



W.P.No.28656 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.28656 of 2011

and

M.P.No.2 of 2011

S.Davidraj ... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary to the Government,
Environment and Forest,
St.George Fort, Chennai-9.
2. The Principal Chief Conservator of Forests,
Panagal Buildings, Chennai-15. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the first respondent made in G.O.(3D) No.39, Environment and Forest (FR9A) Department, dated 16.07.2007 and the second respondent made in Proc.No.T2/37421/01 dated 23.03.2004 quash both the orders and allow this writ petition.

For Petitioner : Mr.A.Prabhu Saravana

for Ms.Selvi George

For Respondents : Mr.R.Murthi
Government Advocate



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ORDER

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G.O.(3D) No.39, Environment and Forest (FR9A) Department, dated 16.07.2007, the 1st respondent and Proc.No.T2/37421/01 dated 23.03.2004 issued by the 2nd respondent are under challenge.

2. Heard Mr.A.Prabhu Saravana, representing counsel for the petitioner and Mr.R.Murthi, learned Government Advocate appearing for the respondents.

3. The petitioner was appointed as Forester through Employment Exchange on 25.08.1980. He has undergone one year Forester training during 1984-85. In the year 2001, he was issued with Charge Sheet in disciplinary proceedings No.1 of 2001 dated 18.06.2001. Upon his explanation, as the Authority was not satisfied with his explanation, enquiry was ordered and conducted. It was held that among four charges except Charge No.1, Charge Nos. 2 to 4 were held to have been proved. Upon direction, he submitted further representations on the findings of the Tribunal and the 2nd respondent imposed the punishment of reducing his pay to the bottom of time scale in the post of Ranger (Rs.6500/- - 200/- - Rs.10500/-) for 3 years with cumulative effect and the order was



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took effect from 01.04.2004. In Proceedings No.T2/37421/2001 dated 23.03.2004, his appeal dated 05.06.2004 was rejected in G.O.(3D) No.39, Environment and Forest (FR9A) Department, dated 16.07.2007.

4. The learned counsel for the petitioner would vehemently contend that the alleged incident took place during the year 1991 and the Charge Sheet was issued in the year 2001. Order of punishment was passed in the year 2004 that the appeal came to be rejected in the year 2007. To substantiate his arguments, following judgments were referred to:

i) The State of Madhya Pradesh v. Bani Singh and Another reported in 1990 Supp(1)SCC 738.

ii) P.V.Mahadevan v. M.D., Tamil Nadu Housing Board reported in 2005 (4) CTC 403.

iii) M.V.Bijlani v.Union of India and others reported in 2006 (5) SCC 88.

iv) P.Patturajan v. The Government of Tamil Nadu reported in 2011 SCC OnLine Mad 1935.

v) R.Deivendran v. The Collector, Tuticorin reported in 2010 SCC OnLine Madras 6238.

vi) K.P.P.Panneerchelvan v. State of Tamil Nadu in cases of W.P.Nos.1906, 3621 and 8444 of 2017 dated 11.08.2023.

5. Mr.R.Murthi, learned Government Advocate appearing for the



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respondents no. 1 and 2 would strenuously argue that after issuance of Charge Memo, enquiry was conducted and the petitioner was called upon to give explanation by the 2nd respondent. The petitioner before giving explanation filed O.A., before the Tamil Nadu Administrative Tribunal, Chennai, in O.A.No.2409 of 2003 to quash the order of Disciplinary Proceedings in No.1 of 2001 dated 28.11.2002 and the consequential Show Cause Notice dated 23.05.2003 issued by the respondents. The Tamil Nadu Administrative Tribunal, Chennai by its order dated 18.07.2003 dismissed the application. He would further contend that after the order of the Tamil Nadu Administrative Tribunal, the petitioner gave his explanation dated 04.08.2003. The 2nd respondent passed the following orders in Proceeding No.T2/T37421/2001, dated 23.03.2004. *"The pay of the petitioner be reduced to the bottom of the time scale in the post of Ranger(Rs.6500 - 200 - 10,500) for three years with cumulative effect inclusive of the period spent on leave. The punishment will affect his pension. The order will take effect from 01.04.2004."*

6. Useful reference may be made in Bani Singh case, [1990



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Supp(1)SCC 738], an IPS Officer of Madhya Pradesh Cadre, was issued Charge Memo dated 22.04.1987 in respect of certain incidents that happened in the year 1975-76. When the said Officer was posted as Commandant 14th Battalion, SAF, Gwalior, by Order dated 16.12.1987, the Tribunal quashed the Charge Memo and the departmental enquiry on the ground of inordinate delay of 12 years in initiating departmental proceedings with reference to an incident that took place in the year 1975-76. It is relevant to note that the Administrative Tribunal quashed the Proceedings on the ground of delay and laches in much as the irregularities which was the subject matter of the enquiry said to have taken place between the years 1975-77. It was observed by the Tribunal that it is not the case of the Department that they were not aware of the said order of irregularities if any, and came to know about it only in 1987. It was further observed by the Tribunal that it is unreasonable to think that they would have taken more than 12 years to initiate the departmental proceedings

