



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 10.07.2020

DELIVERED ON : 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P. (MD)No.3754 of 2013

and

M.P. (MD) .No.2 of 2013

S.Ganesan

.. Petitioner

-vs-

1.The Commissioner,
Department of Rural Development and Panchayat Raj,
Panagal Maligai,
Saidapet, Chennai-15.

2.The District Collector,
Pudhukottai District,
Pudukottai.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.36101/2012/TBC.3-1, dated 08.02.2013 confirming the order passed by the second respondent in his proceedings in Na.Ka.P3/15100/2008 (Development), dated 13.03.2012 and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

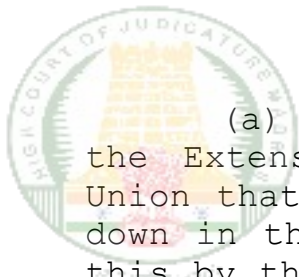
For Respondents : Mr.D.Muruganandam
Additional Government Pleader

ORDER

The writ petition has been filed by the petitioner for the issuance of a Writ of Mandamus, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.36101/2012/TBC.3-1, dated 08.02.2013 confirming the order passed by the second respondent in his proceedings in Na.Ka.P3/15100/2008 (Development), dated 13.03.2012 and quash the same as illegal.

2. The factual matrix of the case are as follows:

<https://hcservices.ecourts.gov.in/hcservices/>



(a) A note was submitted to the Block Development Officer by the Extension Officer (Administration) of Manamelkudi Panchayat Union that two live trees namely teak wood and neem tree were cut down in the Panchayat Union Office premises, while enquired about this by the Block Development Officer, Manamelkudi Panchayat Union with the watchman, it was reported that those trees were cut down by Thiru. S.Ganesan, who is working as Assistant in Manamelkudi Panchayat Union.

(b) Based on the note, draft charge memo was prepared by the Block Development Officer, Manamelkudi Panchayat Union and submitted to the Collector for framing of charges against the applicant Thiru. S.Ganesan, Assistant, Manamelkudi Panchayat Union for his miscreant activity of cutting down two live trees, namely, one Neem Tree worth about Rs.1000/- and one Teakwood tree worth about Rs.3000/- from the premises of Panchayat Union without getting necessary permission from the authorities concerned.

(c) In continuation to the letter cited above, a complaint addressed to the District Collector, Pudukkottai from the public of Manamelkudi Panchayat stating the said miscreant activity and the same has been received from the Directorate of Rural Development and Panchayat Raj, Chennai with a request to send the factual report for the said occurrence. Based on the complaint against the petitioner from the public, the Block Development Officer, Manamelkudi Panchayat Union was requested to conduct a detailed enquiry about the said occurrence and send the factual report together with the revised draft charge memo for framing of charges against the petitioner.

(d) Based on the factual report of the Block Development Officer, Manamelkudi Panchayat Union, dated 07.01.2009 and 08.07.2009 and after ascertaining the factual report from the Block authorities, due procedure was followed and charges were framed against the petitioner, under Rule 17(b) of TNCS(D&A) Rules, dated 13.09.2009 for the alleged miscreant activity of illegality owning the Government asset.

3. Charge Memo was issued by the second respondent was duly served and he has also submitted his explanation. Enquiry Officer was appointed and he has conducted enquiry. The said Charge Memo of the second respondent dated 13.09.2009 was served on 29.09.2009. The petitioner has submitted his explanation on the said charges on 28.10.2009. As per Rule 17(b) of TNCS(D&A) Rules, and on the basis of explanation submitted by the petitioner, an enquiry was ordered to be held and an Enquiry Officer was appointed. As per the request of the Enquiry Officer and in addition to the enclosures of the second respondent proceedings dated 17.12.2009, Manamelkudi Panchayat Union original record



to enquiry into the allegations against the said petitioner. The place and date of enquiry was duly intimated to the petitioner. The Enquiry Officer has submitted his enquiry report on 27.10.2010. The copy of the enquiry report was communicated to the petitioner and the petitioner has submitted his further explanation on the Enquiry Officer's report, dated 26.05.2011.

4. The Disciplinary Authority has imposed punishment of stoppage of increment of six months with cumulative effect and the same was confirmed by the Appellate Authority. Hence this writ petition.

5. The learned counsel appearing for the petitioner submitted that both the Disciplinary Authority and the Appellate Authority have not applied their mind or assigned any specific reason for imposing the punishment and there is no annexure to the charge memo given list of witnesses and alleged factum of delinquency has not proved in the manner known to law.

6. Per contra, the learned Additional Government Pleader appearing for the respondents would contend that of list of witnesses are annexed in the charge memo and they will not vitiate the entire proceedings and three witnesses have been examined. The petitioner was been given fair success of cross examination and he has not chosen to cross-examine those witnesses and the factum of the charges have been duly deposed by three departmental witnesses. Based upon the oral version of the departmental witnesses, the Disciplinary Authority, namely, the District Collector, Pudukkottai has rendered a finding that the petitioner herein has cut and removed two tress from the Office complex and held that the charges were proved and the punishment was imposed namely stoppage of increment for six months, which is very nominal for the charges and he made submission in support of the order passed by the Authority.

7. The learned counsel for the petitioner has relied upon the following Judgments:

(i) the Judgement of the Hon'ble Supreme Court in the case **Bilaspur Raipur Kshetriya Gramin Bank Vs. Madanlal Tandon** in **Civil Appeal No.4467 of 2015** dated 15.05.2015;

(ii) the Judgement of the Hon'ble Supreme Court in the case of **State of Uttaranchal & others Vs. Kharak Singh** in **Civil Appeal No.4531 of 2007** dated 13.08.2008;

(iii) the Judgement of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh & others Vs. Saroj Kumar Sinha** in **Civil Appeal No.254 of 2008** of 2015

<https://hcservices.ecourts.gov.in/hcservices/> dated 02.02.2010 ; and



(iv) the order of this Court in the case of **V.P.Chellappa Vs. The Superintending Engineer, Tamil Nadu Electricity Board, Dharmapuri and two others**, in **W.P.No.15608 of 2001** dated, 09.11.2009.

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8. On perusal of records, it is seen that in the Annexure-4 of the Charge Memo, list of persons and the document relied upon were mentioned. It is the case that the petitioner had cut and removed one Teak wood and one Neem wood tree standing in the Panchayat Union Office premise. Based upon the complaint given by the public and also based upon the report submitted by the Block Development Officer, disciplinary proceedings has been initiated. I find the due procedure has been followed in service of the Charge Memo and also conduct of the enquiry. The petitioner has attended the personal enquiry on 04.01.2002 and he was also furnished with the statement and hence I find that there is a substantial compliance of principles on natural justice. Form-4 annexed with charge is sufficient to give information about the document and the persons connected therewith going on to be examined during the enquiry. Based upon the independent report of the Block Development Officer, the enquiry officer has held that the charges are proved and accordingly, the Disciplinary Authority has imposed punishment of stoppage of increment for six months with cumulative.

9. Considering the gravity of the charge, the punishment inflicted is found to be inconsumerate with the gravity of the charge and hence I do not find any reasons to interfere and accordingly, this Writ Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

To
1.The Commissioner,
Department of Rural Development and Panchayat Raj,
Panagal Maligai,
Saidapet, Chennai-15.



2.The District Collector,
Pudhukottai District,
Pudukottai.

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+1 CC to M/s.GP (SR-13636[F] dated 05/08/2020)

**ORDER MADE IN
W.P. (MD) No.3754 of 2013
04.08.2020**

srk(CO)
TR(13.08.2020) 5P 4C