



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.7914 of 2016

and

W.M.P.Nos.7045 and 7046 of 2016

J. Murugesan

.. Petitioner

Vs.

1.The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Genies Road,
Panagal Maligai,
Saidapet, Chennai – 15.

2.The Conservator of Forests,
Forest Department,
Dharmapuri Region,
Dharmapuri – 5.

3.The District Forest Officer,
Hosur Forest Division,
Hosur,
Krishnagiri District.

.. Respondents

Prayer: This 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 impugned order passed by the 2nd respondent dated 24.10.2014 in Se.Mu. Order No.Po.2/11557/13 in confirming the order of the 3rd respondent dated 24.06.2013 vide in Se.Mu.Aa.No.9200/2012 Pa.1 and quash the same, consequently directing the respondents to promote the petitioner as Forest Guard on bar with his batch mates, provide all service and monetary benefits.

For Petitioner .. Mr. R. Jothimanian

For Respondents .. Mr. S. Ravikumar, SGP.

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus, seeking records to the order passed by the 2nd respondent, the Conservator of Forests, Forest Department, Dharmapuri Region, Dharmapuri dated 24.10.2014 in Se.Mu. Order No.Po.2 / 11557 / 13 confirming the earlier order of the 3rd respondent, the District Forest Officer, Hosur Forest Division, Hosur, Krishnagiri District, dated 24.06.2013 in Se.Mu.Aa.No.9200/2012 Pa.1 and to quash both the orders and direct the respondents to promote the petitioner as Forest Guard on par with his batch mates and also provide all service and monetary benefits.



WEB COPY

2.The petitioner had been originally appointed in the post of Plot Watcher on 01.12.1982 by the 3rd respondent, the District Forest Officer, Hosur Forest Division, Hosur, Krishnagiri. Thereafter, his name was included in the State wide seniority list for Plot Watcher / Social Forestry Worker in Sl.No.2325 in accordance with the directions of the 1st respondent, the Principal Chief Conservator of Forest, Head of Forest Force, Chennai. He was then appointed as Forest Watcher on 10.05.2008 by the 3rd respondent in the regular post. At the time of filing of the writ petition, he was working as Forest Watcher, Kudiur Beat, Denkanikottai Forest Range.

3.On 24.12.2012, an inspection was conducted by a team of officers, also accompanied by the petitioner at Kullati Beat. It was found that an elephant was dead. A report was submitted to the Range Officer and further report was submitted to the 3rd respondent. A criminal case was registered in W.L.O.R.No.4 of 2012. It had been found that the elephant had been shot and the tusk had been removed by unknown persons. Subsequently, the case was placed before the Judicial Magistrate Court, Denkanikottai and the accused persons had been arrested and the tusk had also been recovered.



Consequent to that particular incident, the petitioner and the Forest Guard, V. Mahendran were both suspended from service on 27.12.2012. The petitioner was reinstated in service on 07.01.2013.

4.The disciplinary proceedings were then initiated and charge memo had been issued under Rule 17(b) of the Tamil Nadu Subordinate Services (Discipline & Appeal) Rules, against the petitioner herein. It had been stated that subsequent to enquiry, it was held that the charge was held established. Thereafter on 24.06.2013, the District Forest Officer / 3rd respondent, A.K.Olaganathan had passed an order imposing punishment on the petitioner of postponement of increment for one year with cumulative effect. The petitioner filed an appeal. That appeal came up for consideration before the 2nd respondent / the Conservator of Forests at Dharmapuri. The very same officer who imposed the punishment A.K. Olaganathan, who was holding in-charge post as Conservator of Forests was also the appellate authority and he confirmed his own order passed earlier on 24.06.2013.

5.It is trite in law to point out that the same official cannot be the officer who imposed the punishment and also the officer who confirms the



said order of punishment.

WEB COPY

6.The learned counsel for the petitioner also pointed out that a common enquiry should have been conducted under the aforementioned rules and stated that independent enquiry should not have been conducted against the petitioner herein.

7.It is only appropriate that the order of the appellate authority / 2nd respondent dated 24.10.2014 is set aside and a direction is given to the 1st respondent to place the papers before the another officer / Conservator of Forests, who may re-examine the entire issue and pass necessary orders, but the said official should not be A.K. Olaganathan. While considering the appeal, the ground taken that a common enquiry should have been conducted and whether conducting of independent enquiry had caused prejudice to the petitioner herein may also considered by the appellate authority. The 2nd respondent may re-examine the entire issue and pass necessary orders within a period of sixteen weeks from the date of receipt of the entire records from the 1st respondent. To that extent, the order of the 2nd respondent, is set aside and the matter is remitted back to the 2nd respondent



for fresh consideration, in manner known to law. If any clarifications are required, the petitioner may also be heard with respect to such clarifications.

8. With the above observations, this Writ Petition stands disposed of.

No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

31.08.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
smv

To

1. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Genies Road,
Panagal Maligai,
Saidapet, Chennai – 15.

2. The Conservator of Forests,
Forest Department,
Dharmapuri Region,
Dharmapuri – 5.

3. The District Forest Officer,
Hosur Forest Division,
Hosur,
Krishnagiri District.



WEB COPY



7

C.V.KARTHIKEYAN,J.

smv

W.P.No.7914 of 2016

31.08.2023