



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.6361 of 2012

and

M.P(MD)Nos.1 and 2 of 2012

Perumal

.. Petitioner

.Vs.

1.The Government of Tamilnadu,
Rep. by its Principal Secretary,
Environment and Forest Department,
Secretariat, Chennai -9.

2.The Principal Chief Conservator of Forests,
kolappakkam, Chennai - 600 048.

3.The Tribunal for Disciplinary Proceedings,
Madurai.

.. Respondents

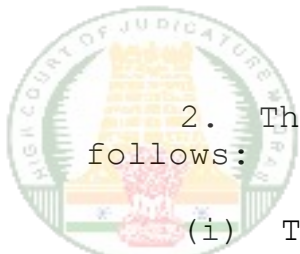
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned orders passed by the second respondent in Se.Mu.Aa.No.T2/37395/02-2, dated 21.10.2010 and the order passed by the first respondent in G.O.3D.No.12, Environment and Forest Department, dated 25.01.2012, quash the same.

For Petitioner :Mr.M.Siddharthan,

For Respondents :Mr.C.Ramar,
Additional Government Pleader

ORDER

This Writ Petition has been filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the second respondent in Se.Mu.Aa.No.T2/37395/02-2, dated 21.10.2010 and the order passed by the first respondent in G.O.3D.No.12, Environment and Forest Department, dated 25.01.2012, quash the same.



2. The brief facts of the case of the petitioner are as follows:

(i) The petitioner was working as a Forest Guard in the Rasingapuram Beat, Uthamapalayam Range. While so, the Government by taking financial assistance from Japan, took up the aforestation project by which, forest plantations were made and streams were made to increase the underground water and therefore, grazing the cattle by private persons were not allowed by the forest officials. The said team was leaded by the Forest Ranger Annakodi and took the charge of detecting the offence and and more than 124 forest crimes were registered against private persons and more than Rs.1 lakh was collected as fine for allowing the cattle to graze. So, those affected people gave a complaint before the Vigilance and Anti-corruption Department and after a period of four years, the Vigilance and Anti-Corruption people filed a case against the petitioner and four officials. Five charges were framed by the third respondent and the petitioner was arrayed as accused No.3 and charge memo was issued on 14.12.2007, after a period of nearly six years from the date of alleged incident. Thereafter, the petitioner was transferred to different places.

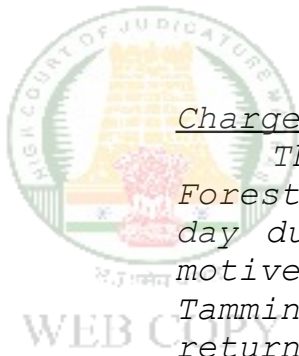
(ii) Subsequently, the petitioner sent a detailed reply and thereafter, the Enquiry Officer submitted his report on 03.03.2009 without considering the petitioner's reply and based on the report, the Disciplinary authority, passed an order postponing the petitioner's increment for a period of one year with cumulative effect.

(iii) Thereafter, the petitioner filed an appeal before the first respondent narrating all the facts and circumstances of the case, however, the same was rejected. Hence, the petitioner has come up with the present writ petition.

3. The second respondent filed a counter affidavit stating as follows:

(i) Based on appropriate Enquiry Authority, investigation report was filed against certain Forest Officials for having harassed the cattle rearing persons of Thamminaiekanpatty and T.Pudukottai Village and for having demanded bribe from them for not booking any case against them as they had grazed their cattle in Rasingapuram and Devaram Forest areas. The first respondent placed the petitioner along with other Forest Officials before the third respondent Tribunal for Disciplinary Proceedings, Madurai, for conducting enquiry as contemplated under Tamil Nadu Civil Service (Disciplinary Proceedings Tribunal) Rules 1955.

(ii) There are five charges framed against the petitioner. The charges are as follows:



Charge:-1.

Thiru P.Perumal (Accused Officer-3) while working as Forest Guard, Rasingapuram Beat, Uthamapalayam Range in a day during the month of November 2001 activated by corrupt motive secured one Tr.C.Rajendran, S/o.Chinnasamy Naicker, Tamminaickenpatty near Sholanaickenpatty, while he was returning home along with his bulls and cows, after pasturing his cattle in a patta land near Ponkundram Hills alleging that he was grazing cattle in the forest land and threatened to register a false case against him under Forest Act and received Rs.3,500/- as bribe from Tr.C.Rajendran and released him without registering any case.

Charge: - 2.

