



W.P.(MD)No.10837 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10837 of 2020
and
W.M.P.(MD).No.9533 of 2020

A.Rajarathinam

... Petitioner

Vs.

1.The Principal Chief Conservator of Forest,
Jennis Road, Panagal Building,
Saidapet, Chennai – 600 015.

2.The District Forest Officer,
Theni Division,
K.K.Nagar, Theni 626 331.

4.The Conservator of Forest,
Madurai District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned order of the third respondent in Se.Mu.AA.No.AA2/906/2011, dated 29.07.2011 and confirmed by the impugned order of the first respondent in Se.Mu.AAnai No.N2/51779/2011, dated 27.03.2012, quash



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the same.

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For Petitioner : Mr.K.Appadurai
For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the third respondent, dated 29.07.2011, which was confirmed by the first respondent, dated 27.03.2012 and to quash the same.

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. While he was working as Selection Grade Assistant in the office of the District Forest Officer, Theni, from 14.07.2008 to 15.02.2011, a charge memo was issued against him under Rule 17(a) of the Tamil Nadu



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Civil Service (Discipline and Appeal) Rules. The sum and substance of the charge is that the petitioner unauthorisedly come to the office of the third respondent on 08.12.2010 and scolded as if Tmt.Kalaiselvi, working as Junior Assistant and the Superintendent in the said office did not know how to look into the file, when he was no way concerned with the third respondent office or the subject file.

3. Prior to the above charge memo, a show cause notice was issued on 21.01.2011, based on the complaint given by Tmt.K.Kalai Selvi, Junior Assistant employed in the office of the third respondent, dated 07.12.2010, for the alleged occurrence said to have taken place on 08.12.2010. Since his request for furnishing copy of the said complaint sought for in his letter dated 28.01.2011 was not considered, he was unable to give his explanation earlier. He has also requested to peruse certain documents, which was granted by letter dated 17.02.2011. But, by that time, since he was on medical leave and after joining office, due to additional charge of work pertaining to office of Conservator of Forest, Virudhunagar Region, he was unable to come and peruse the documents. However, after



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getting permission from the Conservator of Forest, Virudhunagar on 10.06.2011, he perused the documents and filed detailed explanation to the disciplinary authority. However, the third respondent has issued the impugned order dated 29.07.2011 as 'Warning' without verifying the veracity of the truth and genuineness of the complaint dated 07.12.2010. Challenging the same, the petitioner has filed an appeal before the first respondent on 28.10.2011. The first respondent also without proper consideration of his contentions, simply confirmed the order of the third respondent, dated 27.03.2012, stating that the charge against the petitioner is proved by documentary evidence. Challenging the same, the present appeal has been filed.

4. The learned counsel appearing for the petitioner would submit that though the petitioner entered into the office of the third respondent on 08.12.2010 and made an enquiry with regard to the preparation of the report, however, he never made allegation against Tmt.Kalaiselvi and Superintendent. But the same was not considered by the original authority and the original authority has imposed the punishment of 'Warning' which is



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not sustainable one and the same was confirmed by the appellate authority erroneously. Hence, he prayed for allowing this writ petition.

5. Per contra, the second respondent has filed a counter stating that initially the third respondent has issued a memo against the petitioner on 21.01.2011, calling for explanation from him within 15 days narrating his misbehaviour. Though he acknowledge the receipt of memo on 28.01.2011, he was adopting dilatory tactics instead of submitting explanation in time. He has asked for perusal of certain records in his letter dated 28.01.2011. Soon after receipt of permission on 28.02.2011, he had neither perused the records nor submitted his explanation. Hence, there was no other alternative except issuance of show cause notice under Sub Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, for the irregularities committed by him. Accordingly, the third respondent has issued the show cause notice on 20.06.2011. The petitioner has acknowledged the receipt of the show cause notice on 07.07.2011 and submitted his explanation on 11.07.2011. The explanation of the petitioner was examined with connected records by the third respondent. The third



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respondent had come to the conclusion that the imputation against the petitioner was held proved and as such, a minor punishment of 'censure' was ordered by him in his proceedings dated 29.07.2011. The petitioner after receipt of the order dated 29.07.2011, preferred an appeal before the Principal Chief Conservator of Forests, Chennai and the same was rejected on the ground that the punishment awarded against the petitioner is only a minimum and no new facts or circumstances are adduced for a reconsideration of the case.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

7. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service 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. While he was working as Selection Grade Assistant in the office of the District Forest Officer, Theni, from 14.07.2008 to 15.02.2011, a charge memo was issued



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against him under Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. It is alleged that one Vivekanand, Junior Assistant dealing with the subject 'Civil Commodities' in District Forest Officer, Theni had been attending the Forest Conservator's Office at Madurai on 08.12.2010 and verifying concerned file with Tmt.K.Kalaiselvi, Junior Assistant who was dealing the subject in Conservator's Office in connection with certain bills said to have been missed in the report of procurement of essential commodities in Theni Division sent for the month of April 2010. At that time, Thiru.A.Rajarathinam, Superintendent (Formerly Selection Grade Assistant), who was dealing the subject of lease in the District Forest Office, Theni without any permission, had come to the Forest Conservators Office at Madurai and scolded Tmt.K.Kalaiselvi, Junior Assistant as 'you are also do not know, how to look file and your superintendent is also do not know, how to look file' and unnecessarily argued with her. Hence, a memo dated 21.01.2011 was issued against him and he has not submitted his reply so far. His activities are fully against the office procedure. Hence, the punishment of censure was issued against him on 29.07.2011.



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8. Further, this Court has perused the explanation submitted by the petitioner, in which, he admitted that he entered into the office of the Conservator of Forest, Madurai District. The petitioner claimed that he only advised the said Tmt.Kalaiselvi. The said Tmt.Kalaiselvi made a complaint against the petitioner prior to the charge memo and thereafter, the charge memo was issued against him. The petitioner himself admitted that he entered into the office of the Conservator of Forest, Madurai District without any permission, based on which, the enquiry was conducted and arrived at a conclusion that the petitioner unauthorisedly entered into the office of the third respondent and used some words against the said Tmt.Kalaiselvi and other officials, which was clearly established. However, the original authority, the third respondent herein imposed the punishment of censure, which is not a major punishment. The said punishment of censure was passed in the year 2011. As against the same, the petitioner has preferred an appeal before the first respondent / appellate authority and the appellate authority has rejected the appeal on 27.03.2012. After lapse of nine years, the petitioner has filed the present writ petition and there is no reason to interfere with the order of punishment imposed by the third



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respondent as well as confirmed by the first respondent. Hence, the prayer sought for by the petitioner cannot be granted.

9. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

03.01.2023

akv

To

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M.DHANDAPANI,J.

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