



W.P.(MD)No.5903 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5903 of 2017

and

W.M.P(MD)No.4670 of 2017

T.Cecil Gilbert

... Petitioner

Vs.

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

2. The Principal Chief Conservator of Forests (Head of Forest Force),
Panagal Buildings,
Saidapet,
Chennai – 600 015.

3. The Wild Life Warden,
Megamalai Wild Life Division,
Theni.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records relating to the



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impugned proceedings issued by the 2nd respondent in his proceedings No. S/M/Order No.AA1/23901/2016-9 dated 01.03.2017 and quash the same.

For Petitioner : Mr.N.Mohideen Basha
For Respondents : Mr.SR.A.Ramachandran
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the proceedings issued by the second respondent, dated 01.03.2017 in No.S/M/Order No.AA1/23901/2016-9.

2. The petitioner joined service as Forester in the year 1998, subsequently, he was promoted to various posts. While, he was waiting for next promotion, the 3rd respondent has issued a charge memo under Rule 17(a) of Tamil Nadu Civil Services (Discipline and Appeal).

3. The allegation against the petitioner is, while he was working as Forest Range Officer of Megamalai Range in Megamalai Wildlife Division,



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Theni, during the period from 01.01.2014 to 23.12.2014, the petitioner has failed to act at the earliest and has not inspected the area properly, even after the death of Elephant has not instructed his subordinates to inspect the area. The weekly diary states that the petitioner has inspected the area, but he has not noticed the death of elephant. The petitioner has tried to conceal the occurrence, thereby, he deviated from his duty. The petitioner submitted an explanation to the charge memo. In spite of the petitioner's explanation, the respondents come to the conclusion that the charge levelled against the petitioner was proved. Hence the respondents imposed punishment of '*Censure*'. Challenging the same, the instant writ petition is filed.

4. The contention of the petitioner is while he was holding the charges of Forest Range Officer of Megamalai Range, the incident had occurred on 08.11.2014. As per the statement of the accused, an elephant poacher gave the statement after lapse of one year. The contention of the petitioner is no such incidents were noticed by him or by his subordinates till he was relieved from the range on 23.12.2014. Infact, the petitioner submitted no such incident had occurred at all. Moreover, the place of occurrence is just 5 Km away from



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Vellimalai Anti Poaching camp. Even the antipoaching watchers had not noticed such incidents and there were no symptoms of death of any elephant. Eventhough, the petitioner has submitted an explanation, the respondents have not considered the same and thereafter, imposed punishment of '*Censure*'. Because of this punishment the petitioner could not get his promotion.

5. This Court while admitting the writ petition has granted an interim direction to consider the petitioner's name for the promotion to the post of Assistant Conservator of Forests. Against the interim direction, the respondents have preferred an appeal and the same was dismissed, confirming the order of the learned Single Judge.

6. The respondents have filed counter stating that the petitioner has served several years in the Forest Department, hence ought to have been fully aware of the said situation and he could have ably managed such situation due to his vast experience. Further submitted that the petitioner ought to have informed the incident. The respondents further stated that the order would prove the petitioner's contentions are wrong. The petitioner is at liberty to file an appeal.



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Instead of availing the alternative remedy, the petitioner has filed this writ petition.

7. Heard Mr.N.Mohideen Basha, learned counsel appearing for the petitioner and Mr.SR.A.Ramachandran, learned Additional Government Pleader appearing for the respondents. Perused the material documents available on record.

8. At the time of hearing, Mr.SR.A.Ramachandran, the learned Additional Government Pleader appearing for the respondents and the learned counsel appearing for the petitioner submitted, subsequently, the petitioner was granted promotion in the year 2017. But, the petitioner is claiming promotion from 2015, onwards.

9. It is seen that the respondents have considered the petitioner's case for the panel in the year 2016-2017. Eventhough, the cut off date is 15.08.2015 the petitioner's name was also included in the said panel. The petitioner was granted promotion based on the panel, in the available vacancy in the year 2017.



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Further, the respondents have submitted that the juniors of the petitioner were not granted any promotion. Moreover, the petitioner was granted promotion along with his batch mates.

10. Therefore, the petitioner's promotion is not affected by the punishment of '*Censure*'. Moreover, the disciplinary proceedings was initiated under Rule 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, therefore, the petitioner's promotion will not be affected. Moreover the petitioner was granted promotion in the year 2017 along with his batch mates. Hence, this Court is not inclined to entertain this writ petition.

11. With the above observations, this Writ Petition is closed.
NoCosts. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

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