



W.P.Nos.2232 & 3949 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.Nos.2232 & 3949 of 2023  
and WMP Nos. 2309, 4016, 4018, 11666 & 11673 of 2023

M.Rajesh Kumar

... Petitioner  
in WP.No.2232 of 2023

L.Ravi Kumar

... Petitioner  
in WP.No.3949 of 2023

-Vs-

1.The Secretary to Government  
State of Tamil Nadu  
Environment  
Climate Change and Forest Department  
Chennai 600 009.

2.The Principal Chief Conservator of Forest  
& Head of Forest Force  
Forest Headquarters  
Velacherry Main Road  
Guindy, Chennai 600 032.

3.The District Forest Officer  
Cuddalore Forest Division  
Cuddalore.

... Respondents  
in Both WPs



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Prayer in W.P.No.2232 of 2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the third respondent issued in Charge Sheet No.11/2022/pa dated 22.11.2022 and quash the same with consequential direction to the respondents to consider the petitioner for promotion to the post of Forester as per the panel drawn by the 2<sup>nd</sup> respondent for the year 2021-2022 dated 16.06.2022 within time frame.

Prayer in W.P.No.3949 of 2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the third respondent issued in Charge Sheet No.9/2022/pa dated 22.11.2022 and quash the same with consequential direction to the respondents to consider the petitioner for promotion to the post of Deputy Conservator of Forests as per the panel drawn by the 2<sup>nd</sup> respondent for the year 2021-2022 dated 23.05.2022 within time frame.

For Petitioners : Mrs.K.Jenitha  
(Both WPs)

For Respondents : Mr.P.Kumaresan  
(Both WPs) Additional Advocate General  
Asst.by:  
Mr.C.Selvaraj  
Additional Government Pleader



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COMMON ORDER

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The issue involved in both these writ petitions are common and therefore, both the writ petitions are taken up together, heard and disposed of through this common order.

2.These writ petitions have been filed by the petitioner in WP.No.2232 of 2023, who was the Forest Guard and the petitioner in WP.No.3949 of 2023, who was the Forest Range Officer against the charge memo issued by the 3<sup>rd</sup> respondent dated 22.11.2022 and for a consequential direction to the respondents to consider the promotion of the petitioners to the post of Forester and Deputy Conservator of Forests, respectively.

3.The case of the petitioner in WP.No.2232 of 2023 is that the impugned charge memo dated 22.11.2022, was issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules [hereinafter referred to as 'the Rules'] on the ground that while he was working as Forest Guard in Manavaikkal Bit during the period from 01.04.2016 to 26.07.2017, he did not properly undertake the field inspection and submit the plantation report correctly. Thereby, there is a dereliction of duty on the part of the petitioner which is against Rule 20 of the Tamil Nadu Government Servants Conduct Rules.



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4.The case against the petitioner in WP.No.3949 of 2023 is that the petitioner at the relevant point of time was working as Forest Range Officer and he was responsible for the maintenance of the plantation sites. During his tenure, he did not properly undertake the inspection and submit the report. On verification, it was found that there was a vast variation and shortage of Teak trees on the field. Therefore, it was found that there was gross negligence and dereliction of duty on the part of the petitioner. The same resulted in the issuance of the impugned charge memo as against the petitioner.

5.The petitioners have questioned the charge memo mainly on the ground that for the incident which took place in the year 2016 - 2017, the charge memo itself came to be issued only in 2022. The other ground taken by the petitioners is that even if the allegations made in the charge memo are taken to be correct, the same does not warrant initiating proceedings under Rule 17 (b) of the Rules, since the act of the petitioners did not constitute moral turpitude.

6.Counter affidavits have been filed by the 3<sup>rd</sup> respondent in both the writ petitions. The respondents have taken a stand that both the petitioners, without undertaking any field inspection, have submitted reports as if there is no difference in the number of trees reported and whereas on further verification, it was found that there was a vast variation and shortage of trees, which was not even pointed out in the report submitted. In view of the same, the respondents have taken a



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stand that the petitioners did not act with integrity and devotion to duty. The same resulted in loss to the Government and therefore, proceedings were initiated under Rule 17(b) of the Rules.

