



W.P(MD).No.18980 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	31.01.2025
Pronounced on	06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD).No.18980 of 2024

and

W.M.P(MD) No.16030 of 2024

K.Murugan

.... Writ Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Environment and Forest Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2. The Principal Chief Conservator of Forests,
Head of Forest Force,
Panagal Building,
Saidapet,
Chennai – 600 015.

3. The District Forest Officer,
District Forest Office,
Race Course Road,
Madurai.

... Respondents



W.P(MD).No.18980 of 2024

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent in செ.மு.ஆ.எண்:5907/15/பு2, dated 27.08.2015 and quash the same as illegal and consequently direct the respondents to reinstate the petitioner into service and consequently regularize the service of the petitioner as Forest Watcher from 24.01.1995 notionally by taking into account his seniority and qualification on par with his junior in the light of the order made in W.P.No.17450 of 2019 dated 30.08.2019.

For Petitioner : Mr.M.Pounraj

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a Plot Watcher/ Village Social Forestry Worker, who was engaged on a daily wage basis, challenging the order of dismissal dated 27.08.2015 passed by the third respondent. The petitioner has further prayed for regularizing his services as Forest Watcher from 24.01.1995 notionally by taking into account his seniority and qualification in the light of the order passed in W.P.No. 17450 of 2019, dated 30.08.2019.



W.P(MD).No.18980 of 2024

2. The facts leading to the filing of the present writ petition are

as follows:

(i) The petitioner and others were engaged by the Forest Department on a daily wage basis to the post of Plot Watcher/Village Social Forestry Worker on 01.02.1985. Based upon the seniority, the petitioner was appointed as a Supernumerary Plot Watcher on 07.08.2009.

(ii) A complaint was received by the Vigilance and Anti Corruption Department as against the writ petitioner that he had received a sum of Rs.12,00,000/-, giving an assurance that he would get an employment in the Forest Department. However, when the same could not be achieved, one M.Sakthi Murugan had lodged a complaint on 06.04.2015. A preliminary enquiry was initiated by the department on the basis of the above said complaint. Enquiry notices were issued to the writ petitioner and the complainant. The statements of the complainant and the writ petitioner were recorded. It was concluded that there are reasonable grounds to believe that the petitioner had demanded and obtained money from the complainant to provide employment order to the post of “Forest Guard cum Driver” in the Forest department.



W.P(MD).No.18980 of 2024

(iii) After a preliminary finding, show cause notices were issued to the writ petitioner on 07.08.2015 and 25.08.2015, as to why action should not be initiated. The petitioner has submitted a reply reiterating his statement recorded on 29.07.2015. Based upon the said explanation, the order impugned in the writ petition was passed dismissing the writ petitioner from service. This order is under challenge in the present writ petition.

3. The contentions of the learned counsels appearing on either side are as follows:

(i) According to the learned counsel appearing for the writ petitioner, though an F.I.R was registered as against him in Crime No. 301 of 2015 on the file of the Allinagaram Police Station on 21.06.2015 for the alleged offence under Sections 406,420 and 506(i) of I.P.C, so far charge sheet has not been laid. The complainant has not taken any interest to prosecute the criminal case. He further contends that when some of his juniors, who were engaged as a Plot Watcher, were regularized, the petitioner and others had filed W.P.No.17450 of 2019 seeking a Mandamus to regularize their services as Forest Watchers from



W.P(MD).No.18980 of 2024

24.01.1995. The said writ petition was allowed on 30.08.2019. The petitioner was arrayed as the second petitioner in the above said writ petition. The Court had directed the authorities to regularize the petitioner and others with effect from 24.01.1995 however without any monetary benefits, but the said period could be counted for the purpose of pension and other retirement benefits.

(ii) According to the learned counsel appearing for the petitioner, the order of the Court was complied with by the respondent authorities with regard to other petitioners. However, the petitioner's name was not included in G.O(Ms) No.01, Environment and Forests Department, dated 01.01.2021 to regularize the services. Therefore, the petitioner had filed contempt petition in Cont.P.No.162 of 2022. Pending contempt proceedings, Government has passed G.O(2D) No.36, Environment, Climate Change and Forests Department, dated 30.03.2022 regularizing his services with effect from 24.01.1995. Thereafter, the contempt petition was closed on 05.04.2022.

(iii) Pursuant to the regularization order issued by the Government, the petitioner has been continuously making representations to reappoint him. The petitioner has also made representations to cancel the order of



W.P(MD).No.18980 of 2024

dismissal dated 27.08.2015 and to reinstate him, based upon the regularization of Government Order dated 30.03.2022. Since there was no proper response, the petitioner is constrained to file the present writ petition.

