



W.P.Nos.1504,1511,1515
& 1518 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1504, 1511, 1515 and 1518 of 2024

and

**W.M.P.Nos.1516, 1518, 1523, 1524,
1527, 1529, 1534, 1538 of 2024**

M.Sampath Kumar

...Petitioner in
W.P.No.1504 of 2024

C.Vediappan

...Petitioner in
W.P.No.1511 of 2024

K.Periyaswamy

...Petitioner in
W.P.No.1515 of 2024

V.Madhu

...Petitioner in
W.P.No.1518 of 2024

-Vs-

1.The Principal Chief Conservator of Forests
& Head of Forest Force
Panagal Building, Chennai 15.

2.The Wild Life Warden
Hosur Forest Division
Hosur, Krishnagiri District.

... Respondents in
W.P.No.1504 of 2024



W.P.Nos.1504,1511,1515
& 1518 of 2024

1.The Principal Chief Conservator of Forests
& head of Forest Force
Panagal Building, Chennai-15

2.The Divisional Forest Officer,
Social Forestry & Extension Division,
Dharmapuri - 5.

...Respondents in
W.P.No.1511 of 2024

1.The Principal Chief Conservator of Forests
& head of Forest Force,
Panagal Building, Chennai-15

2.The Wild Life Warden
Hosur Forest Division,
Hosur, Krishnagiri District.

...Respondents in
W.P.No.1515 of 2024

1.The Principal Chief Conservator of Forests
& head of Forest Force,
Panagal Building, Chennai-15.

2.The District Forest Officer,
Dharmapuri Forest Division,
Dharmapuri – 5.

...Respondents in
W.P.No.1518 of 2024

Prayer in W.P.No.1504 of 2024: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 2nd respondent in connection with the impugned letter in 2301/2013/E1 dated 29.12.2023 and quash the same.

Prayer in W.P.No.1511 of 2024: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 2nd respondent in connection with the impugned letter No.3220/2023/E1 dated 28.12.2023 and quash the same.



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Prayer in W.P.No.1515 of 2024: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 2nd respondent in connection with the impugned letter in 2301/2013/E1 dated 29.12.2023 and quash the same.

Prayer in W.P.No.1518 of 2024: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 2nd respondent in connection with the impugned letter No.7820/2012/F2 dated 29.12.2023 and quash the same.

For Petitioner in all WPs : Mr.Venkataramani
Senior Counsel for
Mr.Muthappan

For Respondents in all WPs : Mr.K.H.Ravikumar
Government Advocate

COMMON ORDER

These Writ Petitions have been filed challenging the show cause notice issued by the second respondent, thereby given an opportunity of making representation on the penalty as proposed above under Rule 17(c)(i)(1) of the Tamil Nadu Civil Services (Discipline and Appeal) rules.

2. All the petitioners had entered into service as Forester and Forest Guard. When they were in service, they were involved in a criminal case registered in Crime No.RC.3/(S)/95 on the file of the CBI/SEP, Madras. After filing a final report, the same has been taken cognizance in S.C.No.117 of 1996



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on the file of the District Sessions Court, Dharmapuri. There were 236 accused including the petitioners. The petitioners were arrayed as accused. They were charge sheeted for various offences including the offence under SC/ST Act. As far as the petitioner in W.P.No.1504 of 2024 is concerned, he was convicted with the following punishments :

- (1) 147 IPC – 2 years RI*
- (2) 342 r/w 149 IPC – 1 year RI with fine Rs.1,000/-, in default 3 months SI*
- (3) 3(2)(iii) of SC/ST Act – 3 years RI, fine Rs.1,000/-, in default 9 months SI*
- (4) 3(1)(x) of SC/ST Act – 3 years RI, fine Rs.1,000/-, in default 9 months SI*
- (5) 355 IPC – 1 year RI*
- (6) 342 IPC – 1 year RI*

3. As far as the petitioner in W.P.No.1511 of 2024 is concerned, he was convicted with the following punishments :

- (1) 147 IPC – 2 years R.I*
- (2) 342 r/w 149 IPC – 1 year RI with fine Rs.1,000/-, in default 3 months SI*
- (3) 323 IPC – 1 year RI with fine Rs.1,000/-, in default 4 months SI*



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*(4) 3(2)(ii) of SC/ST Act – 3 years RI, fine Rs.1,000/-, in
default 9 months SI*

*(5) 3(1)(x) of SC/ST Act – 3 years RI, fine Rs.1,000/-, in
default 9 months SI*

4. As far as the petitioner in W.P.No.1515 of 2024 is concerned,
he was convicted with the following punishments :

(1) 147 IPC – 2 years RI

*(2) 342 r/w 149 IPC – 1 year RI with fine Rs.1,000/-, in
default 3 months SI*

*(3) 3(2)(iii) of SC/ST Act – 3 years RI, fine Rs.1,000/-, in
default 9 months SI*

