



WEB COPY

W.P.No.28936 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.28936 of 2022

Dr.N.Paneer Selvam

.. Petitioner

v.

1. Union of India rep.by its Secretary
Ministry of Environment and Forest
Indira Pariyavaran Bhawan
New Delhi 110 003
2. The Inspector General of Forests
Ministry of Environment and Forest
CGO Complex, Lodhi Road
New Delhi 110 003
3. The Director
National Zoological Park
New Delhi
4. The Principal Registrar
Central Administrative Tribunal
Principal Bench
Copernicus Marg
New Delhi 110 001



W.P.No.28936 of 2022

WEB COPY

5. The Registrar
Central Administrative Tribunal
Chennai Bench
Additional City Civil Court Building
Chennai 600 104

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of Respondent No.5 relating to the order passed by Hon'ble Central Administrative Tribunal, Chennai Bench in OA.No.310/1339/2017 dated 30.11.2021 and quash the same as illegal and direct the respondents to expunge the adverse entries made by the Reporting Officer for the ACRs of the applicant in the order in F.No.4-3/2012-FE dated 18.06.2014 of 1st respondent for the period 2006-07, 2007-08, 2008-09 and 2009-10 and direct the respondents to grant the petitioner all consequential relief including grant of financial up-gradation under ACP/MACP, that were denied to him on account of the adverse entries in the ACRs for the aforesaid period.

For Petitioner :: Mr.P.Ulaganathan

For Respondents :: Mr.K.S.Jeya Ganeshan
Senior Panel Counsel for R1 to R3
R4 & R5 - Tribunal

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

Under assail is the order dated 30.11.2021 passed in O.A.No.1339 of 2017 on the file of the Central Administrative Tribunal, Chennai Bench.



W.P.No.28936 of 2022

2. The petitioner is a retired Veterinary Officer, superannuated on 30.06.2015. The original application was filed after a lapse of about two years from the date of retirement, in the year 2017. Since the delay was condoned by the Tribunal, the case was taken up for consideration on merits.

3. The grievance of the petitioner is that the adverse entries made in his service records were not communicated to him timely enabling him to prefer an appeal seeking to expunge the adverse entries. The learned counsel for the petitioner would solicit our attention with reference to few communications to establish that the adverse entries in the service records of the petitioner were made without affording adequate opportunity and it was not communicated duly within a reasonable time, which resulted in denial of promotional opportunity.

4. The learned Senior Panel Counsel appearing on behalf of the respondents 1 to 3 would oppose by stating that the procedures as contemplated were followed by the respondents and adequate opportunities



W.P.No.28936 of 2022

were provided to defend the case. The petitioner submitted his defence against the adverse entries made, which was considered and an order was passed in proceeding dated 18.06.2014, which was under challenge before the Tribunal in the original application. The adverse entries made by the original authority were confirmed. That being the factum, the relief as such sought for before the Tribunal was rightly rejected and therefore, the writ petition is also to be rejected.

5. It is not in dispute that the petitioner filed the original application after a lapse of about two years, from the date of his retirement on 30.06.2015. The allegation raised by the petitioner before the Tribunal was that the ACR recorded by the Reporting Officer came to be modified by the reviewing authority. But it was destroyed and once again the copy of the adverse entries were communicated after the retirement of the petitioner. There was an inordinate delay on the part of the respondents in completing the recording of ACRs within the date stipulated under the orders of the Government and therefore, the Tribunal has erred in dismissing the original application. In terms of O.M dated 20.05.1972, the representation made by



W.P.No.28936 of 2022

the aggrieved person ought to have been decided within six weeks. But in the case of petitioner, it was rejected beyond the period of six weeks on 18.06.2014 and on that ground also, the impugned order is liable to be set aside.

