



W.P.(MD)No.10838 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10838 of 2020

A.Rajarithnam

Vs.

... Petitioner

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
The Department of Environment & Forest,
Fort St. George, Chennai 600 015.
- 2.The Principal Chief Conservator of Forest,
Jennis Road, Panagal Building,
Saidapet, Chennai – 600 015.
- 3.The District Forest Officer,
Theni Division,
K.K.Nagar, Theni 626 331.
- 4.The Divisional Forest Officer,
Varusanadu Soil Conservation Division,
Theni, Theni District.
- 5.The District Forest Officer,
Madurai District.



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6.The Conservator of Forest,
Madurai Region,
Madurai District.

7.The Deputy Secretary,
Tamil Nadu Public Service Commission,
Public Service Commission Road,
Chennai 600 003.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Se.Mu.Aa.No.N2/40236/2007 dated 11.05.2018 confirmed by the impugned order of 1st respondent in G.O.(D).No.137 Environmental – Forest (V.12) Department dated 30.05.2019 placing reliance on impugned consent of 7th respondent in Lr.No.2419/TCT – A1/2019-1 dated 04.04.2019 quash the same and consequently direct the respondents herein to refund the reduction of pay recovered so far from the terminal benefit/pension of petitioner and grant notional promotion as Personal Assistant as per 01.09.2017 panel and consequent monetary benefits.

For Petitioner	:	Mr.K.Appadurai
For R1 to R6	:	M.N.Ramesh Arumugam
		Government Advocate
For R7	:	Mr.J.Anand Kumar



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ORDER

This writ petition has been filed challenging the impugned order passed by the second respondent dated 11.05.2018, which was confirmed by the impugned order of the first respondent dated 30.05.2019, placing reliance on impugned consent of the seventh respondent dated 04.04.2019 and to quash the same and consequently direct the respondents to refund the reduction of pay recovered so far from the terminal benefit/pension of petitioner and to grant notional promotion as Personal Assistant as per 01.09.2017 panel and consequent monetary benefits.

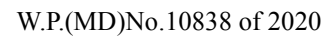
2. The case of the petitioner is that he was initially appointed as Junior Assistant in the Forest Department in the year 1984. Thereafter, he was promoted as Assistant in the year 1994 and finally promoted as Superintendent in the year 2011. His date of superannuation was 30.04.2019 and his further promotion was due in the year 2017. When he was awaiting for further promotion as Personal Assistant, a charge memo was issued against him by the the Divisional Forest Officer, the fourth respondent



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herein on 20.10.2016. The sum and substance of the allegation levelled against the petitioner is that (i) he misused the power and authority in unilaterally sending a monitoring report of the fourth respondent as if it was approved by the fourth respondent in No.Thi/244/15, dated 18.03.2015, to the fifth respondent thereby violated the Conduct Rules 49, 75 and 76. (ii) The petitioner sent the monitoring report of the fourth respondent, which was originally drawn by the fourth respondent for planting of 66 lakh trees covered by Massive Tree Planting Programme in Usilampatti Range, but sent the said report by making additions, which amounts to tampering of Government records. Thereafter, the petitioner has submitted his explanation on 31.01.2017. The sixth respondent required the then Divisional Forest Officer viz., Thiru.K.Jeyamani to make scrutiny of massive planting of trees in Usilampatti Region and send a monitoring report. The fourth respondent with the assistance of his Committee already submitted the said monitoring report on 18.03.2015 directly to the fifth respondent. Hence, no copy of the monitoring report was available in the Office of the fourth respondent and it was kept confidentially in the computer under the control of the Computer Operator. Though a charge



3. It is the further case of the petitioner that in order to fix the responsibility as against the petitioner, the present charge memo has been issued, which is not sustainable one. Further, not satisfied with the explanation offered by the petitioner, the fourth respondent has appointed the enquiry officer for conducting enquiry. The enquiry officer has conducted an enquiry on 21.04.2017 and 21.06.2017, only posing questions to him without marking of documents through any witness or examining any witness to the documents marked to let in any evidence to prove the charge against the petitioner. Thereafter, the enquiry officer has submitted his report on 11.03.2017 as if both the charges framed against him were proved. Based on the proven report, the second respondent, vide impugned order dated 11.05.2018, imposed the punishment of reduction of pay to the basic pay to the post of Superintendent from 01.01.2019 for three months without cumulative effect. Aggrieved by the same, the petitioner has filed an appeal before the first respondent on 05.07.2018 narrating all the facts. However,



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the first respondent simply confirmed the order of the punishment imposed by the second respondent, by impugned order dated 30.05.2019. Challenging the above said punishment, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner was working as Superintendent and one K.Jeyamani was working as Assistant in the Divisional Forest Office. However, the said report dated 18.03.2015 was prepared by the Superintendent without the assistance of K.Jeyamani and the Computer Operator and the said report was not communicated to the petitioner. The petitioner's signature is not available in the report dated 18.03.2015. Without the petitioner's signature, implicating the petitioner and made an allegation against him as if he has prepared the report dated 18.03.2015 and forged the signature, which is not sustainable one and he prayed for allowing this writ petition.



