

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.40992 of 2006

G.Sundaram

... Petitioner

Vs.

- 1.The Principal Chief Conservator of Forest,
Chennai - 15.
- 2.The Conservator of Forests,
Coimbatore Circle, Coimbatore.
- 3.District Forest Officer,
Nilagiris South division,
Uthagamandalam. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records in [1] Pro.Na.Ka.No.21715/97/Pa.2 dated 27.02.1998 of the second respondent; [2] Proc.No.BB1/22835/2006 dated 14.06.2006 of the first respondent; [3] Me.Ku.Na.Ka.No.5948/94/Pa.1 dated 06.07.2006 of the third respondent, quash the same.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.K.K.Ramesh

Government Advocate (Forests)

O R D E R

The writ petition has been filed seeking issuance of Writ of Certiorari to call for the records in Pro.Na.Ka.No.21715/97/Pa.2 dated 27.02.1998 of the second respondent; Proc.No.BB1/22835/2006 dated 14.06.2006 of the first respondent; Me.Ku.Na.Ka.No.5948/94/Pa.1 dated 06.07.2006 of the third respondent and to quash the same.

2.The case of the petitioner is that he was initially appointed as Reserve Watcher and joined duty as such in the Forest Department on 12.04.1982 and was promoted as Forest Guard on 01.01.1991. Whiles, the third respondent issued charge memo dated 09.12.1994, initiating disciplinary proceedings under Rule

17 (a) of the Tamil Nadu Civil Services (D & A) Rules, alleging dereliction of duty in reporting about the fire accident that occurred in his jurisdiction on 16.03.1994. The petitioner submitted his preliminary explanation dated 04.01.1995 denying the charges. Thereafter, the third respondent on 18.05.1995 cancelled the charge memo dated 09.12.1994 and issued a fresh charge memo. The petitioner submitted his Explanation on 23.06.1995. Thereafter, the third respondent nominated an Enquiry Officer for conducting enquiry and thereafter the second respondent vide order dated 27.02.1998 imposed the penalty of recovery of a sum of Rs.19,524/- from the petitioner's pay in 19 monthly instalments at Rs.1000/- each and the 20th instalment at Rs.524/-.

3.It is the further case of the petitioner that aggrieved by the same, he preferred appeal dated 11.08.1998 to the first respondent and during the pendency of the said appeal, the amount was recovered from the petitioner's salary. Hence, the petitioner preferred original application in O.A.No.7865 of 1998 before the Tamil Nadu Administrative Tribunal and the Tribunal granted an order of interim stay. On abolition of the Tribunal, the original application was transferred to the file of this Court and re-numbered as W.P.No.32035 of 2005 and this Court vide order dated 03.03.2006 directed the Appellate Authority to dispose of the appeal and further held that the order of interim stay granted by the Tribunal shall continue to operate till the disposal of the appeal. Thereafter, the first respondent vide order dated 14.06.2006 rejected the petitioner's appeal and subsequently, the order dated 06.07.2006 of the third respondent instructing the Forest Ranger, Uthagamandalam South Range to effect recovery came to be passed. Hence, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner would submit that the respondents failed to follow the procedure contemplated in Rule 18 of the Tamil Nadu Civil Services (D & A) Rules. The petitioner was not furnished with the copy of the enquiry report and was not called for to give his further representation on the enquiry report. However, without giving opportunity to the petitioner, the penalty was imposed on the petitioner. Hence, the impugned orders are not sustainable and are in violation of the principles of natural justice. Accordingly, he prayed for allowing the writ petition.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.Perusal of the records would disclose that the petitioner was initially appointed as Reserve Watcher and joined duty as such in the Forest Department on 12.04.1982 and was promoted as Forest Guard on 01.01.1991. Whiles, the third respondent has

issued charge memo dated 09.12.1994, initiating disciplinary proceedings under Rule 17 (a) of the Tamil Nadu Civil Services (D & A) Rules, alleging dereliction of duty in reporting about the fire accident that occurred in his jurisdiction on 16.03.1994, thereby causing loss to the Government. After conducting enquiry, the second respondent vide order dated 27.02.1998 imposed the penalty of recovery of a sum of Rs.19,524/- from the petitioner's pay in 19 monthly instalments at Rs.1000/- each and the 20th instalment at Rs.524/-.

7.Perusal of the records also disclose that the petitioner has paid the penalty imposed on him as early as on 19.08.2006 itself. Since the entire amount has already been paid by the petitioner and in the absence of any material to establish that the order of the Disciplinary Authority as well as the Appellate Authority is perverse or arbitrary, this Court is not inclined to interfere with the impugned orders under Article 226 of the Constitution of India.

8.The writ petition is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Chief Conservator of Forest,
Chennai - 15.

2.The Conservator of Forests,
Coimbatore Circle, Coimbatore.

3.The District Forest Officer,
Nilagiris South division,
Uthagamandalam.

+1cc to M/s.M.Ravi, Advocate SR.No.42860
+1cc to Special Government Pleader Sr.No.42055

RSK(CO)
sm:17.7.2018

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