*(4) 3(1)(x) of SC/ST Act – 3 years RI, fine Rs.1,000/-, in
default 9 months SI*

5. As far as the petitioner in W.P.No.1518 of 2024 is concerned,
he was convicted with the following punishments :

(1) 147 IPC – 2 years R.I

*(2) 342 r/w 149 IPC – 1 year RI with fine Rs.1,000/-, in
default 3 months SI*

*(3) 323 r/w 149 IPC – 1 year RI with fine Rs.1,000/-, in
default 3 months SI*

6. Aggrieved by the same, the petitioners preferred appeals before



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this Court. All the accused filed separate appeal and a batch of Criminal Appeal Nos.618, 622, 625, etc of 2011 were filed before this Court. Pending appeal, the petitioners were served with Show Cause Notice by invoking Rule 17(c)(i)(1) of TNCS (D&A) Rules. The show cause notices were challenged before this Court in a batch of Writ Petitions. This Court, by an order dated 10.10.2023, directed the respondents to conduct an enquiry and not to pass final orders. By another order dated 02.02.2021, this Court issued a direction to complete the disciplinary proceedings and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of the order. This Court dismissed the appeals and the punishment imposed by the Trial Court was confirmed.

7. Aggrieved by the same, the petitioners preferred appeal before the Hon'ble Supreme Court of India and their surrender was exempted till the Special Leave Petition is taken for hearing. However, the conviction was not stayed by the Hon'ble Supreme Court of India. Therefore, based on the order of conviction passed by this Court in the appeals, the second respondent, now, issued show cause notice dated 29.12.2023, thereby directed the petitioners to submit reply within 30 days from the date of receipt of a copy of the order.

8. The learned Senior Counsel appearing for the petitioners



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submitted that the impugned show cause notice issued to an individual proposing a punishment should only mention, as if, it is a minor or major punishment for conviction in the criminal case and direct the Government officials to submit a reply for the proposed punishment. However, the impugned show cause notice contains the proposed punishment of dismissal from service and proposing a punishment in a show cause notice clearly shows that the authorities have already decided to impose a major punishment and submitting a reply is only an empty formality. Therefore, there is no point in submitting a reply for the show cause notice.

9. He further submitted that the show cause notice must contain valid reasons and it should be suggestive in nature. It should not mention the proposed punishment and in such cases, submitting a reply will become an empty formality. When there are more than one major punishment available under Rule 8 of the TNCS (D&A) Rules, without hearing the petitioner, imposing a particular punishment is in total violation of principles of natural justice, besides it is in violation of Article 311(2) of the Constitution of India.



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10. A perusal of the show cause notice reveals that the petitioners were tried for their respective charges by the Trial Court and the same was confirmed by this Court in a batch of appeals. Now, they preferred appeals before the Hon'ble Supreme Court of India and it is pending. Therefore, the Criminal Court had already convicted the petitioners for the charges as mentioned in the show cause notice. Article 311 of the Constitution of India states as follows :-

“311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State. - (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges

Provided that where it is proposed after such inquiry,



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to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed :

Provided further that this clause shall not apply

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge ; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry ; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.”

11. No person shall be dismissed or removed without giving



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reasonable opportunity of being heard in respect of the charges. However, the said clause shall not apply, where such person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge. In the case on hand, the petitioners were admittedly convicted by the Trial Court and the same was confirmed by this Court. Therefore, the petitioners are not entitled for any show cause notice. However, in order to apply Rule 17(c)(i)(1) of TNCS (D&A) Rules, the petitioners were served with a show cause notice.

12. Rule 17(c)(i)(1) of TNCS (D&A) Rules is extracted hereunder :-

Rule 17(c) : Procedure to be followed when a Government Servant is convicted on criminal charge / convicted by Court Martial / absconded or other reasons :

(1) The requirements of sub rule (b) shall not apply where it is proposed to impose on a member of a service any such penalty as is referred to in clause of that sub-rule on the basis of facts which have led to his conviction in a criminal Court (whether or not he has been sentenced at once by such Court to any punishment) ; but he shall be given a reasonable opportunity of making such representation that he may desire to make such representation, if any, shall be taken into consideration before the order imposing the penalty is passed.

13. Further, in the show cause notice, it was mentioned that the petitioners have been convicted on Vachathi criminal charge. The said



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conviction was imposed by the Trial Court and the same was also confirmed by this Court. Therefore, the conduct of the petitioners is very much mentioned categorically. Therefore, this Court finds no infirmity or illegality in the show cause notice issued by the second respondent and the writ petitions lacks merits and it is liable to be dismissed.

14. Accordingly, this Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. No costs.

24.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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& Head of Forest Force,
Panagal Building, Chennai 15.

2.The Wild Life Warden
Hosur Forest Division
Hosur, Krishnagiri District.

3.The Divisional Forest Officer,
Social Forestry & Extension Division,
Dharmapuri-5.



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4.The District Forest Officer
Dharmapuri Forest Division
Dharmapuri-5

G.K.ILANTHIRAIYAN. J,

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