



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.10.2019
CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.21169 of 2019

and

W.M.P (MD)Nos.17804 & 17805 of 2019

K.Sekar

... Petitioner

Vs.

1. The Chief Conservator of Forests and
Field Director,
Kalakad Mundandurai Tiger Reserve,
Tirunelveli.

2. The Commissioner,
Tribunal for Disciplinary Proceedings,
4/929, Rahmath Nagar,
40 Feet Road, Maharajanagar Post,
Tirunelveli.

... Respondents

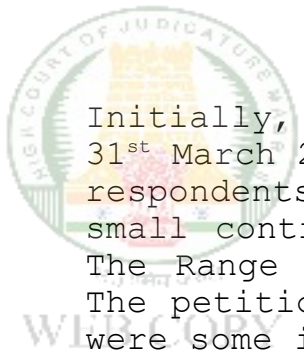
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the second respondent made in R.O.C.No.A2/208/2014 TDP No.5/2014 dated 18.11.2014 and quash/set aside the same and pass such other or further orders.

For Petitioner : M/s.Selvi George
For Respondents : Mr.S.Dhayalan,
Government Advocate

ORDER

This writ petition is filed challenging the order of the second respondent in R.O.C.No.A2/208/2014 TDP No.5/2014 dated 18.11.2014.

2. According to the petitioner, initially, he was appointed as Junior Assistant in the Forest Department on 27.01.1997 and thereafter, he was appointed as a Forest Range Officer on 10.11.2000 and promoted as Assistant Conservator of Forest on 26.09.2011. Subsequently, he was promoted as Deputy Conservator of Forests and posted as a Deputy Director-cum-Wild Life Warden, Kalakad Tiger Sanctuary, Tirunelveli. While he was working as Deputy Director-cum-Wild Life Warden, Kalakad Tiger Sanctuary, Tirunelveli, Gully Plugging works were undertaken in Kalakad and Tirukarunkudi Ranges, financed by the Western Ghat Development, to prevent soil erosion.



Initially, tender was floated by completing the same on or before 31st March 2012. No tenders were received from the Contractors. The respondents decided to complete the work by awarding the work to the small contractors. Thirty works were given to local contractors. The Range Officer supervise the work and the same were completed. The petitioner inspected execution of the work and found that there were some irregularities and excess payments were made by the Forest Ranger. Based on the proceedings initiated by the petitioner, excess amounts paid by the Forest Ranger were recovered by them. While so, the second respondent issued a charge memo, dated 18.11.2014, to the petitioner as well as to one Manimaran Forest Ranger. The petitioner is innocent and has not committed any misconduct. In the year 2015, the petitioner filed writ petitions in W.P.(MD)No.11325 of 2016 to challenge the vires of Rules 4 and 5 of Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, and sought for a declaration that the same are null and void and in W.P.(MD).No.11352 of 2016 challenging G.O(Ms)No.10, Personnel and Administrative Reforms (N) Department, dated 02.02.2016 and W.P (MD)No.11698 of 2016 to include his name in the panel of Assistant Conservator of Forests fit for promotion as Deputy Conservator of Forests for the panel year 2015-2016 and promote the petitioner as Deputy Conservator of Forests/District Forest Officer recognizing his seniority in the cadre of Assistant Conservator of Forests and in W.P.(MD)No.11327 of 2016 challenging the impugned proceedings of the second respondent issued in ROC. No.A2/208/2014 TDP No.5 of 2014, dated 18.11.2014. All the four writ petitions were heard together by the Division Bench as Vires of the Rules was challenged by the petitioner. The Division Bench of this Court, by order dated 03.08.2018, dismissed three writ petitions except W.P.(MD)No.11327 of 2016 filed by the petitioner to quash the charge memo dated 18.11.2014, and directed the respondents therein to continue with the investigation and complete the same as expeditiously as possible in any event, within a month. Even though, the said order was passed on 03.08.2018, the respondents have not completed the investigation. Therefore, the present writ petition challenging the very same charge memo is maintainable. Meanwhile, Mr.A.Manimaran, who is the second charge officer, filed a writ petition in W.P(MD) No.3975 of 2015 to quash the very same charge memo. This Court, by order dated 25.04.2019, quashed the said charge memo. The said order passed in the writ petition in W.P.(MD)No.3975 of 2015, is applicable to the petitioner also. Thereafter, the petitioner has given a representation to the respondent on 30.08.2019. The respondents have not passed any orders on the representation and hence, he has come out with the present writ petitionn.

3. Mr.S.Dhayalan, learned Government Advocate contended that the charge memo against A.Manimaran was quashed on the ground of double jeopardy. Earlier, the petitioner was issued with charge memo along with said Manimaran and amounts were recovered from the said Manimaran. Earlier, writ petition filed by the petitioner for



dismissed by this Court on 03.08.2018 and hence, the present writ petition is not maintainable and prayed for dismissal of the writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

5. From the materials on record, it is seen that the petitioner filed a writ petition in W.P.(MD)No.11327 of 2016 to quash the charge memo impugned in the present writ petition. A Division Bench of this Court on 03.08.2018', dismissed the writ petition along with other three writ petitions filed by the petitioner. The contention of the learned counsel for the petitioner is that earlier writ petition for the very same relief was not dismissed by the Division Bench of this Court, is contrary to the facts. The contention of the learned counsel for the petitioner that very same charge memo in respect of second accused is quashed and therefore, the petitioner is also entitled for the same relief, is without merits. This Court quashed the charge memo against the said Manimaran on the ground that the charge memo issued to Manimaran is second charge memo and it amounts to double jeopardy as amounts were recovered from the said Manimaran for the excess amount paid by him. The petitioner was not issued any charge memo earlier as in the case of Manimaran. Further, in W.P.(MD)No.11327 of 2018 filed by the petitioner, to quash the said charge memo impugned in the present writ petition was dismissed by the Division Bench of this Court. The petitioner cannot compare himself with Manimaran as the case of Manimaran stands on a different footing. In view of the dismissal of W.P(MD) No.11327 of 2018 filed by the petitioner, by the Division Bench of this Court challenging the impugned charge memo, the present writ petition is not maintainable.

6. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

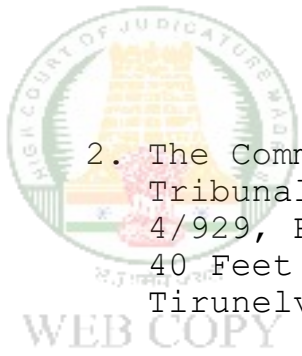
Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

To

1. The Chief Conservator of Forests and
Field Director,
Kalakad Mundandurai Tiger Reserve,
Tirunelveli.



2. The Commissioner,
Tribunal for Disciplinary Proceedings,
4/929, Rahmath Nagar,
40 Feet Road, Maharajanagar Post,
Tirunelveli.

+1 CC to Mr.T.PON RAMKUMAR, Advocate (SR-93379[F] dated
21/10/2019)

+1 CC to SPL GP (SR-93502[F] dated 22/10/2019)

W.P. (MD) No.21169 of 2019

21.10.2019

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