



W.P.No.5420 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.5420 of 2020

and

W.M.P. No.6346 of 2020

1. Dhesingu
2. S.Palanisamy

... Petitioners

Vs.

1. The State of Tamilnadu,
Rep. by its Principal Secretary to Government,
Environment and Forest (FR.12) Department,
Secretariat,
Fort St.George,
Chennai – 9.
2. The Principal Chief Conservator of Forest,
(Head of Forest Force),
Panagal Building,
Chennai – 15.
3. The Conservator of Forests,
Vellore Circle,
Vellore.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned G.O (Ms) NO. 25, Environment and Forest (Fr.12) Department dated 19.03.2018 issued by the first respondent and to quash the Para-12(b) & Para-13 of the G.O insofar as the classification (b) is concern and to modify the petitioners' punishment from removal of service to one under suspension on par with other.

For Petitioners : Mr. K.Gandhikumar

For Respondents : Mr.R.Murthi,
Government Advocate

ORDER

The instant Writ Petition has been filed challenging G.O. (Ms) No. 25, Environment and Forest (Fr.12) Department, dated 19.03.2018, issued by the first respondent. The petition seeks to quash paragraphs 12(b) and 13 of the said G.O., insofar as the classification under (b) is discriminatory.

2. The learned counsel for the petitioners fairly submit that there was a criminal prosecution, and that the petitioners suffered a punishment, and that the same has been confirmed by this Court. Against which, an appeal is



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pending before the Hon'ble Supreme Court of India. In the meanwhile, the Government has proceeded under Section 17(c)(i)(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules' for short). The grievance of the petitioners is that, while considering the cases of nine individuals, the Government discriminated the petitioners by categorizing them into three different groups without any intelligible difference. It is their further submission that when the Government is considering the mercy petition, the very distinction among individuals is irrational. Therefore, the petitioners pray to consider their case on par with those of the other five persons.

3. The learned Government Advocate appearing for the respondents strongly objects the said contentions, and contends that the differentiation among the three groups is based upon orders obtained from the Court. The learned Government Advocate further contends that five officials, namely, R.Devarajan, N.Thangavelu, S.Ramasamy, D.Marriyappan, and R.Krishnamurthy, have obtained an interim stay for the finalization of the disciplinary proceedings. Whereas, the present petitioners did not obtain any such interim stay, only on the above ground, those five individuals treated



differently.

4. I have given my anxious consideration to the submissions made on either side.

5. For ready reference, paragraphs 12(b) & 13 of G.O. (Ms) No. 25, Environment and Forest (Fr.12) Department, dated 19.03.2018, is extracted hereunder:-

“12.....

(b) those three officials i.e. Tvl. Palanisamy, G.Palanisamy and K.Desingu, all then FROs had not obtained any interim stay against the Writ Petitions filed by them for the finalization of the Disciplinary Proceedings.

13. The Government, after a detailed deliberation, has decided to dispose the mercy petitions preferred by the five officials mentioned at para 12(a) above by invoking rule 36(1) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, in which Government is empowered to take revision and keeping in mind the mercy petitions preferred by the individuals, hereby--

(i) cancel the order in which the punishment of removal from service imposed in the proceedings fourth, fifth, sixth, seventh and ninth read above on Tvl. R.Devarajan, N.Thangavelu, R.Krishnamurthy, S.Ramasamy and D.Mariappan all then FROs and



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these five individuals shall be deemed to have been placed under suspension on and from the date of order of removal from service and the disciplinary proceedings shall be proceeded under rule 17(c) (i) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

(ii) Considering the special circumstances of the case, subsistence allowance to the five individuals referred at para 12(a) above, shall be paid from the date of issue of this order, since the cancellation of the original order of removal from service itself is a benevolent gesture to the individuals. The Principal Chief Conservator of Forests in hereby directed to workout the quantum of subsistence allowance eligible to the above said five individuals.”

6. According to the above G.O, the Government considered the case of the five persons on a different footing, and treated them differently by cancelling the order of punishment of removal from service imposed against those persons. Consequently, these five individuals were deemed to have been placed under suspension from the date of the order of removal from service, and the disciplinary proceedings were ordered to be proceeded with under Rule 17(c)(i)(1) of the Rules.



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7. It is thus clear that the said differentiation was made to these five individuals on the ground that, despite they obtain stay order against the disciplinary proceedings, the disciplinary proceedings were finalized, contrary to the order of this Court. When this was brought before the authorities concerned, the same was set right through a mercy petition. Whereas, in the case of the petitioners' concerned, they did not obtain such stay order. As such, their claim for parity is misconceived. Accordingly, this Court does not find any merit in the instant Writ Petition.

8. In the result, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Speaking order /Non Speaking Order
Neutral Citation : Yes/No



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To
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1. The Principal Secretary to Government,
The State of Tamilnadu,
Environment and Forest (FR.12) Department,
Secretariat,
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Chennai – 9.
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(Head of Forest Force),
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C.KUMARAPPAN, J.

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