

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4493 of 2021

1. Gajanand Singh Thakur S/o Late Shri Anjor Singh Thakur Aged About 64 Years Occupation Retired Forest Ranger, Regular Range Dhawalpur, Forest Division Gariyaband, District Gariyaband (Chhattisgarh), R/o Village And Post Nagri, Junglepara, Nagri, Tehsil Nagri, District Dhamtari (Chhattisgarh).

---Petitioner(s)

Versus

1. State Of Chhattisgarh Through Secretary, Forest And Climate Change Department, Government Of Chhattisgarh, Aranya Bhawan, North Block, Sector 19, Nava Raipur, Atal Nagar, District Raipur (Chhattisgarh).
2. The Principal Chief Conservator Of Forest Chhattisgarh Aranya Bhawan Sector 19, Atal Nagar, Nava Raipur, District Raipur (Chhattisgarh).
3. The Additional Chief Conservator Of Forest Chhattisgarh Aranya Bhawan Sector 19, Atal Nagar, Nava Raipur, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
4. Chief Conservator Forest Raipur Circle District Raipur (Chhattisgarh)
5. Divisional Forest Officer Gariyaband Division District Gariyaband (Chhattisgarh), District : Gariyabandh, Chhattisgarh

---Respondents

For Petitioner	:	Shri Himanshu Pandey, Advocate.
For State	:	Shri Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02.09.2021

1. The proceeding further with the charge sheet that was issued on 02.07.2019, is what is under challenge in the present writ petition.
2. The facts of the case is that the petitioner in the present writ petition has retired from the services of the respondents on the post of Forest Ranger w.e.f. 30.06.2017. Two years after his retirement the petitioner was issued with a charge sheet on 02.07.2019 alleging certain irregularities and alleged misconduct committed by the petitioner in the course of discharge of his duties. The department along with charge sheet has issued a list of documents and list of witnesses, however, the list of documents were not supplied to the petitioner along with the charge sheet. This led to the filing of a writ petition by the petitioner before this court vide WPS No.10723 of 2019. The said writ petition came up for hearing on 19.12.2019 and this

court disposed of the writ petition making the following observations and interim protection:

“3. Perusal of the documents shows that in any case if charge sheet has been served on the basis of certain documents then in order to ascertain the role of the petitioner himself, he must be allowed to go through the documents. Therefore, following the principle of natural justice, the petitioner is entitled to get entire set of documents which has not been supplied to the petitioner. Consequently, the respondents are directed to supply the entire set of documents, which are relied on charge sheet as early as possible. The petitioner, if, so advised shall be at liberty to seek further redressal after verifying the documents.

4. In the meanwhile, till the documents are supplied the departmental enquiry shall not be proceeded with.”

3. Subsequent to the disposal of the writ petition the respondents have now again issued the petitioner with certain documents vide Annexure P/4 dated 23.01.2020, however, many of the documents reflected in the list of documents along with charge sheet were not supplied to the petitioner for the reasons mentioned in the said documents itself. It is here that the petitioner is aggrieved of stating that once when the High Court had already directed them to provide all documents, the respondents were duty bound to provide all the documents which they have cited along with charge sheet or else the petitioner would find it difficult to defend himself in the departmental enquiry particularly since he is a retired employee and does not have too much of access of government documents.
4. The department also meanwhile has quantified the loss caused on account of the alleged irregularities and have reached to the conclusion that loss caused to the department on account of the said alleged irregularities come to an amount of Rs.1,35,720/- and of which the amount

which falls in the share of the petitioner and which deserves to be recovered comes to Rs.47,502/-.

5. This again the counsel for the petitioner submits that there is no proper quantification available to reach to the said amount and moreover this amount was not disclosed in the charge sheet and the respondent authorities thereby cannot be permitted to proceed with the disciplinary enquiry on charges which are not reflected in the charge sheet.
6. Be that as it may, considering the order passed by this Court on 19.12.2019 in WPS No.10723 of 2019 particularly when there is a specific direction for providing the entire set of documents along with the charge sheet, there need not be another writ to be issued and the said direction by the High Court still holds good. There is also an interim protection in operation which says that till these documents are not supplied, the departmental enquiry shall not be proceeded with. Now in case if the respondents intend to proceed further with the departmental enquiry based on Annexure P/4 dated 23.01.2020, the departmental enquiry so proceeded has to be in the teeth of the order dated 19.12.2019 passed in the aforesaid writ petition.
7. If at all if the department intends to proceed further with the departmental enquiry, it is made clear that they shall provide the petitioner/the delinquent with all the documents which the department intends to rely upon in the course of the enquiry, which in other word, means any documents which shall be produced in the course of enquiry as evidence against the petitioner, he will have a right to receive a copy of the same before the same is produced before the enquiry officer by the presenting officer. This is what is also intended by the High Court when the earlier writ petition was disposed of.

8. As regards the quantification of any loss caused and all that the right of the petitioner stands reserved to question the witnesses of the department on this aspect. If at all if the authorities rely upon any such document in the course of the disciplinary proceedings, it goes without saying that the enquiry officer appointed by the respondents is to inquire upon the charge sheet which has been issued to the petitioner on 02.07.2019 and the entire enquiry proceedings has to proceed only ascertaining as to whether the charges levelled in the said charge sheet is proved or not proved. The authorities cannot go and initiate proceedings against the petitioner or conduct an enquiry in respect of allegations and charges which do not form part of the charge sheet.
9. With the aforesaid observations the writ petition stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder