



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 09.04.2025

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 8126 of 2024

And

W.M.P.No. 9072 of 2024

L.Magilan

... Petitioner

..Vs..

1. The Government of Tamil Nadu
Represented by Additional Chief Secretary to
Government Environment and Forest Department
Secretariat
Chennai – 600 009.
 2. The Principal Chief Conservator of Forests (HOFF)
Department of Forests
Forest Campus
Guindy-Vellachery Main Road
Near Kanikapuram Check Post,
Guindy
Chennai – 600 003.
 3. The Deputy Director
Srivilliputhur Megamalai Tiger Reserve
Department of Forests
Megamalai Division
KRR Nagar,
Housing Board Colony,
Theni – 625 531.
- ... Respondents



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PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent and charge memo issued in Letter No.11586/FR.1/2019-16 dated 15.12.2020 and the summons issued in Na.Ka.No. 11833/2021/P1 dated 04.12.2023 issued by the third respondent; summons issued in Na.Ka.No. 11833/2021/P1 dated 12.03.2024 issued by the third respondent and to quash the same and to direct the respondents herein to confer all consequential benefits to the petitioner within a limited time frame.

For Petitioner :: Mr. M.Ravi

For Respondents :: Mr. C.Selvaraj
Additional Government Pleader

ORDER

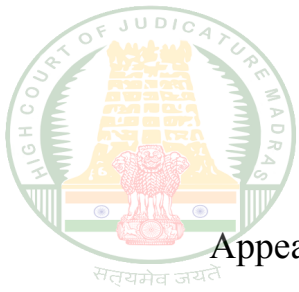
The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records of the first respondent relating to a charge memo issued on 15.12.2020 and the subsequent summons issued on 04.12.2023 by the third respondent and by the further summons issued on 12.03.2024 by the third respondent and to quash all the same.



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2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner had been initially appointed as Forest Range Officer on 02.01.1984 and subsequently promoted to the post of Assistant Conservator of Forests on 30.09.2009. It had been stated that a criminal case had been registered against the petitioner herein. The final report had been taken as cognizance as Special Case No. 67 of 2014 by the Special Court for Vigilance and Anti-Corruption Cases at Villupuram. It was for offences punishable under the Prevention of Corruption Act. The petitioner was placed under suspension and not permitted to retire from service by the first respondent by G.O.3D No. 40, Environment and Forests (FR.1) Department dated 16.04.2014 and by G.O.3D No.43, Environment and Forests (FR.1) Department dated 30.04.2014. The petitioner was retained in service beyond the date of his superannuation / 30.04.2014 pending the disposal of the criminal case.

3. The trial Court returned a finding of conviction. Subsequently, further Appeals had been filed in Crl.A.Nos.625 and 634 of 2016 and by a Judgment dated 19.01.2018 the petitioner was acquitted of all charges. The



Appeal preferred by the prosecution before the Hon'ble Supreme Court ended in dismissal. Therefore, the only contingency under which the petitioner had not been permitted to retire, the completion of the criminal case had ended and the petitioner should therefore have been permitted to retire but however, a charge memo had been issued again. The petitioner questioned that particular issuance of charge memo, the present Writ Petition has been filed.

4. It is evident that once the petitioner is retained in service pending disposal of the criminal case, and not on contemplation but the disciplinary proceeding was pending and owing to that, on completion of the criminal case since the petitioner had been acquitted, then he should be permitted to retire and all necessary service and monetary benefits must be released to the petitioner.

5. Mr.M.Ravi, learned counsel for the petitioner placed reliance on the Judgment of the learned Division Bench of this Court in ***W.A.No. 2346 of 2019 [P.Shankar Vs. the Chairman and others]*** wherein the Division bench had held as follows:-



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“13. .. Though pendency of the criminal case is not a bar for the department to proceed with the departmental enquiry against the appellant, in the instant case, the department, without any reason, waited for the conclusion of the criminal trial. It is not as though the charge memo was issued simultaneously when the criminal case was pending and on account of the pendency of the criminal case, they did not proceed with the departmental enquiry. On the other hand, the Department waited for the result of the criminal trial and when it turned in favour of the appellant, resorted to proceed with the departmental proceedings after acquittal by the criminal court, for the very same set of charges. Above all, the charges for which the appellant stood trial in the criminal case is verbatim the same in the departmental enquiry proposed by the respondents against the appellant. The delay in initiating the departmental proceedings against the appellant, in our opinion, vitiates the entire departmental proceedings proposed against the appellant. ...”



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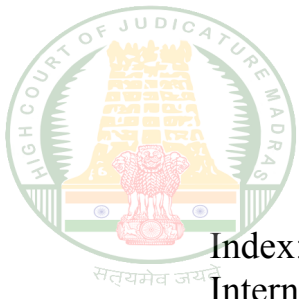
6. The dictum laid down is directly applicable to the facts of this case. The respondents had not permitted the petitioner to retire owing to pendency of the criminal case and though the trial Court had convicted the petitioner, the Appellate Court/High Court had acquitted the petitioner of all charges. That Judgment was affirmed by the Hon'ble Supreme Court.

7. The same set of evidence would now be presented in the disciplinary proceeding. It would only be an exercise in futile. The petitioner should not be forced to undergo the ordeal once again. The Writ Petition stands allowed. The charge memo issued stands quashed.

8. A direction is given to the respondents to examine the retirement benefits to the petitioner and treat the period of suspension if any as period of duty with service and monetary benefits and pass appropriate orders in this regard within a period of 8 weeks from the date of receipt of a copy of this order. No order as to costs. Consequently, connected Miscellaneous Petition stands closed.

09.04.2025

vsg



Index: Yes/No

Internet: Yes/No

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