
(2014) 07 MAD CK 0006
In the Madras High Court
Case No : Writ Petition No. 33887 of 2012

G. Sivamani

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 04-07-2014

Acts Referred:

Citation : (2014) 07 MAD CK 0006

Hon'ble Judges : S. Rajendran, J

Bench : Single Bench

Judgement

S. Rajeswaran, J.—This Writ Petition has been filed to quash the impugned order of punishment of censure passed by the second respondent in G.O.(3D) No.87, Agriculture Department, dated 19.06.2009 against the petitioner, and for a direction to the first respondent to include the name of the petitioner in the appropriate place in the panel for promotion as Assistant Conservator of Forests, for the year 2008-2009 with retrospective effect on par with his immediate junior with all consequential benefits.

2. The case of the petitioner as given in the affidavit filed in support of this writ petition is that the petitioner joined the Respondent Department as Forest Ranger during the year 1984. Though he was eligible to be promoted as Assistant Conservator of Forest in the year 2008-2009, because of the punishment of Censure imposed on him by the second Respondent, his name was not included in the panel for promotion as Assistant Conservator of Forests, for the year 2008-2009. In fact, out of 6 charges levelled against him, the enquiry officer had held that only one charge namely Charge No.1 was proved. The charge No.I, which was held proved is extracted below:

Charge No.1: The estimate for 513 check dams were sanctioned up to Rs.5000/- per check dams to the tune of Rs.14.49 lakhs. But on actual observation at site it is seen that this type of work can be done within 60% of the cost i.e. Rs.3000/-. Hence, this type of work has not been done as per MDSS specifications.

The punishment of censure imposed by the Respondent Department is the effect of deferring his promotion for one year. Hence, he has filed this writ petition with the above said prayer, challenging the impugned order of punishment passed by the second Respondent.

3. Heard the learned counsel appearing for the petitioner and Mr. Abdul Saleem, the learned Additional Government Pleader appearing for the respondents and also gone through the documents available on record including the counter affidavit filed by the first Respondent.

4. The learned counsel appearing for the petitioner at the out set, would submit that out of six charges levelled against the petitioner, only one charge, as referred above, has been held to be proved by the enquiry officer. With respect of that, he would submit that an another Forest Ranger by name Mr. C. Rajendran, who was also similarly placed as that of the petitioner herein, and served with an order of punishment of censure, came before this Court by filing a writ petition in W.P.No.19668 of 2009, which was disposed of finally on 07.07.2011. The learned Judge, after duly following the Judgment of the Hon"ble Supreme Court, in Man Singh Vs. State of Haryana and Others, , and in due consideration of the facts, set aside the impugned order and allowed the said writ petition. Further, the order in W.P.No.19668 of 2009 dated 07.07.2011 passed by the learned single Judge of this Court, was considered by the respondent department and the punishment of censure imposed against the said Mr. C. Rajendran was duly cancelled by the respondent department vide G.O (D) No.37 Agriculture (AA6) Department, dated 29.02.2012. According to him, as the Forest Ranger, similarly placed as that of the petitioner has been given the benefit of cancelling the order of punishment of censure pursuant to the order passed by this Court in W.P.No.19668 of 2009 dated 07.07.2011, which has become final, there is no justification on the part of the respondent in denying the same benefit to the petitioner. According to him, the decision rendered by this Court in W.P.No.19668 of 2009 dated 07.07.2011 is squarely applicable to the case of the petitioner. Therefore, this writ petition has to be allowed.

5. However, the learned Additional Government Pleader appearing for the respondents while admitting the fact that the order of punishment of censure passed against Mr. C. Rajendran, Forest Ranger, similarly placed as that of the petitioner, has been set aside by this Court vide order dated 07.07.2011 made in W.P.No.19668 of 2009 and it was duly complied with by the respondents also by cancelling the punishment of censure vide G.O.(D) No.37, Agriculture (AA6) Department, dated 29.02.2012, he would only add that in so far as the punishment of censure imposed on the petitioner is concerned, the same could be set aside, but, with regard to request for promotion, on par with his immediate junior should be left with the department.

6. I have heard the rival submissions carefully. Admittedly, the case of the petitioner is similar to the case of Mr. C. Rajendran, Forest Ranger, who was served with an order of punishment of censure. The W.P.No.19668 of 2009, filed

by him, challenging the order of punishment of censure imposed against him by the respondents was also allowed by its order dated 7.7.2011. Consequent upon that the respondent vide G.O.(D) No.37, Agriculture (AA6) Department, dated 29.02.2012, has cancelled the said order of punishment of censure and he was given all consequential benefits. Paragraphs 3 and 4 of the said G.O are relevant for better appreciation, they are extracted below:-

3. The Hon"ble High Court of Madras in its order dated 07.07.2011 has ordered as follows:-

In the light of the above, the writ petition stands allowed and the impugned order stands set aside. However, with reference to the request for promotion made by the petitioner, for which a representation was made on 14.07.2009 (a copy of which is enclosed in pages 37 and 38 of the typed set), the respondents are directed to pass orders on the said request within a period of eight weeks from the date of receipt of copy of this order. However, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

4. The Government after careful examination decided to comply with the orders of the Hon"ble High Court of Madras, dated 07.07.2011 made in W.P.No.19668/2009 cancel the G.O (3D) No.86, Agriculture (AA6) Department, dated 19.06.2009, in which the punishment of "Censure" was awarded to Thiru. C. Rajendran, Forest Ranger, Veliar Project, Attur, Salem District.

7. Reference was also made to the charge against the petitioner as well as Mr. C.Rajendran, which are similar to that of the petitioner. Therefore, as rightly contended by the learned counsel for the petitioner, the decision rendered by this Court in W.P.No.19668 of 2009 dated 07.07.2011 would be squarely applicable to the case of the petitioner herein and all the benefits granted to Mr. C. Rajendran should also be extended to the petitioner. In my considered opinion the department itself ought to have done the same, without waiting for any orders from this Court. Having not done that, the impugned order of punishment of censure imposed by the respondent department on the petitioner is set aside. respondent herein is directed to extend the benefit of G.O.(D) No.37, Agriculture (AA6) Department, dated 29.02.2012 to the petitioner also.

8. In the result, the writ petition is allowed. The impugned order of punishment of censure imposed by the second Respondent in Government letter No. G.O. (3D) 87, Agriculture (Ve.Ni. 6) Department dated 19.06.2009 on the petitioner is set aside. Consequently, the respondents are directed to extend the benefit of G.O.(D) No.37, Agriculture (AA6) Department, dated 29.02.2012 to the petitioner within a period of two months from the date of receipt of copy of this order, so that the petitioner might be able to get the chance for inclusion of his name in the appropriate place in the panel for promotion as Assistant Conservator of Forests, on par with his immediate junior with all consequential benefits. No costs.