



Writ Petition No.6951 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

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THE HONOURABLE DR.JUSTICE D.NAGARJUN

Writ Petition No.6951 of 2015

V.Muniyandi

..Petitioner

vs.

1.The Principal Chief Conservator of Forests,
Panagal Buildings,
Chennai-600 015.

2.The Secretary,
Environment and Forest Department,
Fort St George,
Chennai-600 009

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent issued in G.O.(3D) No.65, Environment and Forest(FR.1) Department dated 12.10.2010 by the second respondent and quash the same and consequently direct the respondents to sanction all retirement benefits to the petitioner and full pension with interest as fixed by this Hon'ble Court.



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For Petitioner : Mrs.Selvi George

For Respondents : Ms.C.Sangamithirai, Spl.GP

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus to call for the records of the second respondent issued in G.O.(3D) No.65, Environment and Forest(FR.1) Department dated 12.10.2010 by the second respondent and quash the same and consequently direct the respondents to sanction all retirement benefits to the petitioner and full pension with interest as fixed by this Hon'ble Court.

2.The facts in brief as per the affidavit filed along with the Writ Petition, are that the petitioner was appointed as Forester in the month of April 1981 through the Employment Exchange and later promoted as Ranger in the year 2005. While so, the petitioner was placed under suspension by the Chief Conservator of Forests, Dindigul vide S.O.No.12175/2006/E2 dated 28.11.2006, alleging financial irregularities involving mis-appropriation of the Government money to the tune of



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Rs.3,52,048/- in respect of the departmental works in Korankombu Village of Tamilnadu Afforestation Project, Integrated Tribal Development Program component in Kannivadi Forest Range and also a sum of Rs.62,113/- in respect of the departmental work in Senkattampatti RF of RSVY project in Kannidvadi Forest Range and thereafter, charges were framed against him. Consequently, the suspension order was revoked as per reference no.B2/150/007 dated 18.09.2007. The petitioner gave explanation and the enquiry officer was appointed. The petitioner has participated in the enquiry and ultimately the enquiry held against the petitioner and the charges were proved and finally, the proceedings issued vide in S.O.No.AB3/31256/08 dated 08.07.2008 reverting the petitioner as Forester for 1 ½ years from 15.07.2008 and for this period, the petitioner was deputed to the post of Forester in basic level at Rs.5000/-.

3. The petitioner has preferred a statutory appeal before the Government and got order of stay on 24.07.2008. The petitioner has filed a Writ Petition and the said Writ Petition was disposed of by this Court, directing the appellate authority to dispose of the appeal preferred by the petitioner. The said appeal was dismissed vide proceedings in GO.(D)



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No.76, Environment & Forests (F-1) Department dated 26.02.2009. The petitioner has approached this Court again by way of filing the Writ Petition aggrieving against the orders passed by the Government in the statutory appeal and the said Writ Petition was allowed and the orders passed in the statutory appeal were set aside and a direction was given to consider the matter afresh and thereby the matter was remanded back to the Government.

4. The second respondent has taken up the appeal afresh and the petitioner has given a detailed explanation. In the meanwhile, the petitioner retired from service without prejudice to pending appeal. Without deciding the appeal preferred by the petitioner, the Government has passed the orders vide G.O(3D) No.65, Environment & Forest (FR1) Department dated 12.10.2010, wherein, the second respondent has set aside the orders issued by the first respondent dated 08.07.2008, restored the charge memo issued under 17(b) of Tamilnadu Civil Service (Disciplinary & Appeal) Rules and decided to proceed under the Pension Rules.

5.The petitioner has been receiving only provisional pension. Thereafter, has nothing has happened in respect of the proceedings pending



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before the Government against the petitioner. Therefore, the petitioner has filed the present Writ Petition seeking suitable directions.

6. The learned Special Government Pleader appearing for the respondents has filed a detailed counter and submitted that the petitioner was permitted to retire on his attaining the age of superannuation on 30.04.2010 without prejudice to the disciplinary proceedings pending against him, by the first respondent. After considering the explanation offered by the petitioner, the second respondent has passed orders vide GO.(3D)365, Environment & Forest (FR1) Department dated 12.10.2010 setting aside only the order of punishment dated 08.07.2008 passed by the first respondent. Subsequently, taking into account of the explanation offered by the petitioner during the personal hearing on 07.04.2010, the second respondent has provisionally ordered to recover the entire amount of Rs.3,68,102/- from and out of the DCRG of the petitioner as a measure of punishment. Further, as per the Tamilnadu Civil Services (Disciplinary & Appeal) Rules, opinion was sought for from Tamilnadu Public Service Commission under Rule 18(1)(c) of the Tamilnadu Public Service Commission Regulations 1954. The Tamilnadu Public Service Commission



has examined all the connected records, evidences and enquiry officer's report and the explanation of the petitioner and finally concluded that the provisional conclusion i.e., deduction of DCRG in full of Rs.3,68,102/- is just and proper.

7. Heard both sides and perused the records.

8.The petitioner has challenged the orders passed against him vide G.O.(3D) No.65, Environment & Forest (FR1) Department dated 12.10.2010 by the second respondent. However, subsequent to the filing of the counter, the respondent has considered the explanation offered by the petitioner and an order was passed in G.O.(3D) No.65, Environment & Forest (FR1) Department dated 12.10.2010 setting aside the orders passed by the 2nd respondent. That means the impugned orders passed imposing the punishment against the petitioner were already set aside by the 2nd respondent. Though the learned counsel for the petitioner submitted that the petitioner will take steps to amend the Writ Petition questioning the recovery of Rs.3,68,102/- from the DCRG of the petitioner. It is a different cause of action which the petitioner is expected to file a fresh petition.



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9. In so far as the present Writ Petition is concerned, since the orders passed by the second respondent which were impugned in the present Writ Petition, were came to be set aside during the pendency of the writ petition, the cause does not survive in this case any more. Therefore, the petition requires to be dismissed. However, in case, if the petitioner is aggrieved by the orders passed in respect of recovery of Rs.3,68,102/- he is at liberty to approach the appropriate forum by following due process of law.

10. Accordingly, this Writ Petition is dismissed. No costs.

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Index : Yes/No
Speaking order: Yes/No
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Dr.D. NAGARJUN, J

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