7. Against those orders, the Government / State of Madhya Pradesh preferred appeal. It was observed by the Hon'ble Supreme Court that since the representation for the year 1980 was pending till 1986 and



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there is an allegation that the respondent had given representation to the Government in this regard and in fact one such representation was accepted and it is on that basis, respondent was selected for selection Grade w.e.f.04.03.1982 and the Tribunal's finding was accepted by the Hon'ble Supreme Court and the appeal was dismissed.

8. In P.V.Mahadevan v. M.D. Tamil Nadu Housing Board reported in 2005(4) CTC 403, the appellant was working as Superintending Engineer, in the Tamil Nadu Housing Board. A Charge Memo was issued on 08.06.2000 for the irregularity in issuance of sale deed in 1990 to one Mr.A.N.Beemaiah who was an employee of the Housing Board and was to superannuate shortly. No action was taken against the appellant in 1990 for about 10 years.

9. The Tribunal quashed Charge Memo and disciplinary enquiry on the ground that inordinate delay over 10 years in initiating proceedings with reference to the incident took place in the year 1975-76. Against which the appeal was preferred. The Hon'ble Supreme Court observed that the disciplinary enquiry against the Government Employee should, therefore, be avoided not only in the interests of the Government



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employee but in public interest and also in the interest of inspiring confidence in the minds of the Government employees. The Apex Court further observed that it is necessary to draw the curtain and to put an end to the enquiry. The Charge Memo issued against the appellant was quashed.

10. Therefore, the law is well settled that in case of delayed charge memo, the Court has to look into the affidavit of the petitioner whether he has contributed delay or sufficient explanation for the delay is offered by the Government.

11. Out of four charges, charge No.1 was held to be not proved and charge No.2 and 4 were proved and charge No.3 was partly proved.

12. From a thorough perusal of the charges, for the occurrence took place in the year 1991 to 1993, disciplinary proceedings were initiated by issuance of charge memo on 18.06.2001 after a period of almost 10 years.

13. After the issuance of two Show Cause Notices dated



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23.05.2003, the petitioner moved O.A.No.2409 of 2003 to quash the disciplinary proceedings before the Tamil Nadu Administrative Tribunal, Chennai, the same was dismissed. Thereafter, the disciplinary Authorities passed orders on 23.03.2004.

14. Therefore, it was made clear that the petitioner has not contributed any delay at the first instance in initiating the disciplinary proceedings. Having gone through the counter affidavit of the respondents in entirety, the respondents have not offered any explanation as to the delay caused in initiating the disciplinary proceedings against the petitioner. The object behind the initiation of disciplinary enquiry is to maintain the discipline among the stake holders and to maintain purity in the administration.

15. It is not the case of the respondents that the occurrence details came to their knowledge after a long period nor any enquiry committee was constituted to await report before initiation of disciplinary proceedings. Therefore, for the occurrence that took place in the year 1991-93, disciplinary proceedings was initiated only after a period of 10 years on 18.06.2001.



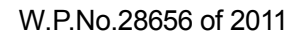
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16. When it is alleged that delay is caused in the disciplinary proceedings then, it has to be tested from the facts and circumstances of each case in the interest of clean and effective administration. The Delinquent Officer / Employee has a right that the disciplinary proceedings against him are concluded at the earliest possible time, thereby he is not made to undergo mental agony unnecessarily. The basic principles of administration of justice is that an Officer with a particular job undoubtedly has to perform his duties honestly, efficiently and in accordance with rules. Delay defeats justice. Delay also causes prejudice to the Charged Officer.

17. Taking into consideration of the fact that there was hardly no explanation for consideration. Therefore, the entire disciplinary proceedings gets vitiated on the ground of inordinate delay which is unexplained. It was also submitted by the learned counsel for the petitioner that the petitioner was superannuated in the year 30.04.2016 and he is aged about 66 years.

18. With the above observation, this Writ Petition stands allowed



i) The petitioner may submit a representation within four weeks from the date of receipt of a copy of this order for settling the retirement benefits.

ii) The respondents shall dispose of such petition within a period of eight(8) weeks from the date of representation of the petitioner. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
 Neutral Citation Case : Yes / No
 Speaking Order / Non-Speaking Order
 ssn

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