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W.P.No.8899 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.8899 of 2018

R. Soundararajan

... Petitioner

Vs.

1.The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai – 600 015.

2.The Chief Conservator of Forests,
Salem Circle, Salem – 7.

3.The Divisional Forest Officer,
(Social Forestry) Division,
Salem – 7.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd respondent made in Se.Mu.A.No.3778/2011 Pa3 dated 11.02.2013 and that of the first respondent in Se.Mu.Order No.Aa.Aa.2/17982/2013-1 dated 15.12.2015 (served on 13.04.2016), to quash the same and to consequently direct the respondents to extend all benefits both service and monetary including appropriate fixation in pension.



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W.P.No.8899 of 2018

For Petitioner : M/s.N.R. Jasmine Padma
For Respondents : M/s.C. Meera Arumugam,
Additional Government Pleader

ORDER

The petitioner while serving as a Forest Ranger in the year 2008-09, was subjected to charges under Section 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, for dereliction of duty in failing to do planting works like weeding, soil working of seedlings and digging catch water pits, based on the report given by the Monitoring Team in the surprise inspection. While the petitioner was due to retire on 28.02.2013, the orders came to be passed by the second respondent herein, on 11.02.2013 by stating that in view of the charges of dereliction of duty, the petitioner along with the others, caused loss to the Government to the tune of Rs.4,73,547/- and the petitioner herein, was imposed with a liability of Rs.2,36,774/-. The appeal filed against this order before the first respondent herein, was rejected on 15.12.2015.

2. While the learned counsel for the petitioner submitted that the reasons assigned by the petitioner in his explanation before the third



W.P.No.8899 of 2018

respondent, as well as the first respondent herein, have not been duly considered, the learned Additional Government Pleader appearing for the respondents placed reliance on the averments in the counter-affidavit and submitted that the petitioner had miserably failed in undertaking his regular duties of planting saplings and digging the catch water pits and thereby, there was a huge loss to the Government. With such a submission, the learned Additional Government Pleader submitted that there is no infirmity in either the order of the third respondent or of the first respondent.

3. One glaring infirmity in the entire proceedings initiated by the third respondent herein, is under Rule 17(a), is an unexplained delay for invoking the rule. Admittedly, the instant for which proceedings have been initiated under Rule 17(a), was during the year 2008-09. When the petitioner was at the verge of retirement due on 28.02.2013, the impugned orders came to be passed just 17 days prior to his retirement.

4. There is absolutely no explanation as to why the respondents had waited for 5 years to invoke Rule 17(a) particularly, when the surprise



W.P.No.8899 of 2018

inspection was conducted in the year 2008-09 itself and the third respondent had also submitted his report on 07.06.2010.

5. This apart, the petitioner in his explanation before the third respondent, as well as the first respondent herein, had cited the reasons for not weeding, soil working as well as for digging the catch water pits and had attributed the inability to the encroachers who were in occupation of the subject lands. This aspect has been admitted by the first respondent in his cryptic order dated 15.12.2015. However, no other reason has been assigned as to why the reason assigned by the petitioner should not be believed and without any further explanation, had affirmed the order passed by the third respondent herein, imposing the liability of Rs.2,36,774/-. On this ground also, the order is deemed to be a non-speaking order. On an overall consideration, on the conduct of the respondents in waiting for 5 years and initiating proceedings under Rule 17(a) at the verge of the petitioner's retirement and also for non-consideration of the grounds raised by him, I am of the view that the impugned order requires to be set aside.



W.P.No.8899 of 2018

6. Accordingly, this Writ Petition stands allowed and the impugned orders dated 11.02.2013 and 15.12.2015 passed by the third respondent and the first respondent respectively, are hereby quashed. Consequently, there shall be a direction to the third respondent to forthwith refund the sum of Rs.2,36,774/- to the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

08.12.2022

Speaking order

Index : Yes

Internet: Yes

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To

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W.P.No.8899 of 2018

M.S.RAMESH,J.

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W.P.No.8899 of 2018

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