



W.P.No.1245 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.1245 of 2023

R.Rajamoorthy
S/o.Rajagopal

.. Petitioner

Vs.

1.The Principal Chief Conservator of Forest,
Office of the Forest Department,
Kannikapuram Checkpost,
Velacherry, Chennai - 15.

2.The Joint Director,
Office of the Principal Chief Conservator of Forest,
Chennai - 15.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the first respondent in Se.Mu.No.M2/33911/2006 dated 27.07.2022 confirming the order of the second respondent in proceedings in Se.Mu.No.M2/33911/2006 dated 09.03.2022 and quash the same and direct the respondents to reinstate the petitioner in service and sanction the attendant benefits.



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For Petitioner : Mr.R.Subramanian

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order of removal passed by the first respondent through proceedings dated 27.07.2022 confirming the order passed by the second respondent through proceedings dated 09.03.2022.

2. The bare minimum facts that are required for disposing of this writ petition are as under:

The petitioner was appointed as Junior Assistant in the Forest Department in the year 1989. The petitioner all of a sudden left his house in the year 2006 and he was not traceable thereafter. Hence, the wife of the petitioner gave a complaint and a FIR came to be registered in Crime No.164/2008 by the Inspector of Police, Saidapet Police Station, as a man missing case. In spite of best efforts, the petitioner was not traceable and the same was also informed to the wife of the petitioner.



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3. All of a sudden, the petitioner came back in the year 2012 and joined his family. A representation was addressed to the respondents to condone the absence of the petitioner and to reinstate him into service. The disciplinary proceedings were initiated against the petitioner and it was found that the petitioner had absented himself unauthorisedly for nearly five years and nine months. Accordingly, the second respondent passed an order of removal and the same was also confirmed by the first respondent in the appeal filed by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.R.Subramanian, learned counsel for the petitioner and Mr.Stalin Abhimanyu, learned Additional Government Pleader, appearing for the respondents.

5. The jurisdiction exercised by this Court under Article 226 of the Constitution of India as against the disciplinary proceedings initiated against the delinquent employee, is very limited and this Court has to interfere only if the order is vitiated due to absence of jurisdiction or where there is non-compliance of principles of natural justice or where the order is perverse for non-consideration of the materials placed before the



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authority.

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6. In the present case, there was absolutely no explanation from the petitioner as to why he went missing for nearly five years and nine months. The only explanation given by the petitioner is that he became depressed and he was moving from one temple to another searching for solace. This explanation given by the petitioner is far from satisfactory and it can never be a ground for condoning unauthorised absence for nearly six years.

7. Learned counsel for the petitioner submitted that the petitioner had put in twenty years of service and hence, the punishment can be modified into one of compulsory retirement.

8. This Court is not able to agree with this submission made by the learned counsel for the petitioner. The Court exercising its jurisdiction under Article 226 of the Constitution of India cannot mechanically condone unauthorised absence of nearly six years. The punishment that has been imposed by the respondents is perfectly in line with the gravity of the charge. The modification of punishment imposed by the authority



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cannot be done in a casual manner and this Court requires very strong grounds to exercise such a jurisdiction. In the facts of the present case, this Court does not find any ground to interfere with the finding of the respondents and also the punishment imposed against the petitioner. This writ petition lacks merits.

In the light of the above, this Writ Petition stands dismissed. No costs.

19.01.2023

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

To

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N.ANAND VENKATESH, J

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