7.Insofar as the ground of delay is concerned, additional counter affidavit has been filed. Wherein, it has been stated that further inspection was carried out and reports were submitted in the year 2020. Thereafter, a preliminary enquiry was conducted by the Vigilance and a report was submitted. Based on the same, orders were issued for initiating departmental proceedings against the delinquent officers. This order was issued on 24.03.2022. Thereafter, the disciplinary proceedings have been initiated against the petitioners by issuance of charge memo dated 22.11.2022. Therefore, it has been contended that there is no delay in initiating the disciplinary proceedings. Accordingly, the respondents have sought for dismissal of these writ petitions.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.On going through the records, it is seen that Teak plantations were taken up in 142 locations in Cauvery basin areas of Chidambaram Forest Range in Cuddalore Division. In Manavaikkal, Bit I and Bit II plantations of Chidambaram Range, 14,000 teak saplings and 13,000 teak saplings, respectively, were planted during the year



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2007. The concerned Forest Range Officer is responsible for the plantation and the maintenance. The Forest Range Officer is expected to submit an annual report. While submitting that report, the concerned officer is expected to make a field inspection and only after a proper field study, the report is supposed to be filed. By receiving such reports every year, the authorities will be able to assess, if there is any decrease in the number of plantations and if so, the reasons for the same.

10.The petitioner in WP.No.2232 of 2023, was working as a Forest Guard in Cuddalore Forest Division. During his tenure, he was instructed to hold additional charge of Chidambaram beat. The petitioner took charge with effect from 01.04.2016 and he held the charge till 26.07.2017. During this period, the petitioner was expected to make the field visit and mention regarding the standing trees and report if there is any loss of standing trees. The allegation against the petitioner is that during the period when he was holding the additional charge, he failed to submit the condition of plantation report. The same resulted in loss of money for the Government, since on a subsequent inspection, it was found that the number of standing trees have come down drastically. According to the respondents, occurrence had taken place between 01.04.2016 to 26.07.2017.

11.Insofar as the petitioner in WP.No.3949 of 2023 is concerned, he was holding the post of Forest Range Officer in Chidambaram range between 02.12.2012 14.07.2017. He had submitted plantation reports to his superiors during his tenure.



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In all these reports, it was found that there was no difference in total number of trees that existed. When the successor took charge, he had submitted the report during the year 2017 - 2018 where he has come up with a different report pointing out to number of trees that had survived.

12.The above report was not accepted by the District Forest Officer and therefore, a special team was constituted to find out the actual status in Manavaikkal Bit Teak Plantation. The special team has reported 669 teak trees and 5373 shunted growth teak trees in Manavaikkal Bit I and 1195 teak trees and 4154 shunted growth teak trees in Manavaikkal Bit II

13.The Forest Department decided to take the services of the Vigilance Department to enquire and to submit a report. The enquiry was conducted and a final report was submitted to the Vigilance Commission dated 28.10.2021. Based on the same, through proceedings dated 10.03.2022, the Government issued orders to initiate departmental proceedings against all the delinquent officers. Pursuant to the same, the charge memo came to be issued against the petitioners during November 2022.

14.The first ground that was raised by the learned counsel for the petitioners pertained to the delay in instituting the disciplinary proceedings. It was submitted that for the incident that took place during the period 2016 - 2017, the proceedings



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itself has been initiated during the end of 2022. On carefully going through the counter affidavit filed by the respondents and the materials placed before this Court, it is seen that the entire truth came to light only by virtue of the subsequent inspections made and the report submitted by the Vigilance Department in the year 2021. Only thereafter, a decision was taken to initiate disciplinary proceedings. It is not as if in every case, where there is a delay in initiating the disciplinary proceedings, the same can be interfered with by the Court. The delay, by itself, is not a reason to interfere with the disciplinary proceedings and the actual interference happens, only if the delay remains unexplained. In the instant case, the delay for initiating disciplinary proceedings has been properly explained in the counter affidavit. Therefore, this Court is not inclined to interfere with the disciplinary proceedings initiated against the petitioners on that ground.

