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W.P.(MD)NO.10223 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10223 of 2023 AND
W.M.P.(MD)Nos.9077 & 10927 of 2023

C.Subramanian

... Petitioner

Vs.

1. The Principal Chief Conservator Forests,
Forest Head Quarters Building,
Near Kannikapuram Checkpost,
Guindy-Velacherry Main Road,
Guindy, Chennai -32.
2. The Conservator of Forests and Field Director,
Srivilliputhur Megamalai Tiget Reserve,
Madurai.
3. The Wild Life Warden,
Grizzled Squirrel Sanctuary,
Srivilliputhur,
Virudhunagar District.
4. The Enquiry Officer/District Forest Officer,
Sivagangai Forest Division,
Sivagangai.
5. The District Forest Officer,
Thoothukudi District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records



pertaining to the impugned Charge Memo in Na.Ka.No.4552/2020Pa dated 03.08.2021 on the file of the respondent No.3 and the impugned order in Proc.No.16528/2021/B3 dated 07.06.2022 on the file of the respondent No.2 and the impugned Enquiry Report dated 09.02.2023 on the file of the respondent No.4 and the consequential impugned order in Na.Ka.Pa1/1822/2023 dated 13.04.2023 on the file of the respondent No. 5 and quash the same as illegal and consequently for a direction, directing the respondent No.4 to conduct denovo enquiry within the time period stipulated by this Court and quash the same as illegal.

For Petitioner : Mr.T.Aswin Rajasimman,
for M/s.Lajapathi Roy and Associates.

For Respondents : Mr.K.S.Selva Ganesan,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner is presently working as Forest Range Officer. He was accused by three women staff that he sexually harassed them. Enquiry under the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 was conducted. The Internal Complaints Committee submitted its report. It is



adverse to the petitioner. Based on the same, charge memo was issued.

The petitioner challenges the charge memo primarily on the ground that it betrays an element of pre-determination. The learned counsel relies on the decision reported in **(2010) 13 SCC 427 (Oryx Fisheries Ltd., V. Union of India and Others)** it has been held therein that at the stage of issuing charge sheet, the authority must only tell the charges and not confront the delinquent with definite conclusions of his alleged guilt.

3. I went through the contents of the charge memo. I am satisfied that it has been incorrectly worded. The authority appears to have come to the conclusion that the petitioner is guilty. I would set aside the charge memo and call upon the authority to issue a fresh memo in normal circumstances. But in this case, it cannot be done. As rightly pointed out by the learned Additional Government Pleader, the charge memo was issued as early as on 03.08.2021. Much water has flown under the bridge. The enquiry officer was appointed. The petitioner was given an opportunity to defend his case. The enquiry report has been submitted. The petitioner has been called upon to offer his further representation also. I am therefore satisfied that the petitioner is guilty of laches and therefore, the charge memo cannot be interfered with at this stage though it is on the face of it, defectively worded.



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4. The petitioner questioned the impugned charge memo on the ground of jurisdiction. The charge memo was issued by the Wild Life Warden / third respondent herein. The learned Additional Government Pleader pointed out that a circular was issued by the first respondent on 09.10.2015 delegating the power to issue charge memo to the Wild Life Warden. In any event, the third respondent being a superior to the petitioner is very much competent to issue charge memo.

5. However some relief will have to be given to the petitioner herein. Since the charge memo has been defectively worded, the disciplinary authority / first respondent herein is directed to take a call after receiving the enquiry report. The issuance of notice dated 13.04.2023 by the fifth respondent alone is interfered with. The first respondent will consider the enquiry report and then take a call whether he should call upon the delinquent to issue further representation.

6. All the contentions of the petitioner are left open. I must also clarify that the report of the internal complaints committee cannot be taken as gospel truth. It is only recommendatory in nature. The charges



against the petitioner should have been independently established during the departmental enquiry. It is for the first respondent to decide whether he should concur with the findings of the enquiry officer based on the petitioner's further representation. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

21.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN,J.

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