had filed this writ petition praying for a certiorarified Mandamus calling for the entire records relating



to the order passed by the second respondent in his proceedings Se.Mu.Aa.na.16/2010/P2 dated 02.08.2010 confirming the order passed in Se.mu.Aa.No.1948/2008/P1 dated 30.12.2008 on the file of the third respondent to quash both the orders and consequently direct the respondents to include the name of the petitioner in the panel drawn for promotion to the post of Forest Ranger for the year 2010-2011 so as to enable the petitioner to be promoted as Forest Ranger.

2. The brief facts which are relevant is set out hereunder:

A. The petitioner joined as a Junior Assistant in the Forest Department on 16.10.1987, after 15 years in service the petitioner was promoted as Forester. At the time of filing the writ petition, the petitioner was working as Forester in the Arcot Ranger at Ranipet, Vellore District.

B. During the year 2006 the petitioner was posted at Kodaikanal Division, Perumballam Range, Pannaikadu Section Forest.

C. On 02.05.2008 the petitioner was issued charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules on the following two counts:

(i) The permission chit issued by the Department in Form II, relating to permission to cut and carry 8 Nos. of jackfruit tree from the land in Survey No.494/2 in Pannaikadu Section, Perumpallam Range, has not been filled up properly and that the permission chit has been misused which amounts to dereliction of duty.

(ii) For not remaining in the spot at the time when the person in whose favour permission was granted, for carrying the 8 Nos of jack fruit tree from the land in survey No. 4949/2 in Pannaikadu Section, Perumpallam Range was loading the same.

3. That pursuant to the framing of charges, the petitioner was kept under suspension vide order dated 31.03.2008 issued by the third respondent. Subsequently, on 02.05.2008, the suspension order was revoked without prejudice to the pendency of the charges by the third respondent.

4. The present writ petition is filed challenging the order of the second respondent dated 02.08.2010 affirming the order of the third respondent vide its order dated 30.12.2008, whereby the petitioner was imposed punishment of stoppage of increment with cumulative effect for three months on the premise that the particulars in Form No.II has not been filled up properly in relation to a permit to cut and carry 8 Nos of Jack fruit tree and thereby constituting dereliction of duty on the part of the petitioner herein.

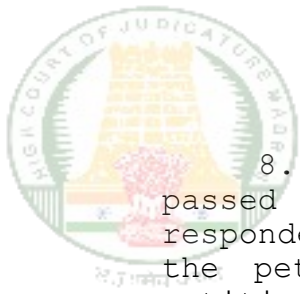


5. It has been the consistent case of the petitioner that there was no duty cast upon the petitioner to fill in the details in Form-II in terms of Rule 4(b) of the Tamil Nadu Timber Transit Rules. On the other hand in terms of Rule 4(b) the obligation was on the person disposing of the timber tree or his authorizing agent to fill up the Form-II in triplicate and handover the original to the person authorized to remove the timber and the duplicate shall be simultaneously sent to the District Forest officer concerned and the triplicate shall be retained as a counter foil for not less than six months from the date of issue of the original. It may be relevant to extract Rule 4(b) of the Tamil Nadu Timbers which reads as under:

" Permits in Form II shall be in triplicate and shall have all the parties filled up by the persons disposing of the timber or his authorized agent; the original shall be handed over to the persons authorized to remove the timber; the duplicate shall be simultaneously sent to the District Forest officer concerned and the triplicate shall be retained as a counter foil for not less than six months from the date of issue of the original and shall be produced for inspection at any time within that period on demand by any Forest Officer not below the rank of Forester or any Revenue Officer not below the rank of Revenue Inspector.

6. The third respondent has simply brushed aside the submissions of the petitioner that the obligation to fill in particulars in the Form No.II is only on the person disposing of the timber or his authorized agent and submit the same in terms of Rule.4(b) of Timber Transit Rules, 1968 on the premise that the explanations offered by the petitioner is merely an after thought and the submissions is made without realizing the consequent of the failure to fill in the details in Form-II.

7. The second respondent while confirming the order of the third respondent had stated that the petitioner was not present at the place/premise where the 8 Nos of Jack fruit was being loaded into a lorry, it was found that the petitioners had abetted misuse of Form-II. Importantly the 2nd respondent while confirming the order of the 3rd respondent states that the Tamil Nadu Timber Transit Rules does not impose any obligation on the Forester in relation to Form.II, but has however confirmed the order of the 3rd respondent stating that the petitioner has acted on the instructions of the District Forest Officer and thus the petitioner is responsible for filling Form II and ought to have been present at the place/premises where the trees were being loaded.



8. We find that both the 2nd and the 3rd respondents have passed the order in a perfunctory manner. While the second respondent, had not even applied his mind to the submissions of the petitioner viz., that there was no duty cast upon the petitioner under the Tamil Nadu Timber Transit Rules to fill up the Form No.II. The third respondent to the contrary has confirmed the order of the second respondent on wholly new and different grounds, thereby vitiating the impugned proceedings.

9. In view of the above this Court is of the view that the impugned order of the 3rd respondent confirmed by the second respondent needs to be set aside and remitted back to the 3rd respondent to pass orders afresh after affording the petitioner a reasonable opportunity and pass orders in accordance with law.

10. The above exercise shall be carried out by the 3rd respondent within a period of 12 weeks from the date of receipt of a copy of this order.

With the above directions this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

smn

To

1.The Chief Conservator of Forest,
Panagal Buildings, Saidapet,
Chennai - 600 015.

2.The Conservator of Forest,
Dindigul Range, Dindigul District.

3.The District Forest Officer,
Kodaikanal, Kodaikanal Range,
Dindigul District

+lcc to Special Government Pleader (Forest) SR.No.14329
W.P. No.20124 of 2010

SPD(CO)
GMY(12/04/2022)