



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

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W.P. (MD) No.12991 of 2021

and

W.M.P. (MD) No.10055 of 2021

R.Ramadas

... Petitioner

vs.

1.The Principal Chief Conservator of Forests
& Head of Department

Office of the Principal Chief Conservator of Forests
No.1, Jenny's Road, Panagal Buildings
Saidapet, Chennai-600 015

2.The Conservator of Forests

Office of the Conservator of Forests
Thanjavur Circle, Thanjavur

3.The District Forest Officer

Office of the District Forest Office
Thanjavur Division, Thanjavur

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records pertaining to the impugned charge memos issued by the 3rd respondent vide proceedings in charge sheet P.R.No.03/2020, vide his proceedings in Na.Ka.No.2232/2020/Pa.2 dated 28.05.2020 and charge sheet P.R.No.07/2020 in Na.Ka.No.3228/2020/Pa.2 dated 09.07.2020 and quash the same as illegal and unconstitutional.

For Petitioner : Mr.Praveennath.S.

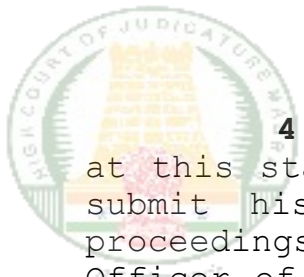
For Respondents : Mr.M.Ramesh, Government Advocate

O R D E R

The charge memos, dated 28.05.2020 and 09.07.2020, issued by the third respondent, are under challenge in this writ petition.

2. The petitioner is working as Forester and on account of the allegation of illegally cutting teak trees and neer marudhu trees, two charge memos were issued to him. The allegation against the petitioner is that by cutting forest trees illegally, he has caused huge financial loss to the State.

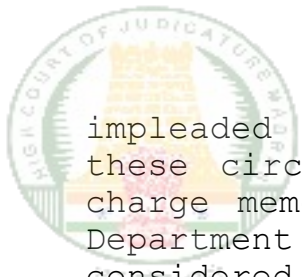
3. The learned counsel for the petitioner states that the respondents have not furnished the relevant documents enabling the petitioner to defend his case.



4. The above said ground is not available to the petitioner at this stage. Charge memos were issued and the petitioner has to submit his explanation for the charges. Only during enquiry proceedings, the relevant documents furnished by the Presenting Officer of the Department must be given to the delinquent official. If the documents are confidential in nature, the delinquent official shall be permitted to peruse those documents for the purpose of defending his case. Therefore, all relevant documents are to be furnished to the petitioner at the time of commencement of enquiry and soon after the Presenting Officer filed the documents before the Enquiry Officer. As far as the charge memos are concerned, the petitioner has to submit his explanation and the opportunity to defend his case will be made available soon after the commencement of the enquiry by the Enquiry Officer. This being the principles to be followed, the ground raised by the petitioner is untenable and he has to participate in the process of enquiry and defend his case in the manner known to law.

5. A charge memo is not liable to be quashed as does not adversely affect the rights of an employee and does not give rise to any cause of action. A writ lies only when some rights of a person are infringed. The charge memo does not infringe the rights of a person / employee. It is only when a final order imposing punishment or otherwise is passed, it may give a cause of action. Thus, the writ petition challenging the charge memo by itself is not maintainable.

6. Let us now consider the situations where an employee is issued with a charge memo. On initiation of disciplinary proceedings, charge memo is the first step taken by the Authority concerned to frame certain charges against the employee concerned. Mere framing of charges would not cause any prejudice to the Government employee. He is duty bound to establish his innocence or otherwise with reference to the documents and evidences available. Contrarily, if the disciplinary proceedings are quashed at the budding stage, the rights of the Departments will be prejudiced. Under the Tamil Nadu Government Servants Conduct Rules, a Government servant is bound to maintain a good conduct and integrity throughout his service both inside and outside the office. While so, certain allegations are brought to the notice of the competent Authorities. They are initiating action under the Rules and they are framing charges. Such framing of charges would not cause any prejudice nor provide any cause of action for the purpose of instituting a writ petition. Therefore, framing of charges itself would not provide a cause of action for entertaining a writ petition. However, a writ petition against the charge memo may be entertained on certain exceptional circumstances, where the charge memo has been issued by an incompetent Authority having no jurisdiction or allegation of *mala fides* is raised. Even in case of raising an allegation of *mala fides*, the Authority against whom such an allegation raised must be



impleaded as party respondent in his personal capacity. Except these circumstances, no writ needs to be entertained against the charge memo and such an entertaining would cause prejudice to the Department and the likelihood of causing prejudice is also to be considered by the Court, while entertaining a writ petition.

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7. In view of the above facts and circumstances, the respondents are directed to continue the departmental disciplinary proceedings by following the procedures contemplated and by affording due opportunity to the petitioner. The documents relied on to establish the charges must be furnished to the petitioner at the time of enquiry before the Enquiry Officer. If the documents are confidential in nature, the petitioner should be permitted to peruse those documents.

8. The petitioner has to co-operate for the early disposal of the disciplinary proceedings and in the event of non-cooperation by the petitioner, the same shall be recorded in the proceedings itself and in such circumstances, the petitioner is not entitled for any relief on the ground of delay in disposal of the disciplinary proceedings.

9. With the above observations and directions, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cs-I)

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/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Principal Chief Conservator of Forests
& Head of Department,
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Saidapet, Chennai-600 015.

2.The Conservator of Forests,
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Thanjavur Circle, Thanjavur.

3.The District Forest Officer,
Office of the District Forest Office,
Thanjavur Division, Thanjavur.



W.P.(MD) No.12991 of 2021

+1 CC to M/s.S.P.NAVEENKUMAR, Advocate (SR-14199[F] dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14284[F] dated 24/03/2022)

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