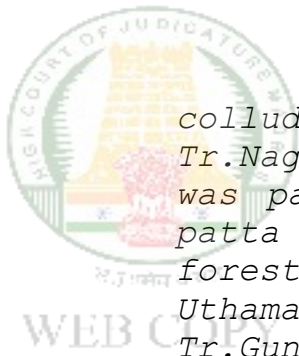
Thiru.P.Perumal (Accused Officer-3) in a day during the month of October 2001 colluded with Thiru.S.Annakodi, (Accused Officer-1) and Tr.K.Paul Pandian, (Accused Officer - 2) with corrupt motive secured one Surulinathan, S/o.Raju Gounder, Thamminaickenpatty, he was pasturing his herd of sheep near Ponkundram Hills in a patta land, after alleging that he was grazing sheep in the forest land and took him to Uthamapalayam, the Accused Officers were intercepted by Tr.Perumal the owner of the sheep and enquired the matter, the Accused Officers Tr.S.Annakodi and Tr.P.Perumal demanded Rs.5000/- as bribe for not registering any Forest case and released Tr.Surulinathan as Tr.Perumal undertook for the same. On the next day, Thiru.K.Paulpandian (Accused Officer-2) and Thiru.P.Perumal (Accused Officer-3) received the bribe amount of Rs.2,000/- from Thiru.Perumal on the direction of Thiru.S.Annakodi (Accused Officer-1).

Charge:-3.

Thiru.P.Perumal, (Accused Officer-3) in a day during the month of October 2001 colluded with Tr.S.Annakodi (Accused Officer - 1), and Tr.K.Paul Pandian, (Accused Officer - 2) colluded with each other and with corrupt motive secured one Tr.Gunasekaran, S/o.Kamaraj while he was pasturing his herd of sheep near Rasingampuram Beat, Uthamapalayam Range, in a patta land, after alleging that he was grazing sheep in the forest land and wrongfully confined in Akbar Tourist Home, Uthamapalayam and demanded Rs.5,000/- as bribe for not registering any case against him under Forest Act.

Charge-4:

Thiru.P.Perumal (Accused Officer-3), Thiru.S.Annakodi (Accused Officer - 1) and Thiru K.Paul Pandian, (Accused Officer -2) in a day during the month of September 2001



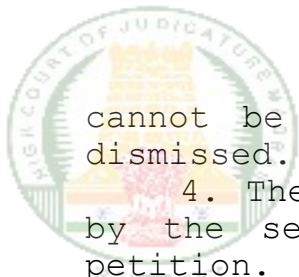
colluded with each other with corrupt motive secured one Tr.Nagarajan, S/o.Bomminaiker, Tamminaickenpatty, while he was pasturing his herd of sheep near Ponkundram Hill in a patta land, after alleging that he was grazing sheep in the forest land and wrongfully confined in Akbar Tourist Home, Uthamapalayam and demanded Rs.5,000/- as bribe from one Tr.Gunasekaran, S/o.Kamaraj, a close relative to Nagarajan for not registering any case against him under Forest Act and accepted Rs.3,500/- from T.Gunasekaran and released Tr.Nagarajan without registering any case against him.

Charge-5:

Thiru.P.Perumal(Accused Officer-3) while working as Forest Guard, Rasingapuram Beat, Uthamapalayam Range in a day during the month of December 2001 activated by corrupt motive secured one Tr.Chellasley, S/o.Bommiyasamy Naicker. T.Pudukottai, while he was pasturing his herd of sheep, near Amborappan Temple in a patta land, after alleging that he was grazing sheep in the forest land and took him Uthamapalayam. While they were waiting at Rasingapuram Bus Stop Tr.Rangasamy, S/o.Paramasiva Naicker, T.Pudukkotai, the owner of the sheep came and questioned the matter. The Accused Officer-3 demanded Rs.5,000/- as bribe from Tr.Rangasamy and released Tr.Chellasley without registering any case against him.

Thus Thiru.P.Perumal(Accused Officer-3, for the above said overacts, has failed to maintain the integrity, devotion to duty and unbecoming of Government Servant and thereby violated Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules 1973.

The petitioner in his reply dated 24.02.2009 to the Enquiry Officer and also in his final explanation dated 16.03.2010 to the enquiry report, has not given any fresh point to consider and only he has repeatedly narrated the incident. There is a clear evidence to implicate the petitioner and his involvement is clearly proved. Based on the explanation of the petitioner and based on the records arrived at a conclusion that three charges are proved against the petitioner and for the proved charge, punishment of postponing the next increment of the petitioner for a period of one year with cumulative effect was issued in proceedings No.T2/37395/2002-2 dated 21.10.2010. Against the said order, the petitioner preferred an appeal with the first respondent on 31.12.2010. The first respondent after going through the records issued final orders vide G.O.(3D)No.11, Environment and Forest (FR9A) Department, dated 25.01.2012 rejecting the appeal petition on the ground that the appellant has not given any fresh point to absolve the petitioner from the charges. Hence, the prayer sought for by the petitioner



cannot be granted and hence, the writ petition is liable to be dismissed.

