



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2021

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THE HONOURABLE MR.JUSTICE S.SRIMATHY

W.P (MD) No.16190 of 2014

and

M.P. (MD) Nos.1 and 2 of 2014

and

W.P. (MD) No.3943 of 2009

W.P (MD) No.16190 of 2014

A.Vellaichamy

... Petitioner

Vs.

1.The Government of Tamilnadu,
represented by its Principal Secretary,
Environment and Forest (F.R.9A) Department,
Fort St.George, Secretariat,
Chennai-600 009.

2.The Principal Chief Conservator of Forest,
No.1, Jennis Road, Panagal Maaligai,
Chennai-600 015.

3.The Managing Director,
Arasu Rubber Corporation,
Nagercoil, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned charge memo issued by the third respondent in Letter No.E2/1746/10-1, dated 18.03.2011, quash the same and consequently direct the respondents to allow the petitioner to retire from service and pay the terminal benefits with 18% interest on delayed payment.

W.P (MD) No.3943 of 2009

A.Vellaichamy

... Petitioner

Vs.



1.The Secretary to Government.
Environment and Forest Department,
Fort St.George,
Chennai-600 009.

2.The Principal Chief Conservator of Forest,
No.1, Jennies Road, Panagal Maaligai,
Chennai-600 015.

3.The Managing Director,
Arasu Rubber Corporation,
Nagercoil, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the proceedings made in Letter No.14127/05 dated 31.05.2007 issued by the third respondent and to quash the same and direct the respondents to pay all the terminal benefits to the petitioner with 12% interest from 30.06.2000.

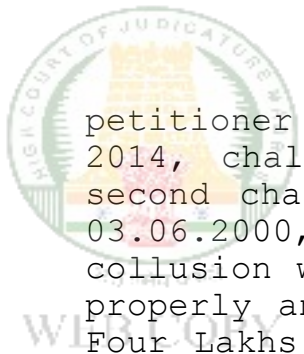
For Petitioner	:	Mr. P.Saravanakumar
For R1 and R2	:	Mr.R.Ragavendran
		Government Advocate (Civil Side)
For R3	:	No appearance
		(in both petitions)

COMMON ORDER

The writ petitioner was appointed in the Forest Department on 01.11.1973 as Forest Ranger through Tamil Nadu Public Service Commission. Then promoted as Assistant Conservator of Forest and Deputy Conservator of Forest and attained superannuation on 30.06.2004. On 29.06.2004, the petitioner was placed under suspension, which is one day prior to the date of superannuation. The respondents have stated the reason that the enquiry was contemplated for shortfall of scrap rubber from the year 1999 to 2000. Thereafter, a memo was issued on 31.05.2007, after the lapse of four years, for the alleged delinquency that happened during the period 01.04.1999 to 22.06.2000, thereby resulting a loss to the tune of Rs.1,54,390/- (One Lakh Fifty Four Thousand Three Hundred and Ninety only). Therefore a charge memo was issued after lapse of seven years and the proceedings have initiated under Rule 9(2)(h) of the Tamil Nadu Pension Rules. An enquiry officer was appointed. In the meanwhile the petitioner has filed the Writ Petition in W.P. (MD) No.3943 of 2009, challenging the charge memo dated 31.05.2007.

2.Pending this charge memo, another charges were framed against the petitioner in charge sheet dated 18.03.2011. Again the

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petitioner has filed another writ petition in W.P.(MD)No.16190 of 2014, challenging the said charge sheet. The allegation in the second charge sheet is that during the period from 03.09.1997 to 03.06.2000, the petitioner has undertaken maintenance work and in-collusion with one M.Thangamarian, has failed to carry out the work properly and issued bogus bill to the tune of Rs.4,48,524/- (Rupees Four Lakhs Forty Eight Thousand Five Hundred and Twenty Four only) and has misappropriated the fund. Then during the said same period, along with one Kannusamy, has created bogus notes and claimed a sum of Rs.1,40,000/- (Rupees One Lakh Forty Thousand only) including Rs.50,997/- (Rupees Fifty Thousand Nine Hundred and Ninety Seven only) in excess pay to one V.Chellappan, Contractor and Rs.9955/- (Rupees Nine Thousand Nine Hundred and Fifty Five only) to one C.Charles, Contractor and misappropriated the amount. An another charge along with one S.Kanagaraj, Ranger (since expired) the petitioner has claimed bogus amount to the tune of Rs.2,21,418/- (Rupees Two Lakhs Twenty One Thousand Four Hundred and Eighteen only) including Rs.1,63,201/- (Rupees One Lakh Sixty Three Thousand Two Hundred and One only) excess to one C.Charles, Contractor and Rs.77,740/- (Rupees Seventy Seven Thousand Seven Hundred and Forty only) to one S.Rajendran, Contractor.

3. In both the Writ Petitions, the respondents 1 and 2 have filed counter and the third respondent has filed a separate counter.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. The petitioner has stated that the petitioner is aged about 68 years at the time of filing the writ petition in W.P.(MD)No.16190 of 2014. Now the petitioner is 75 years old. The petitioner was suspended from service on 29.06.2004, a day prior to the superannuation and he was not allowed to retire. The petitioner submitted that the charges clearly states that the petitioner is in collusion with Thangamarian and Kandasamy, has committed misappropriation. But the petitioner submits that no proceedings were initiated against the said Thangamarian and Kandasamy.

6. On perusal of the records and after hearing the arguments of the learned counsels, it is seen that the Charge memo was issued in the year 2007, that too after 3 years after the petitioner attained superannuation and now the petitioner is nearly 75 years old. Admittedly, the delinquency committed is in the year 1999 to 2000. A charge memo is issued in the year 2007 and 2011. All the charge memos were hopelessly belated charge memos. Therefore, this Court is inclined to allow these writ petitions.

7. Accordingly, the writ petitions are allowed and all the charge memos issued by the respondents dated 31.05.2007 and 18.03.2011 were set aside. The respondents are directed to settle the arrears and benefits to the petitioner within a period of four



weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Government of Tamilnadu,
represented by its Principal Secretary,
Environment and Forest (F.R.9A) Department,
Fort St.George, Secretariat, Chennai-600 009.
- 2.The Principal Chief Conservator of Forest,
No.1, Jennis Road, Panagal Maaligai, Chennai-600 015.
- 3.The Managing Director,
Arasu Rubber Corporation,
Nagercoil, Kanyakumari District.

+1 CC to M/s.SPL GP (SR-38864[F] dated 15/12/2021)

+1 CC to M/s.P.KALAIYARASI BHARATHI, Advocate (SR-38943[F] dated 15/12/2021)

**W.P (MD)No.16190 of 2014 And
W.P. (MD)No.3943 of 2009**

RD(29.12.2021) 4P 6C