(iv) According to the learned counsel appearing for the writ petitioner, there is no dispute whatsoever that the petitioner was arrayed as the second petitioner in W.P.No.17450 of 2019. Therefore, the petitioner is entitled to the benefits of the said order. For the first time, the department is taking a stand that one K.Murugan, who is arrayed as the second petitioner in the said writ petition is a different person and not the petitioner herein. Such a stand was never taken by the authorities at any point of time. He further contended that once the Government has regularized his services, the District Level Office officials cannot cite the order of dismissal for not reinstating him.

(v) The learned counsel appearing for the petitioner has further contended that without conducting proper enquiry merely based on some complaint lodged by a third party, the order of dismissal has been issued. The principles of natural justice were not followed while issuing the order of dismissal. He further contended that without issuing a charge



W.P(MD).No.18980 of 2024

memo, appointing an Enquiry Officer or issuing a proper show cause notice, the order of dismissal has been issued and therefore, the said order of dismissal is liable to be set aside.

4. Per contra, the learned Additional Government Pleader appearing for the respondents contended that the state vide seniority number of the writ petitioner is 4014. The petitioner was dismissed from service on 27.08.2015. The writ petition in W.P. No.17450 of 2019 has been filed in June 2019. In paragraph No.2 of the said affidavit, the seniority number of the second petitioner in the writ petition is mentioned as 2724. Therefore, it is clear that the petitioner, who was already dismissed from his service and who is seniority Number is 4014, has not filed the writ petition. Therefore, the petitioner is not entitled to the benefits of the above said writ petition.

5. The learned Additional Government Pleader appearing for the respondents further contended that K.Murugan, who is seniority No.2724 had joined the judicial department in August 2000 itself and he had attained superannuation on 31.07.2024. Therefore, there was no



W.P(MD).No.18980 of 2024

possibility of that K.Murugan, (S/o.Kumarappan) to file a writ petition in the year 2019 seeking regularization of his service in the Forest Department. According to him, the petitioner seems to have used the name and the seniority number of K.Murugan, S/o. Kumarappan, to file a writ petition in the year 2019 in order to get an order of regularization. Therefore, the Government had initially rejected the request of the petitioner for regularization by issuing G.O(2D) No.28, dated 09.03.2022. Thereafter, when contempt petition was filed, the State was constrained to cancel G.O(2D) No.28 and issued G.O(2D) No.36, dated 30.03.2022 regularizing the services of the writ petitioner. The Annexure to G.O.(2D) No. 36, dated 30.03.2022 would reveal that the petitioner's State wise seniority No.4014 which is not reflected in the writ affidavit.

6. The learned Additional Government Pleader appearing for the respondents had further contended that the petitioner had suppressed his order of dismissal dated 27.08.2015 and thereafter, used the name and seniority number of K.Murugan, S/o.Kumarappan and managed to get an order of regularisation from this Court. Thereafter, when the authorities refused to implement the order, the petitioner has filed a Contempt



W.P(MD).No.18980 of 2024

Petition and Government Order came to be issued. Now, the petitioner is very well aware of the pendency of the criminal case and the order of dismissal passed in the year 2015. The petitioner has not chosen to challenge the same for the past 9 years.

7. The learned Additional Government Pleader appearing for the respondents had further contended that the complainant namely, M.Sakthi Murugan, had approached this Court and filed Criminal Original Petition seeking registration of F.I.R. Thereafter, F.I.R was registered as against the writ petitioner. The Department had received communication from the Directorate of Vigilance and Anti Corruption to conduct an enquiry. The petitioner was a daily wager and after conducting a detailed enquiry, the services of the petitioner were terminated. Therefore, that full opportunity was given to the writ petitioner before passing the order of dismissal and therefore, there are no violation of principles of natural justice in passing the impugned order of dismissal. Hence, he prayed for dismissal of the writ petition.



W.P(MD).No.18980 of 2024

8. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

Discussion:

9. The petitioner herein was initially appointed as a Plot Watcher on 01.02.1985 and with effect from 07.08.2009, he was appointed in the Supernumerary post as a Plot Watcher. After receipt of complaint from the Department of Vigilance and Anti Corruption authorities, the petitioner and the defacto complainant were called for an enquiry and the statements of both of them have been recorded by the officials. After being prima facie satisfied that the petitioner has collected a sum of Rs.12,00,000/- from the defacto complainant assuring to get a job, the authorities have issued a show cause notice to the writ petitioner twice calling upon him to submit his explanation. The petitioner has submitted his explanation to the effect that his statement already recorded by the Department may be taken into consideration. Thereafter, the present impugned dismissal order has been issued on 27.08.2015.



W.P(MD).No.18980 of 2024

10. It is not in dispute that even as on today F.I.R registered as against the writ petitioner in Crime No. 301 of 2015, on 01.06.2015 is still pending. Merely because a charge sheet has not been laid or there is no further progress, the petitioner cannot take advantage of the same and seek to set aside the order of dismissal.

11. The primary contention of the learned counsel appearing for the writ petitioner is that, the petitioner and others had filed W.P.No. 17450 of 2019 before this Court seeking regularisation of their services and the writ petition was allowed on 30.08.2019. This Court has directed the petitioner to file a copy of the affidavit in the said writ petition. A perusal of paragraph No.2 of the writ affidavit discloses that one K.Murugan, who was initially appointed on 01.12.1983 and whose State wise seniority No.2724 has filed the said writ petition. It is not in dispute that the State wise seniority number of the writ petitioner is not 2724 but it is 4014. That apart, the petitioner, having been dismissed from service in the year 2015 and not having challenged the same, cannot file a writ petition seeking regularisation of services in the year 2019, as if he is in service. That apart, a perusal of the affidavit further reveals that there is



W.P(MD).No.18980 of 2024

no reference that the petitioner has already been dismissed from service.

Therefore, it is clear that the petitioner, who was dismissed from service in the year 2015 under the impugned order, had chosen to take advantage of the similarity in the initial of another K.Murugan, had chosen to file a Contempt Petition alleging that the order of the writ Court has not been complied with.

12. A perusal of the records submitted by the Forest Department reveals that one K.Murugan, S/o.Kumarappan (Seniority No.2724) had joined the Judicial Department in the year 2008 itself and therefore, there is no possibility of him to file a writ petition seeking regularisation of the services in the Forest Department in the year 2019.

13. The petitioner, who was dismissed from service in the year 2015, could not file a writ petition in the year 2019 seeking regularisation of his services. Therefore, it is clear that the petitioner has used the similarity in the initial and has used the State Level Seniority number of Murugan S/o.Kumarappan, to file a writ petition seeking regularisation of services. If really the petitioner had filed the writ



W.P(MD).No.18980 of 2024

petition, he would have stated that he had been dismissed from service in the year 2015. Such an averment is missing in the affidavit filed in support of W.P.No.17450 of 2019.

14. Initially, the Government had issued G.O(2D) No. 28, Environment, Climate Change and Forests Department, dated 09.03.2022, rejecting the request of the petitioner for implementing the orders of the writ Court in W.P.No.17450 of 2019 citing the dismissal of the writ petitioner in the year 2015. However, after contempt was filed in Cont.P.No.162 of 2022, the Government has chosen to recall G.O(2D) No. 28, Environment, Climate Change and Forests Department, dated 09.03.2022, issued fresh G.O (2D) No.36, dated 30.03.2022 regularizing the services of the writ petitioner. The said Government Order reveals that the State wise seniority number of the writ petitioner is 4014. Therefore, merely relying upon the regularisation order which was issued pursuant to the contempt proceedings, the petitioner cannot seek to set aside the order of dismissal that was passed in the year 2015.



W.P(MD).No.18980 of 2024

15. A perusal of the records filed by the Forest Department reveal that the petitioner was given ample opportunity and after recording the statements of the complainant and the writ petitioner, final orders have been passed dismissing the writ petitioner from service. It is to be noted that the petitioner was only a daily wager while he was issued with the order of dismissal. Therefore, the order of dismissal issued after recording the statements of both the parties and after calling for explanation from the writ petitioner, cannot be considered to be in violation of principles of natural justice.

16. The petitioner, having been dismissed from service in the year 2015 under the impugned order, cannot take advantage of the alleged order of regularisation issued by the Department in the year 2022. It is clear that the petitioner has used the name of another Murugan S/o.Kumarappan, and his State wise seniority number in obtaining the order of regularisation from this Court suppressing the fact that he had already been dismissed four years prior to the filing of the writ petition. Therefore, the petitioner cannot take advantage of the order passed in W.P.No.17450 of 2019 or the Government Order that was passed in the



W.P(MD).No.18980 of 2024

year 2022 regularizing the services pursuant to initiation of contempt proceedings.

17. The petitioner herein is still facing the criminal case for collecting a sum of Rs.12,00,000/- assuring a job in the Forest Department, while he was a daily wager. In such circumstances, the question of setting aside the order of dismissal reinstating him in service would not be in interest of administration.

18. In view of the above said deliberations, there are no merits in this Writ Petition. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

06.02.2025

Index : Yes/No
Internet : Yes/No
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W.P(MD).No.18980 of 2024

To

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Environment and Forest Department,
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W.P(MD).No.18980 of 2024

R.VIJAYAKUMAR,J.

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Pre-Delivery Order in

W.P(MD)No.18980 of 2024

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