6. The respondents have filed a counter before the Tribunal denying the allegations set out in the original application by stating as follows:-

“....The service record and residency period of the petitioner was examined w.e.f. 01.07.2005 to 01.07.2013 were scrutinized by the Departmental Screening Committee of Ministry of Environment, Forest and Climate Change. The committee after due deliberation extant guidelines on the subject assessed by Dr.N.Paneer Selvam, Ex-Veterinary Officer as screened out vide Minutes of the Departmental Screening Committee dated 18.09.2014 (Annexure-II). So he cannot claim that his claim was not taken up / considered by the MoEF&CC for grant of ACP/MACP/promotion. It is wrongly stated by the petitioner that the adverse entries in the ACRs of the petitioner are not based on any documents. The petitioner has not annexed a single document to prove the allegations. The entries made in the ACRs of the petitioner after due considerations and subsequently the competent authority found the remarks in the relevant ACRs as justified as evident from order dated 18.06.2014 (Annexure-III). The petitioner has not challenged the said order in the OA therefore the OA deserves to be dismissed on this account alone. When the petitioner has accepted the decision of



WEB COPY



W.P.No.28936 of 2022

competent authority whereby his representation against the remarks in the ACRs for the period 2006-07, 2007-08, 2008-09 and 2009-10 has been rejected, the petitioner cannot pray to expunge remarks in his ACRs.”

7. The respondents would further contend that the petitioner approached the Tribunal with vague statements and no materials are available to establish that the department has not followed the procedures as contemplated.

8. We are of the considered opinion that the power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which the decision has been taken by the competent authority in consonance with the statutes and rules in force, but not the decision itself. The scope of the power of judicial review cannot be expanded for the purpose of assessing the performance of an employee in Government department. If the procedures are not followed and the decision is tainted with allegations of mala fide, then alone the power of judicial review needs to be exercised. Though the petitioner raised a ground relating



W.P.No.28936 of 2022

to bias against the Reporting Officer, the said mala fide has not been established with sufficient evidence. While raising allegations of bias, mala fide against the authorities, such authorities are to be impleaded as parties in the proceedings in their personal capacity. Whenever personal allegations are raised, the persons against whom such allegations are raised must be provided with an opportunity to defend their case. In the absence of impleading those officials in their personal capacity, bald allegations of mala fide or bias need not be entertained by the Courts, more so, in the absence of any valid material available on record.

9. The petitioner though raised certain grounds personally against the Reporting Officer, such allegations are not substantiated. The Tribunal has considered this aspect to form an opinion that the authorities followed the procedures and even the order impugned dated 18.06.2014 reveals that the petitioner contradicted the adverse remarks and stated that the adverse remarks were given by the Director due to his biased attitude and to spoil his good name and image. The order impugned reveals that the petitioner has contradicted the adverse entries made in his service records.



W.P.No.28936 of 2022

WEB COPY

10. Beyond all these, the adverse entries were made for the years from 2006 to 2010 and the order impugned was passed on 18.06.2014 and the petitioner retired from service on 30.06.2015 and the original application before the Tribunal was instituted in the year 2017. Considering the overall facts and circumstances, we do not find any reason to interfere with the order impugned passed by the Central Administrative Tribunal. Thus the same stands confirmed and consequently, the writ petition is dismissed. No costs.

Index : yes

Neutral citation : yes

(S.M.S.,J.) (M.J.R.,J.)

07.11.2024

SS

To

1. The Secretary to Union of India
Ministry of Environment and Forest
Indira Pariyavaran Bhawan
New Delhi 110 003

2. The Inspector General of Forests
Ministry of Environment and Forest



W.P.No.28936 of 2022

CGO Complex, Lodhi Road
New Delhi 110 003

3. The Director
National Zoological Park
New Delhi

4. The Principal Registrar
Central Administrative Tribunal
Principal Bench
Copernicus Marg
New Delhi 110 001

5. The Registrar
Central Administrative Tribunal
Chennai Bench
Additional City Civil Court Building
Chennai 600 104



WEB COPY



W.P.No.28936 of 2022

S.M.SUBRAMANIAM,J.

AND

M.JOTHIRAMAN,J.

SS

W.P.No.28936 of 2022

07.11.2024