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W.P.(MD)No.21548 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21548 of 2019
and
W.M.P.(MD)Nos.18221 of 2019
and 1193 of 2020

J.Raju

... Petitioner

vs.

- 1.The Managing Director,
Arasu Rubber Corporation Limited,
Vadasery, Nagercoil,
Kanyakumari District-629 001.
- 2.The Assistant Conservator of Forest and
Vigilance Officer,
Arasu Rubber Corporation Limited,
Kulasekaram, Kanyakumari District.
- 3.The Divisional Manager,
Arasu Rubber Corporation Limited,
Keeriparai Division,
Keeriparai,
Kanyakumari District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the 1st respondent in Se.Mu.Aa.No.Pa 2/3764/14-1, dated 30.07.2019 and to quash the same.

For Petitioner : Mr.C.Prithviraj
For Respondents : Mr.A.K.Manikkam

ORDER

This writ petition is filed for issuance of a writ of Certiorari, to call for the records of the 1st respondent, dated 30.07.2019 and to quash the same.

2. The petitioner is working as a Field Officer in the 3rd respondent office. A charge memo, dated 21.12.2013, was issued by the 3rd respondent to the petitioner as well as to another co-delinquent who was serving as Forester. The charge against the petitioner is that the petitioner deliberately failed to coat lime over the rubber coating within



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the appropriate time. Hence, the box of the rubber plants got severely damaged and withered thereby, caused loss to the Government to the tune of Rs.6,04,000/-. The co-delinquent namely, Pushpraja also participated in the enquiry. The respondents after conducting the enquiry against the petitioner and the said Pushparaja, has discharged the co-delinquent Forester Pushparaja. However, the respondents have held that the petitioner is guilty of the charges. The petitioner is relying on the report submitted by the Regional Office Rubber Board wherein it has been stated that even if lime washing is not done after rubber coat, the trees will not perish. When the expert opinion states so, the respondents without relying on the expert opinion has brushed aside the expert opinion as only technical suggestion and has held the petitioner guilty of the charges.

3. The further contention of the petitioner is that the co-delinquent



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was discharged from the charges. For the same set of charges, one person is discharged and if the petitioner is imposed with punishment, it would amount to discrimination. On these two grounds, the petitioner is before this Court.

4. At the time of admission, this Court has directed the petitioner to deposit Rs.1,00,000/- (Rupees One Lakh only) and the petitioner has complied with the order.

5. The respondents have filed a counter affidavit along with the vacate stay petition. The respondents contended that the enquiry officer in his report, dated 09.01.2015, has concluded that the charges are not proved against the said Pushparaja. Since instruction for coating the rubber was not given to the said Forester Pushparaja but only given to the petitioner. Moreover, the said Forester has submitted that the



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causalities are due to wild animals and not defect in maintenance. Based on the explanation, the said Pushparaja was discharged from the charges.

6. However, the respondents failed to accept the explanation of the petitioner. The petitioner's explanation was brushed aside stating that it is only a technical suggestion. Even if it is a technical suggestion, the petitioner claims that there is no intention on the part of the petitioner to commit such offence.

7. After hearing the rival submissions, this Court is of the considered opinion that for the same set of charges, when two delinquents were charged, then the respondents cannot discriminate. More when the co-delinquent was discharge from charges, but the petitioner was imposed with the punishment it amounts to discriminatory. On this ground, the petitioner is entitled to get relief.



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8. The next contention of the petitioner is that the expert person has rendered an opinion that even if lime coat is not coated, generally, the plants will not wither. In such circumstances, the benefit of doubt ought to be granted to the petitioner. Even though the respondents are taking a plea that it is only a technical suggestion, this Court is of the considered opinion that the petitioner is not having any intention. For any misconduct, there should be a deliberate intention on the part of the delinquent to commit such an offence. Since there is no deliberate intention, the alleged misconduct on the part of the petitioner is liable to be quashed and hence the impugned order is quashed.

9. The amount deposited by the petitioner shall be repaid to the petitioner. If any other benefits are pending, the same shall be granted.



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10. With the above said observation, the writ petition is allowed.

No costs.

Index : Yes / No

Internet : Yes

NCC : Yes / No

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