

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 10.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 29381 OF 2013

B.M.Bomman

.. Petitioner

- Vs -

The District Forest Officer cum
Deputy Director,
Anamalai Reserve Tiger,
Udumalai,
Thirupur Division.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the order in Proceedings Se.Mu.Aa.No.1576/2011/P dated 26.03.2012 passed by the respondent herein and quash the same and further direct the respondent to pay all monetary benefits and other consequential benefits.

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For Petitioner

: Mr. K.M.Ramesh

For Respondents

: Mr. S.Prabhu, AGP

ORDER

The petitioner was working in the respondent division. While serving thus, a charge memo was issued to the petitioner. The charge alleged against the petitioner is that the petitioner along with 11 Forest Watchers arrested one sandalwood smuggler at Periyasaympu Forests based on certain tip off and seized sandal woods and cell phones. However, since mahazar and 'H' Namoon were not record and the statement of the accused persons were not recorded, the charge memo was issued. The main charge was that the petitioner did not inform the incident to the higher authority, viz., respondent herein. The petitioner denied all the charges and, therefore, an enquiry was conducted on 04.07.2011 and the enquiry officer submitted his report, holding the charges proved. The petitioner was provided with the enquiry report on 05.03.2012 and his explanation was called for to which he submitted his final explanation on 19.03.2012. However, not satisfied with the said explanation, the respondent imposed punishment of stoppage of increment for three years with cumulative effect. Aggrieved by the said impugned order, the present petition has been filed.

2. Learned counsel appearing for the petitioner submits that the petitioner did not commit any offence as alleged by the prosecution. The learned counsel

further submitted that all the sandal woods are in the respondents custody and there is no loss incurred to the Government, and, therefore, imposition of major punishment is unwarranted as it will affect the pensionary benefits of the petitioner. It is the submission of the learned counsel for the petitioner that not only the petitioner alone is responsible, but equally, the other persons, who accompanied the petitioners were also responsible. However, no action has been taken against them. It is the further submission of the learned counsel for the petitioner that the enquiry report does not disclose the basis of the materials on which the enquiry officer has predicated his findings, and, therefore, leniency be shown to the petitioner.

3. Per contra, learned counsel for the respondent submits that the charges alleged against the petitioner are grave and that the same has been proved in the enquiry and, considering all the above facts, though dismissal from service could have been awarded, however leniently the present punishment has been awarded, which calls for no interference.

4. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

5. The facts in issue are not in dispute. The petitioner has taken umbrage under the explanation offered that he has walked for more than 25 kms into the forest for arresting the sandal wood smugglers and he got tired so that he could not perform his duty immediately. Though such a stand is taken by the petitioner in the explanation, however, no documents to substantiate the same has been placed either before the enquiring authority or before this Court to show that the petitioner has acted within the four corners of law and discharged his duties diligently. Further, the stand of the petitioner that he alone not responsible for all the charges alleged against him, is nothing but the last straw, which the petitioner is holding to absolve himself of the charges. The said stand of the petitioner is also not substantiated by any materials and mere averment without any reasonable explanation cannot be put in favour of the petitioner to grant the relief as sought for.

6. The enquiry officer has taken into consideration not only the conduct of the petitioner but also the materials placed before him and the absence of any materials to substantiate his side of the case by the petitioner has rightly arrived at the decision holding the petitioner guilty of the charges and the respondent

has rightly imposed the punishment, and in the absence of any substantiating material placed by the petitioner before this Court, this Court is of the considered view that no interference is warranted with the findings and the punishment imposed on the petitioner and, therefore, this petition is liable to be dismissed.

7. For the reasons aforesaid, the petition, being devoid of merits, is accordingly dismissed. However, in the circumstances of the case, there shall be no order as to costs.

10.07.2020

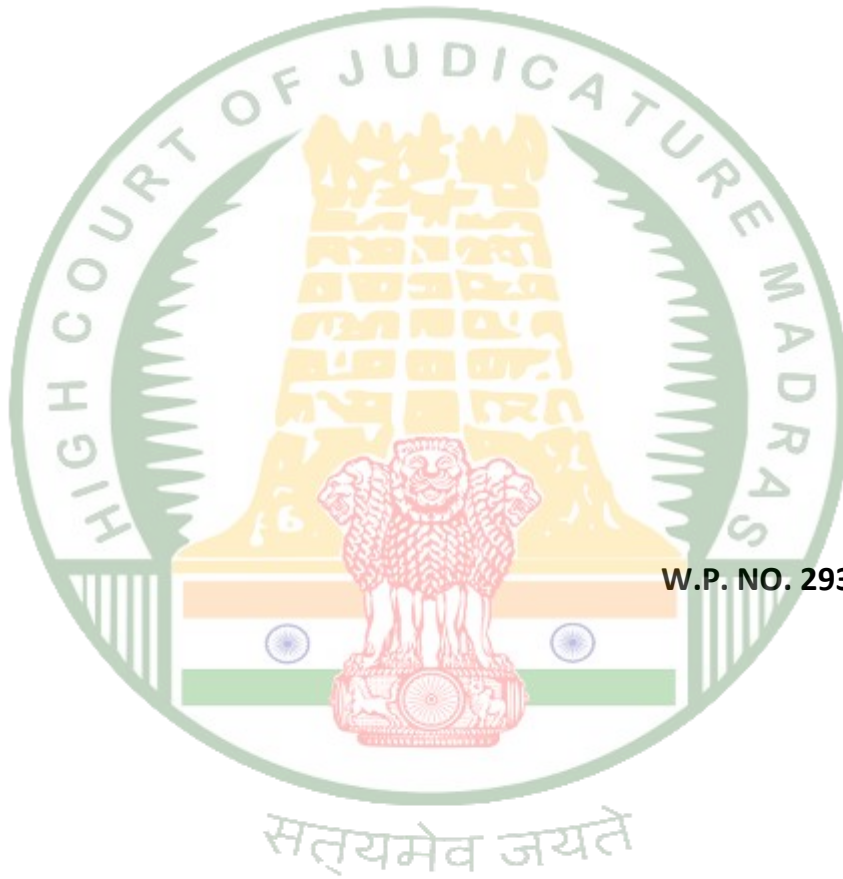
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To

The District Forest Officer cum
Deputy Director,
Anamalai Reserve Tiger,
Udumalai, Thirupur Division.

M.DHANDAPANI, J.

jrs/GLN



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