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W.P.No.24010 of 2014



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.24010 of 2014

M.Poongavanam,
Record Clerk,
Office of the District Forest Officer,
Harur, Dharmapuri District.

...

Petitioner

versus

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

2.The Conservator of Forests,
Dharmapuri Region,
Dharmapuri - 636 705.

3.The District Forest Officer,
Hosur Forest Division,
Hosur Cattle Farm Post,
Krishnagiri District.

...

Respondents

Prayer: 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 of the second respondent in Proceedings No.6541 of 2012, PO1 dated 27.03.2014 and quash the same and direct the respondents to continue the petitioner in the post of Junior Assistant.

For Petitioner

:

Mr.P.Manoj Kumar
for Mr.P.Rajendran



For Respondents : Mr.R.Murthi
Government Advocate

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ORDER

The writ petition is filed challenging the order of the second respondent dated 27.03.2014 and for consequential direction to continue the petitioner in the post of Junior Assistant.

2. The petitioner was initially appointed as Junior Assistant in the office of the Forest Range Officer, Krishnagiri on 08.12.1983 and thereafter, he was appointed as Record Clerk in the office of the District Forest Officer, Harur, Dharmapuri District and his services were regularised and he was also given Selection Grade in the year 1994. As certain deficiencies were found in the work of the petitioner, he was referred to the Medical Board. Based on the medical opinion given by the District Medical Board, Krishnagiri, on 07.06.2012, the petitioner was assigned with some alternate work as he will not be in a position to continue with the present nature of duties.



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3. Pursuant to which, a show cause notice was issued for retirement on medical invalidation and for which, the petitioner submitted a reply on 10.07.2012. Thereafter, by an order dated 27.03.2014, the petitioner was posted as Record Clerk in the office of District Forest Officer, Harur Forest Division, Harur. According to the petitioner, the post of Record Clerk is inferior to the post of Selection Grade Junior Assistant and it amounted to reduction in rank. In the absence of any disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the impugned order posting to inferior post cannot be sustained and therefore, the petitioner had come up with the present writ petition.

4. Today, when the matter is taken up for hearing, the learned Government Advocate appearing for the respondents by relying on the averments made in the counter affidavit submitted that, the petitioner was assigned to perform the duties of Record Clerk only due to his inability based on the medical opinion and in fact, he is continuing in the capacity as Selection Grade Junior Assistant only, his position has not been lowered or degraded and also his monetary benefits have not been effected. As far as the



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award of special grade is concerned, the same was not given only due to the punishment suffered by the petitioner by the orders of the District Forest Officer dated 05.10.2004. The relevant paragraphs are extracted hereunder:-

“3. It is respectfully submitted that his averment made in para 6 to 8 are partially denied as all actions taken are in good public interest besides safe guarding the interests of the Writ Petitioner too. The Writ Petitioner cannot attach any motive to the action taken. The Writ Petitioner has misconstrued that he has been reverted as Record Clerk. He has to perform the duties of Record Clerk due to his inability to write, but this is to be done in the capacity as Selection Grade Junior Assistant only. His position is never lowered nor degraded. The opinions of the Medical Boards will testify to the incapability of the Writ Petitioner. He has been dealt with on humanitarian grounds only and all his service benefits are protected.

4. It is respectfully submitted that he has not been reduced in rank as per rule 17(b) of Tamil Nadu Civil Service (Disciplinary and Appeal) Rules as a Punishment. The monetary benefit is not affected. He has not given Special Grade due to punishment imposed against him vide District Forest Officer, Dharmapuri Proc.No.208/2004/A2, Dated: 05.10.2004. He was not given Special Grade due to punishment imposed against him in District Forest Officer's Pro.No.208/04/A2 dated 05.10.2004 i.e. He was charge sheeted for failure of non-production Personal Register and brought forward Register for annual Office inspection. Thiru.M.V.Rajappan, Forest Range Officer was appointed as enquiry officer. He enquired the matter and found that he did not post the Personal Register and brought forward the entries in the Brought Forward Register and accordingly the charges were held as proved by the enquiry officer.



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He was given all opportunities to defend him. He also did not want to enquire anybody in this matter. He explained that he would post the Personal Register and submit later, he further submitted that he got injury in his hand and hence he will submit later etc. His explanations was considered and found that it is not acceptable. The enquiry officer held the charge as proved. Had he posted the Personal Register then and there such a contingency would not have arisen. In this office proceedings No.708/14/A2 dated 5.10.2004 detailing the entire matter is submitted for kind perusal. For the lapses on his part his pay was reduced to the bottom of time scale for 5 years with cumulative effect. Against this punishment he preferred appeal and got the punishment modified as postponement of increment for 2 years without cumulative effect by the Conservator of Forests, Dharmapuri in Pro.No.16852/04 dated 25.04.2007 (Copy enclosed), However subsequently he was awarded Special Grade on C.No.3725-2012-El, dated: 30.08.2014 after expiry of this punishment and regularized his Pay and increments up to date. His promotion as Assistant will be considered in his turn according to their seniority. Though his service is utilized as Record Clerk, he is only a Selection Grade Junior Assistant and his promotion as Assistant will not affect.”

5. The learned Government Advocate further submitted that, since the petitioner had already superannuated from service, the relief sought for in this writ petition to continue him as Junior Assistant has become infructuous. Further, the petitioner has not been reverted to any lower post on the contrary he was posted as Record Clerk only due to his inability



based on the medical opinion and in fact, he continued in the same Selection Grade Junior Assistant with all monetary benefits.

6. Recording the submission made by the learned Government Advocate appearing for the respondents, this Writ Petition is ***dismissed***.

7. There shall be no order as to costs.

12.11.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

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