



WEB COPY

W.P.No. 29879 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 29879 of 2018

and

WMP Nos.34884 & 34886 of 2018

R.Vijayakumar

... Petitioner

Vs.

1.Government of Tamil Nadu,
Represented by its Principal Secretary,
Environment and Forest Department,
Fort St.George,
Chennai – 600 009.

2.The Principal Chief Conservator of Forest,
having office at Panagal Maaligai,
Saidapet, Chennai – 600 015.

3.The Chief Conservator of Forest,
Madurai Forest Range,
Madurai District.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in G.O.(2D). No. 40 Environment and Forest (Fr.1) Department dated 07.09.2018 and quash the same and consequently direct the first respondent to include the name of the petitioner in the panel drawn for promotion to the post of Deputy Conservator of Forest.

For Petitioner

: Mr.L.Chandrakumar
for Mr.P.Ganesan

For Respondents

: Mr.T.Arunkumar
Additional Government Pleader



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for R1 to R3

ORDER

The relief sought for in the writ petition is to call for the records relating to the proceedings in G.O.(2D). No. 40 Environment and Forest (Fr.1) Department dated 07.09.2018 and quash the same and consequently direct the first respondent to include the name of the petitioner in the panel drawn for promotion to the post of Deputy Conservator of Forest.

2. The writ petitioner joined as Assistant Draughtsman, in the Forest Department on 08.11.1984 and subsequently promoted to the post of Forester on 01.12.1989. He was further promoted to the post of Forest Range Officer on 23.12.2008 and as Assistant Conservator of Forest, on 18.12.2014. While the petitioner was serving as Forest Range Officer from 15.10.2012 to 24.12.2014, at Meghamalai Forest Range of Chinnamanoor Range, Theni, on 30.11.2015, based on the information given by Deputy Director, Forest Tiger of Kerala Forest and Wildlife Department and based on the confession given by one Babu Jose, a case in O.R. No. 1 of 2015 was registered at Vallakadu Range, Periyar Tiger Reserve. According to the confession statement given by one Nagaiya, ten days prior to the Deepavali festival, which fell on 22.10.2014 i.e. on 12.10.2014, some of the offenders were illegally entered



into the forest area with country made pistols, shot dead an elephant, cut the ivory and left the forest area. The incident said to have been taken place in the Highways area, ten kilometers away from Chinnamanoor, Meghamalai Forest Area, South Pazhani Beat, Odaipatti Section. Thus, the case was registered one year after the alleged incident, in which the elephant said to have been shot dead and the ivory of the dead elephant was cut and carried away. In this regard, a charge memo under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued to the writ petitioner in proceedings dated 22.12.2015. The petitioner submitted his explanation setting out all the facts and circumstances and contended that he was nowhere responsible for not registering the case, during the relevant point of time as he had no knowledge and there was no possibility of identifying such incident which occurred in a far of place. The explanation was not considered by the authorities competent and the disciplinary authorities imposed the penalty of punishment of increment for two years without cumulative effect. The petitioner preferred an appeal before the first respondent on 11.03.2018 and the said appeal was considered and accordingly, the punishment was reduced to stoppage of increment for six months without cumulative effect.

3. The learned counsel for the petitioner contended that the petitioner



cannot be held responsible as the incident occurred not within the jurisdiction of the petitioner in which he was serving and more over the information was provided after a lapse of several months and therefore, he could not able to register a case. The genuine circumstance raised by the petitioner was not considered. The petitioner has chosen to file the present writ petition.

4. This Court is of the opinion that the charge memo was issued for imposing the minor penalty under 17(a) of the Disciplinary and Appeal Rules. A charge against the petitioner was that he failed to register a case, in respect of the incident, wherein the elephant was shot dead and ivory from the elephant was cut and taken away. The case was registered after one year from the date of occurrence and that was considered as a lapse. The procedure as contemplated under Rule 17 (a) was followed and an opportunity was provided to the writ petitioner to defend his case. Authorities have considered the case and circumstances and formed an opinion that there was a lapse on the part of the petitioner in the matter of supervising the forest area during the relevant point of time. A long delay in registering the case was considered by the authorities and factual inference was drawn that the supervision was not effectively made since the skeleton of the elephant was found only after one year from the date of the occurrence. Such a supervisory



lapse was considered by the authorities and the disciplinary authority imposed a punishment of stoppage of increment for two years without cumulative effect. However, the said punishment was reduced by the Government as stoppage of increment for six months without cumulative effect. Thus, the Government itself considered the case of the writ petitioner and reduced the punishment. The petitioner could not establish any acceptable ground for the purpose of exonerating from the entire liability as the ground of lapse was established on the perusal of the fact and circumstances. Accordingly, this Court do not find any infirmity in respect of the order impugned dated 07.09.2018 and consequently, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

31.10.2022

mrn

Index : Yes / No

Speaking order / Non-Speaking order

To

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S.M.SUBRAMANIAM, J.

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