



W.P.(MD)No.10829 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10829 of 2020

and

W.M.P.(MD).No.9530 of 2020

A.Rajarathinam

... Petitioner

Vs.

1.The Principal Secretary to Government,
Government of Tamil Nadu,
The Department of Environment and Forest,
Fort St. George,
Chennai 600 015.

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

3.Wild Life Warden,
Megamalai Wild Life Division,
Theni.

4.The Conservator of Forest,
Madurai District.

5.The Deputy Secretary,
Tamil Nadu Public Service Commission,
Public Service Commission Road,



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... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 1st respondent in G.O(D).No.343 Environment - Forest (V.12) Department dated 30.12.2019 confirming the order of 1st respondents in G.O.(D)No.328 Environment - Forests (Forest 12) Department dated 19.11.2018 with impugned concurrence of the 5th respondent in Lr.No.1100/DCD-D2/2018-1 dated 27.07.2018 confirming the impugned order of the 2nd respondent in Se.Mu.Aanai No.N2/19583/2016 dated 27.12.2016 confirming the impugned order of the 4th respondent in Proceedings No.B2/12534/2015 dated 20.11.2015, quash the same.

For Petitioner	:	Mr.K.Appadurai
For R1 to R4	:	Mr.A.Baskaran Additional Government Pleader
For R5	:	Mr.J.Anand Kumar

ORDER

This writ petition has been filed challenging the impugned order passed by the 1st respondent dated 30.12.2019, confirming the order of 1st respondent dated 19.11.2018, with impugned concurrence of the 5th



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respondent dated 27.07.2018, confirming the impugned order of the 2nd respondent dated 27.12.2016 and the order of the 4th respondent dated 20.11.2015 and quash the same.

2. The learned counsel appearing for the petitioner would submit that initially the petitioner was 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 Superintendent in the office of the third respondent from 10.06.2014 to 02.12.2014, a charge memo was issued against him by the fourth respondent for the minor offence punishable under Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, alleging that the bio - data of the Forest Watcher eligible for promotion to the post of Forest Guard for the year 2013-2014 was called for from the office of the third respondent herein and it was not routed through the Superintendent resulting in discrepancies in the bio - data of watcher. Thereafter, he has submitted his explanation on 22.09.2015, stating that the said list of Forest Watchers with their bio - datas



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were prepared by the Assistant of the concerned subject without his knowledge, he got it approved by the third respondent and the file was also not routed through him. Thus, the Assistant without the petitioner's knowledge, without placing it to him directly got approval of the same and he has not committed any act of omission or misconduct. However, the Assistant had obtained his signature only in the covering letter which was also confirmed by her. However, the said explanation was not accepted by the fourth respondent and imposed the punishment of stoppage of increment without cumulative effect for one year by proceedings dated 20.11.2015. Against which, the petitioner has preferred an appeal before the second respondent on 14.03.2016, which was partly allowed by the second respondent by modifying the stoppage of increment without cumulative effect for six months in proceedings dated 27.12.2016. Again, the petitioner has preferred a revision before the first respondent and the first respondent has rejected the same on 19.11.2018. Challenging the same, the present writ petition has been filed.

3. The third respondent has filed a counter stating that the



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petitioner has acknowledge the receipt of the show cause notice on 18.03.2015 and submitted his explanation on 22.09.2015. The panel list had been prepared and approved by the Wildlife Warden on 09.09.2014 and both the days, he was on duty. The covering letter for the panel list dated 11.09.2014 had been attested by the petitioner as Superintendent before despatch. Hence, the contention of the petitioner that the Assistant dealing the subject had got approved directly from the Wildlife Warden cannot be accepted and the said reason shall not be an excuse on the part of Superintendent. The explanation of the petitioner dated 22.09.2015 was transmitted to the Conservator of Forests, Madurai Circle, Madurai, the fourth respondent being the competent to pass final order on the disciplinary action taken against the Superintendent on 15.10.2015 with relevant records. After examining the explanation, the fourth respondent had concluded that the petitioner had been neglecting his duty as Superintendent and awarded a minor punishment of stoppage of increment for one year without cumulative effect, on 20.11.2015. The petitioner has preferred an appeal before the second respondent and the second respondent has modified the punishment, vide impugned order dated 27.12.2016.



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Thereafter, the petitioner has preferred a revision and the first respondent has rejected the revision, vide impugned order dated 19.11.2018. Hence, he prayed for dismissal of this writ petition.

4. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent.

5. The facts in the present case are not in dispute. Admittedly, the petitioner was working as Superintendent in the office of the third respondent from 10.06.2014 to 02.12.2014 and he was issued a show cause notice on 05.02.2015, by the third respondent alleging that the bio – data of Forest Watcher was prepared and submitted to the Conservator of Forests, Madurai belatedly on 11.09.2014, that too with lot of discrepancies, in spite of instructions issued by the Principal Chief Conservator of Forests, Chennai on 12.08.2014 and the Conservator of Forests, Madurai on 14.08.2014, to submit the bio – data of forest watchers for promotion as Forest Guards for the year 2013 – 2014 in person at the office of the



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Conservator of Forests on 28.08.2014. However, the same was belatedly submitted on 11.09.2014, with lot of discrepancies. Therefore, the petitioner was issued a charge memo. The petitioner, in his explanation categorically held that the entire list was prepared by the Assistant without his knowledge and got approval from the third respondent directly. However, as per Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, the petitioner is responsible for preparation of every report and he has to countersign the said report and send it to the higher officials for approval. However, in the present case, he has not signed and the Assistant on his own prepared the list and got it approval from the third respondent.

6. The fact remains that the Assistant, in her reply, has clearly held that the Conservator of Forests, Madurai has forwarded a letter dated 14.08.2014, which was received by the third respondent on 19.08.2014 through e-mail and the said e-mail was forwarded to the Assistant for preparation of list for promotion to the post of Forest Guard. However, the report was filed only on 11.09.2014. Further, in her reply, she has clearly stated that the report was endorsed by the petitioner and the Assistant went



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on leave due to ill health from 22.08.2014 to 03.09.2014. Admittedly, the Assistant is not available in the Office of the third respondent from 22.08.2014 to 03.09.2014, which was well known to the petitioner. However, the petitioner has not deputed the work to any other qualified officer or he did not prepare the said list as directed by the second respondent. Subsequently, the said Assistant joined duty and thereafter, hurriedly they prepared the list which was endorsed by the petitioner and the lapse on the part of the petitioner was clearly established and there is no proper explanation from the petitioner for disproving the charges against him. The original authority imposed the punishment of stoppage of increment for one year and subsequently the punishment was modified by the second respondent to the extent of six months and the same was confirmed by the first respondent. Already the said punishment was modified by the second respondent and no material placed before this Court to defer the decision taken by the second respondent, which was confirmed by the first respondent. Hence, in the absence of any explanation or material, the punishment imposed by the original authority, which was confirmed by the appellate authority cannot be interfered with.



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7. In the result, this Writ Petition is dismissed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

03.01.2023

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To

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.



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M.DHANDAPANI,J.

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