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W.P.(MD) No.6179 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.6179 of 2021

G.Sajendran

... Petitioner

-vs-

- 1.The Principal Secretary
Environment and Forest Department
St.George Fort, Chennai
- 2.The Principal Chief Conservator Forest
Forest Department
Chennai-15
- 3.The Conservator of Forest
Tirunelveli Circle, Tirunelveli-7
- 4.The District Forest Officer
Nagercoil, Kanyakumari District
- 5.The District Forest Officer
and Wildlife Warden
Tirunelveli Division
Tirunelveli-7
- 6.Member Secretary
Tamilnadu Public Service Commission
Chennai

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the proceeding of the second respondent vide proceedings No.Se.Mu.Aanai.No.AA3/14395/2015, dated 14.01.2016 and opinion of the sixth respondent vide letter No.6150/DC.DB2/2019-1, dated 03.06.2020, which was confirmed by the first respondent and Government Order in G.O. (2D) No.24, dated 21.08.2020 and quash the same as erroneous and to direct the respondent to disburse monetary benefits to the petitioner including the period of compulsory retirement (viz) 14.04.2015 to 21.01.2016 (283 days).

For Petitioner : Mr.K.P.Narayanakumar
for Mr.A.Balakrishnan

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader for R1 to R5
Mr.J.Anand Kumar
Standing Counsel for R6

ORDER

This writ petition has been filed by the petitioner challenging the punishment imposed on him under the impugned orders passed by the respective respondents.



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2. The petitioner was a Forest Guard. He was charged in the disciplinary proceedings that he had failed to inform his higher officials about the presence of the skull of an elephant in the forest at Vannathiparai beat. He along with three other officials were charged for the very same incident and disciplinary proceedings were initiated against all of them. The petitioner contends that on the date of incident, he was employed at Kaliyal beat, but, only on the request of the higher officials, he was asked to perform duty at Vannathiparai beat along with the other officials, who have also been charged in the disciplinary proceedings. In the disciplinary proceedings, the petitioner was found guilty of charge Nos.1 & 3 and he was imposed with the punishment of compulsory retirement by the order of the third respondent dated 10.04.2015. The petitioner preferred statutory appeal before the second respondent. The second respondent, under order dated 14.01.2016, modified the punished imposed on the petitioner by the third respondent by imposing a punishment of stoppage of increment for a period of three years with cumulative effect. Thereafter, the petitioner preferred a revision before the first respondent. The first respondent, under the impugned order dated 21.08.2020, confirmed the order of the second respondent and reiterated the



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punishment imposed by the second respondent. Aggrieved by the same, this writ petition has been filed.

3. Learned counsel for the petitioner would submit that in respect of the other higher officials who were present at the scene, where the skull of an elephant was found, they have been awarded a lesser punishment than that of the petitioner. A similar charge was also framed against all of them, including the petitioner and therefore, there cannot be a discrimination in the punishment imposed on the petitioner and other officials, who were also charged.

4. Learned counsel for the petitioner drew the attention of this Court to the impugned order passed by the second respondent, dated 14.01.2016 and would highlight the fact that the other higher officials, who were also present at the scene along with the petitioner, have been awarded a lesser punishment and therefore, according to him, the punishment of stoppage of increment for three years with cumulative effect imposed on the petitioner is discriminatory.



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5. Learned Special Government Pleader appearing for the official respondents would reiterate the contentions of the counter affidavit filed by the official respondents in this writ petition and would submit that only due to the fact that the petitioner, who was a Forest Guard, did not intimate his higher officials about the presence of the skull of an elephant at Vannathiparai beat and no action was taken by the officials, who were present at the scene with regard to the same, he has been rightly awarded with the punishment as imposed by the first respondent under the impugned order dated 21.08.2020.

6. Admittedly, the petitioner was employed as a Forest Guard only at Kaliyal beat on the date, when the alleged incident had happened. He was only deputed to Vannathiparai beat by his higher officials and only in the presence of his higher officials, as disclosed in the impugned order dated 21.08.2020, the alleged incident is said to have happened, namely, presence of the skull of an elephant in Vannathiparai beat. Along with the petitioner, three other officials were also charged under the disciplinary proceedings, namely, those disclosed in the impugned order dated 21.08.2020. In fact, the first and third official, disclosed in the impugned order dated 21.08.2020, are higher in rank to that of the petitioner and the second person disclosed in the



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impugned order dated 21.08.2020 is of the same rank as that of the petitioner.

It is also an admitted fact that for the other officials, who were also present along with the petitioner on the date of the incident, have been imposed with lesser punishment. Similarly ranked official as that of the petitioner, namely, Mr.M.Jeyakumar, who was also a Forest Guard, has been imposed with lesser punishment of stoppage of increment for a period of one year with cumulative effect. There cannot be discrimination between the punishment imposed on the petitioner, who is similarly ranked to that of Mr.M.Jeyakumar, who was also present at the time of incident, for which charges were framed against him. The first respondent, under the impugned order dated 21.08.2020, by total non-application of mind to the fact that a similarly ranked official to that of the petitioner has been awarded a lesser punishment, has awarded a higher punishment to the petitioner by imposing a punishment of stoppage of increment for a period of three years with cumulative effect, though the similarly ranked official, namely, Mr.M.Jeyakumar was awarded the punishment of stoppage of increment for one year with cumulative effect. As seen from the impugned orders, it is clear that in respect of charge Nos.1 & 3 framed against the petitioner, they have been proved and the petitioner has been found guilty rightly by the official respondents under the impugned



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orders. The only relief that can be granted by this Court is to reduce the punishment imposed by the second respondent to one of stoppage of increment for a period of one year with cumulative effect, instead of the stoppage of increment for a period of three years with cumulative effect, as erroneously awarded by the second respondent, which has been erroneously confirmed by the first respondent under the impugned order dated 21.08.2020.

7. For the foregoing reasons, this writ petition is partly allowed by setting aside the order of the second respondent dated 14.01.2016 and the order of the first respondent dated 21.08.2020, by modifying the punishment imposed on the petitioner to one of stoppage of increment for a period of one year with cumulative effect, instead of stoppage of increment for a period of three years with cumulative effect. No costs.

07.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

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Chennai.
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- 3.The Conservator of Forest,
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Tirunelveli-7.
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ABDUL QUDDHOSE, J.

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