4. The respondents 1 and 3 adopted the counter-affidavit filed by the second respondent and prayed for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

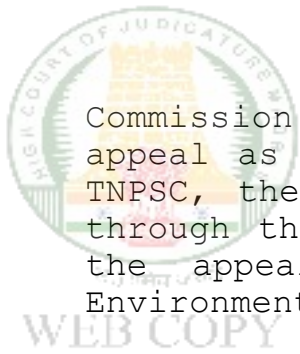
6. It is seen that there are five charges framed against the petitioner herein, for accepting money from the persons with corrupt motive, who were all grazing the cattle in the forest land or in the patta land, for not registering any case against them under the Forest Act and proceedings were initiated against one P.Perumal(A-3), one A.Annakodi(A-1), one K.Paul Pandian(A-2) during the period of 2001. The charges were denied by the petitioner and he sent an explanation to the respondents.

7. Further, it is seen that the Enquiry Officer has found that no fresh materials have been produced by the petitioner for consideration and the petitioner keep on urging the same by narrating the incident. The final explanation of the petitioner was obtained and after going through the enquiry report and the explanation of the petitioner, the disciplinary authorities have come to the conclusion that the charges were proved against the petitioner and for the proved charges, punishment of postponing the next increment of the petitioner for a period of one year with cumulative effect was issued in proceedings No.T2/37395/2002-2 dated 21.10.2010.

8. On going through the oral and documentary evidence, it is made clear that the petitioner herein had taken money from the persons, who were all grazing their cattle. For example, the petitioner demanded Rs.5,000/- from one Rangasamy and released him without registering a case against him. The petitioner was not in a position to prove beyond doubt that he was not involved in such charges.

9. In such circumstances, the charges were proved and as per Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules, 1973. The petitioner has not acted in a proper manner and has violated the conditions of service and hence, such punishment was awarded. The petitioner has filed an appeal against the order of the second respondent to the first respondent on 31.12.2010. The first respondent has referred the matter to the TNPSC as per Rule 18 (1)(a) of the Tamil Nadu Public Service Commission Regulation 1954.

10. The Commission after considering the materials available that the petitioner was pinpointed by the witnesses and a clear witnesses were shown to implicate the petitioner in the said crime, held that the charges were proved. As all the poor persons, who were all grazing their cattle were made to suffer in the hands of the petitioner, who has demanded more money as bribe, the



Commission did not show any sympathy and advised to dismiss the appeal as devoid of merits. On receipt of said report from the TNPSC, the first respondent has viewed the matter and after going through the explanation received from the petitioner, had rejected the appeal and passed the impugned order in G.O(3D) No.11, Environment and Forest (FR 9A) Department dated 25.01.2012.

11. It is seen from the materials available that the enquiry report shows that various officials have harassed the poor cattle rearer and abused them by using their official power and had demanded and accepted money as bribe for not registering the case against them as they were all grazing their cattle and disciplinary proceedings were initiated as per the Rules and there is no violation of principles of natural justice pleaded.

12. The petitioner's contention is that A-1 in this case was allowed to retire was negatived by the respondents herein by stating that the statement of the petitioner is not correct and the said accused is still kept under suspension and the charge sheet issued against him is not yet finalized.

13. It is also further seen from the materials that the allegation against the petitioner that he has demanded and accepted money has been proved beyond doubt and explanation of the petitioner was not accepted based on the records available and evidences available. The reason for rejection of the appeal was by way of a speaking order.

14. It is needless to say that the Government Servants are bound by their Service Rules especially, when they are in a public services that too in Uniformed Services. In this case, poor people have been harassed by the petitioner and others and he had demanded money from them, which will not be accepted by this Court. Accordingly, the punishment awarded is not a major punishment and it is only a minor punishment viz., postponing of increment for a period of one year with cumulative effect is appropriate when the charges have been proved against the petitioner beyond reasonable doubt. That being the case, there is no interference needed by this Court to review the said order passed by the Government.

In the result, the writ petition is dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Principal Secretary,
Government of Tamilnadu,
Environment and Forest Department,
Secretariat, Chennai -9.

2.The Principal Chief Conservator of Forests,
kolappakkam, Chennai - 600 048.

3.The Tribunal for Disciplinary Proceedings,
Madurai.

+1 CC to M/s.P.KALAIYARASIBHARATHI, Advocate (SR-11569[F] dated
13/03/2020)

+1 CC to M/s.SPL.GP (SR-11783[F] dated 16/03/2020)

W.P(MD)No.6361 of 2012

12.03.2020

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