15.The next issue pertains to the proceedings initiated against the petitioners under Rule 17(b) of the Rules. Rule 17(b) deals with the procedure to be followed for imposing major penalties. Normally, the proceedings are initiated under Rule 17(b) of the Rules, only in a case, where the action of the delinquent officer involves moral turpitude. This provision will be invoked only in those cases where the allegations are to the effect that the delinquent officer has obtained or had attempted to obtain illegal gratification or where he has falsified Government Orders or where he has committed illegality or has been negligent in discharge of his duty with a dishonest motive or he has misused his official position for personal gain or he



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has misappropriated Government funds or made false claim for reimbursements.

Therefore, *sine qua non* for invoking Rule 17(b) is, to ascertain as to whether the delinquent officer has performed an action with a dishonest motive or has involved in any action with moral turpitude.

16.In the case in hand, the only allegation that has been made against the petitioners is that they had mechanically submitted reports, without making proper field inspection. In order to ascertain the delinquency on the part of the petitioners, this Court also carefully went through the Vigilance report that was submitted. In the Vigilance Report, it has been stated that reports have been submitted without making field visits. In the case of the petitioner in WP.No.2232 of 2023, it involved only the period from 01.04.2006 to 26.07.2017, where the petitioner was given the additional charge. Insofar as the petitioner in WP.No.3949 of 2023, he had handed over charge to the next incumbent on 14.07.2017. In the vigilance report, it has been found that the report has been submitted, without ascertaining the proper facts. The major allegations have been made only as against four other persons, who were found to be actively involved.

17.In view of the above, the allegations that have been made against the petitioners at the best only results in dereliction of duty or negligence in performing the official duty. There are no materials to show that there was any dishonest motive or moral turpitude on the part of the petitioners.



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18. In view of the above, there was no need to issue charge memo against the petitioners and proceed under Rule 17(b) of the Rules. At the best, even if the charges are proved, it will only result in minor penalties and therefore, the proceedings can be initiated under Rule 17(a) of the Rules.

19. Insofar the petitioner in WP.No.2232 of 2023, during the pendency of this writ petition, he was promoted to the post of Forester. Thus, the interim order passed by this Court has been complied with.

20. Insofar the petitioner in WP.No.3949 of 2023, the interim directions issued by this Court was not able to be complied with, since as per the prevailing rules, the petitioner was not able to be selected in the panel of Assistant Conservator of Forests for promotion as Deputy Conservator of Forests for the year 2021 - 2022. Accordingly, the non-selection of the petitioner is sought to be justified. This Court does not want to go into this issue, in the light of the above findings rendered in the main writ petition.

21. In the result, the charge memo issued to the petitioners for proceeding under Rule 17(b) of the Rules is hereby quashed. Considering the observations made by this Court, it is left open to the respondents to issue fresh charge memo and proceed against the petitioners under Rule 17(a) of the Rules. The disciplinary proceedings if initiated shall be concluded as expeditiously as possible.



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22.Both the writ petitions are disposed of in the above terms. No costs.

Consequently, all the connected miscellaneous petitions are closed.

04.09.2024

Index : Yes/No

Neutral Citation : Yes/No

Speaking Order : Yes /No

KP

To

1.The Secretary to Government  
State of Tamil Nadu  
Environment  
Climate Change and Forest Department  
Chennai 600 009.

2.The Principal Chief Conservator of Forest  
& Head of Forest Force  
Forest Headquarters  
Velacherry Main Road  
Guindy, Chennai 600 032.

3.The District Forest Officer  
Cuddalore Forest Division  
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**N.ANAND VENKATESH. J.,**

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