

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.A.No.2283 of 2018
and
C.M.P.No.18247 of 2018

Lakshmanan ... Appellant/Petitioner

Vs.

The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai - 600 015. ...Respondent/Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order of this Court dated 30.10.2017 in W.P.No.25104 of 2012.

Prayer in WP No.25104 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari mandamus Calling for the records of the respondent in connection with the impugned Charge Memo issued by the respondent No.11007-05 (P) 04/11/2009 and quash the same and direct the respondent to convert the Charge Memo issued under Rule 17(b) into one of 17(a) of TNCS (D&A) Rules

For Appellant : Mr.K. Venkatramani
Senior Counsel
for Mr.Muthappan

For Respondent : Mrs.A. Srijayanthi
Special Government Pleader

JUDGMENT

(Order of the Court was made by K.K.SASIDHARAN, J.,)

The respondent initiated disciplinary proceedings against the appellant invoking Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The appellant in his explanation to the charge memo took up a specific contention

that the charges would not amount to a misconduct within the purview of Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. However, there was no action taken by the respondent to consider the said explanation for conversion of charge. The appellant therefore filed a Writ Petition challenging the very charge memo. The Writ Petition was dismissed by the learned Single Judge. Feeling aggrieved, the appellant has come forward with this Writ Appeal.

2.The learned Senior Counsel has taken up a contention that the materials produced by the respondent would not substantiate the claim that the charge memo would fall within the purview of Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

3.The respondent on the basis of the materials collected against the appellant initiated disciplinary action invoking Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The appellant has taken up a specific contention in his explanation to the charge memo that only a charge under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules would be attracted for the misconduct mentioned in the memo and therefore prayed the respondent to convert the charge memo into one under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

4.After hearing the learned Senior Counsel and the learned Special Government Pleader, we are of the view that interest of justice will be sub-served by directing the respondent to consider as to whether the charge memo is liable to be converted into one under 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. We make it clear that it is for the respondent to consider the said issue on merits and as per law.

5.The order passed by the learned Single Judge in W.P.No.2510 of 2012 is set aside with a direction to the respondent to consider the plea for conversion as indicated above on merits. Such exercise shall be completed by the respondent within a period of two (2) months from the date of receipt of a copy of this Judgment.

6.It is needless to point out that it is open to the appellant to produce relevant Government guidelines/instructions in support of the contentions that charges under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules alone would lie. The further proceedings pursuant to the charge memo should be kept pending till a decision is taken in the matter with regard to conversion.

The Intra Court Appeal is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

mps

To

The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai - 600 015.

+1cc to Government Pleader.SR.No.54072

+1cc to Special Government Pleader (Forest) .SR.No.53063

W.A.No.2283 of 2018
and C.M.P.No.18247 of 2018

NMI (CO)
GMY (13/08/2019)

सत्यमेव जयते
WEB COPY