



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.26992 of 2021
and W.M.P.Nos.28431 & 28432 of 2021

M.Anbalagan

... Petitioner

Vs.

1. The Principle Chief Conservator of Forests
(Head of Department)
Panagal Maaligai, Saidapet,
Chennai - 600015.
2. The Chief Conservator of Forests & Field Director,
Sathyamangalam Tiger Reserve (STR) Circle, Erode.
3. The Conservator of Forests,
Salem Circle, Salem 636 007.
4. The District Forest Officer,
Salem Division, Salem - 636 007.
5. T.Gobi,
Forest Contractor, Kottayur Village,
Bommdi, Papirattipatti Taluk,
Dharmapuri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the order dated 01.11.2021 made in Na.Ka.No.B2/7476/2021 confirming earlier transfer order from Salem Circle to Sathyamangalam tiger Reserve, Erode dated 11.05.2021 made in Ref.No.B2/7476/2021 on the file of the Principal Chief Conservator of Forests, the first respondent herein and to quash the same.

For Petitioner : Mr.A.V.Arun
Assisted by Mr.M.A.Aruneshe

For R1 to R4 : Mrs.S.Anitha
Special Government Pleader

For R5 : Mr.R.Vinoth Kumar



O R D E R

The relief sought for in the writ petition is to call for the records relating to the order dated 01.11.2021 made in Na.Ka.No.B2/7476/2021 confirming earlier transfer order from Salem Circle to Sathyamangalam tiger Reserve, Erode dated 11.05.2021 made in Ref.No.B2/7476/2021 on the file of the Principal Chief Conservator of Forests, the first respondent herein and to quash the same.

2. Brief facts of the case:

While the petitioner was working as Forest Range Officer, Salem Division, by an order dated 09.02.2021, the third respondent has suspended the petitioner from the service by stating that he was negligent and there were irregularities and dereliction of duty. Thereafter, on 03.05.2021, the fourth respondent has issued charge sheet under Rule 17(b) of Tamil Nadu Civil Service (Discipline and Appeal) Rules bearing C.No.14 of 2021. Thereafter, on 11.05.2021, the third respondent revoked the order of suspension and on the same day, the first respondent herein has passed transfer order by transferring the petitioner from Salem Division to Sathyamangalam Tiger Reserve, Erode on administrative ground without TTA. Thereafter, on representation of the petitioner dated 07.07.2021, the said charge memo dated 03.05.2021 has been withdrawn, however, fresh charge memo dated 13.08.2021 was issued framing the very same charge, but giving the date as 05.02.2021. Further, by proceedings dated 16.08.2021, the second respondent has cancelled his earlier proceedings and placed the petitioner as Double Lock Officer, Government Sandalwood Depot, Sathyamangalam. Thereafter, the petitioner has sent representations to the first respondent on 07.07.2021, 28.07.2021 and 16.09.2021 to cancel the transfer order dated 11.05.2021, by stating that his wife is working as a Head Mistress in government Primary School, Attur, however, the same has been rejected. Hence, the writ petition.

3. The learned counsel for the petitioner would reiterate the above said facts and also submitted that the petitioner is facing four 17(b) charge sheets issued by the fourth respondent and the same were under progress for which the presence of the petitioner in Salem Circle is much needed to finalize the same before the retirement on 30.06.2023 and therefore, it is necessary for him to continue his work in Salem Circle itself. Further, he would submit that the action of the first respondent that transfer of petitioner from Salem Circle, Sathyamangalam Tiger Reserve, Erode, is punitive in nature. Hence, he seeks indulgence of this Court to quash the order of transfer.



4.The learned Special Government Pleader has filed counter affidavit on behalf of the fourth respondent by stating that the petitioner has been working in Attur Range, Salem Circle for more than three years as against normal service in a place up to three years as allowed by the Government and there were irregularities committed by the petitioner at Attur Range, Salem Circle and hence, he was placed under suspension. Apart from that it is stated that four charge sheets were framed for eight charges against the petitioner under Rule 17(b) of Tamil Nadu Civil Services (Appeal and Discipline) Rules and the same are pending against the petitioner. Thereafter, on representation of the petitioner, the suspension order has been revoked and on administrative ground the transfer order has been issued on the petitioner by transferring him to Sathyamangalam Tiger Reserve, Erode, from Salem Circle, particularly on revocation of the suspension order. Therefore, there is no interfere warrants with the order passed by the respondent. Further, it is stated that there is a bar to post the petitioner, within the circle as per the circular instructions of the first respondent.

5.Heard the learned counsel on either side and perused the materials placed on record.

6.It is seen that while the petitioner was working as Forest Range Officer, Salem, he was suspended by the third respondent on the ground that there was some irregularities and dereliction of duty while discharging his duties. Subsequently, charge memo has been framed under Rule 17(b) of Tamil Nadu Civil Services (Appeal and Discipline) Rules by the fourth respondent and the said charge memo has been withdrawn and fresh charge memo was issued on the petitioner for the very same charges. The writ petitioner's suspension was also revoked by the third respondent. Now, the writ petitioner is challenging the impugned transfer order on the ground that the said transfer order is punitive in nature and he also relied upon the decision of the Hon'ble Supreme Court in the case of K.M.Elumalai vs. The Superintendent of Prisons, Central Prison-II and another [CDJ 2009 MHC 4819] and also relied upon the judgment of this Court in W.P.(MD) Nos.10759 & etc., batch, dated 28.10.2021.

7.Further, in the counter affidavit filed by the fourth respondent, it is stated that four charge sheets were framed for the eight charges against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Appeal and Discipline) Rules and the same is pending and only due to administrative reasons, the said impugned transfer order has been passed.

8.On considering the fact that there is no acceptable ground to interfere over the impugned transfer order and the said transfer order is passed only on the administrative grounds,



this Court has come to the conclusion that the said impugned order is not punitive in nature. Thus, this Court is not inclined to entertain the writ petition.

9. Accordingly, this writ petition stands dismissed. However, this order will not preclude the petitioner to make his request before the authority concerned for reconsider transfer order. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Principle Chief Conservator of Forests
(Head of Department)
Panagal Maaligai, Saidapet, Chennai - 600015.
2. The Chief Conservator of Forests & Field Director,
Sathyamangalam Tiger Reserve (STR) Circle, Erode.
3. The Conservator of Forests,
Salem Circle, Salem 636 007.
4. The District Forest Officer,
Salem Division, Salem - 636 007.

+lcc to Mr.A.V.Arun, Advocate, S.R.No.26288

+lcc to the Special Government Pleader, (Forest) S.R.No.26718

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KK(CO)
CT/20/06/2022