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5. He would further submit that admittedly the entire report was prepared by the fourth respondent with the assistance of Thiru.K.Jeyamani and the Computer Operator. Initially, a charge memo was issued as against the fourth respondent and subsequently it was dropped. However, they proceeded the charge memo only as against the petitioner, which is not sustainable one under Article 14 of the Constitution of India.

6. Per contra, the third respondent has filed a counter stating that the petitioner was charge sheeted under Sub Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules on 20.10.2016, by the fourth respondent for the irregularities committed by him as Superintendent, while he was working in Varushanadu Soil Conservation Division, Theni from 02.12.2014 to 04.05.2017. The petitioner has submitted his explanation on 31.10.2016. Thiru.M.Anand Kumar, Deputy Conservator of Forests holding the additional charge of Megamalai Wildlife Division, Theni was appointed as enquiry officer and after conducting enquiry, he had sent his report on 31.07.2017 stating that both charges levelled against him are proved. The



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petitioner has submitted his final explanation on 22.09.2017 and 29.01.2018 against the finding of the enquiry officer. Based on the enquiry report, the second respondent had issued the final order on 11.05.2018, reducing the pay of the petitioner to the bottom of the time scale of pay in the post of Superintendent for three months from 01.01.2019 without cumulative effect. The statement of the petitioner that he is not aware of any of the subject matters in the preparation of monitoring report of the fourth respondent cannot be accepted being the petitioner was working as Superintendent, the Head Ministerial in the office. Instead of proving himself as innocent as to the charges framed against him, he is trying to allege the action taken against the fourth respondent which has no relevancy and did not serve any purpose in favour of the petitioner. The petitioner himself had admitted that the report in question had been downloaded from the computer and put his signature as directed by the Superior. But the copy of monitoring report sent by him subsequently by putting his signature as 18.03.2015 is contradicted to the original report dated 18.03.2015 already sent.



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7. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the respondents 1 to 6 and the learned counsel appearing for the 7th respondent.

8. The facts in the present case are not in dispute. Admittedly, the petitioner was entered into service as Junior Assistant in the Forest Department in the year 1984. Thereafter, he was promoted as Assistant and finally he was promoted as Superintendent in the year 2011. While he was working as Superintendent, a charge memo was issued against the petitioner on 20.10.2016, by the fourth respondent under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. The sum and substance of the charge sheet issued as against the petitioner is that he misusing his official position and responsibilities in the post of Superintendent, being next below to the Divisional Forest Officer, Varushanadu Soil Conservation Division, Theni and the Head Ministerial to the office concerned, by sending a report in the letter No.P/244/2015, dated 18.03.2015, to the District Forest Officer, Madurai Forest Division, duly signed by him on his own accord without the



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approval of the Divisional Forest Officer and as if the said report was properly approved by the Divisional Forest Officer, in violation of provisions under Para 49, 75 and 76 of Tamil Nadu Government Office Manual. It is further alleged that the petitioner tampering the records through signed and sent by him the monitoring report under the Massive Tree Planting Scheme (66 Lakhs Seedlings) in Usilampatti Range of Madurai Forest Division by adding additional details on his own accord, as if the report was approved by the Divisional Forest Officer and not as reported by the monitoring committee.

9. Though both the charges are similar in nature, the main allegation against the petitioner is that he prepared a report dated 18.03.2015 as if it was approved by the Divisional Forest Officer and send it to the District Forest Officer, Madurai Forest Division. The main contention of the learned counsel for the appellant is that the entire report was prepared by the Divisional Forest Officer with the assistance of Thiru.K.Jeyamani and the Computer Operator and the petitioner was not given any opportunity to cross examine the witnesses and the said documents were also not

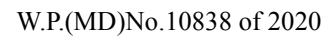


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furnished to him. On the sole ground, the present writ petition has been filed.

10. On perusal of the charge memo dated 20.10.2016, it is seen that six documents were sent to the petitioner for his explanation, in which the first two documents were allegedly prepared by the petitioner dated 18.03.2015 and signed by him. Further, both the documents were furnished to the petitioner and he has also given his detailed explanation. In Clause No.8 of the tabular column drafted by the enquiry officer dated 21.04.2017, the enquiry officer specifically questioned the petitioner whether he wants to cross examine any witnesses during the enquiry. However, in his categorical statement before the enquiry officer the petitioner has clearly stated that he did not want to cross examine any witnesses, since the documents were prepared by the fourth respondent and other officials. Whereas, he claimed that the documents prepared by Thiru K.Jeyamani and other officer were not furnished to him. The petitioner himself not prepared to cross examine the witnesses and to disprove the allegation made against him. It is clear that the petitioner is in guilty of the offence and hence, he did



11. In the result, this Writ Petition is dismissed. No costs.
 12. Finally, the connected Miscellaneous Petitions are closed.

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M.DHANDAPANI,J.

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