



WEB COPY



W.A. No.1225 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No.1225 of 2024 and C.M.P. Nos.9013 & 9014 of 2024

Dr. K. Asokan

Appellant

v

1 The Chief Conservator of Forests & Field Director
Sathyamangalam Tiger Reserve
Erode Circle
Erode District

2 The Deputy Director
Sathyamangalam Tiger Reserve
Sathyamangalam Forest Division
Sathyamangalam
Erode District

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the
order dated 07.11.2023 passed in W.P. No.19803 of 2021.

For appellant

Ms. A. Pramila
for Mr. P. Nethaji

For respondents

Mr. P. Sathish
Additional Government Pleader



W.A. No.1225 of 2024

JUDGMENT

(delivered by R. MAHADEVAN, J.)

WEB COPY

The order dated 07.11.2023 passed by a learned Judge in W.P. No.19803 of 2021 is put to challenge in this writ appeal by the writ petitioner.

2 A precis of the facts which led to the filing of this writ appeal is given below:

The appellant, whose parent department is the Animal Husbandry Department, is presently working on deputation as Veterinary Assistant Surgeon in the Forest Veterinary Unit at Sathyamangalam. He was issued with a charge memo dated 13.08.2021 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, by the second respondent, challenging which, he preferred the writ petition being W.P. No.19803 of 2021. The learned Judge dismissed the said writ petition *vide* order dated 07.11.2023, questioning the correctness of which, this writ appeal has been preferred.



W.A. No.1225 of 2024

3 The appellant's first ground of attack before the learned Judge was

that the second respondent lacks authority to issue the impugned charge memo, inasmuch as, the second respondent does not possess technical qualification equivalent to the one possessed by the appellant. According to the appellant, the competent authority to issue charge memo to him is only the Director of Animal Husbandry Department, which is his parent department.

4 The second ground of attack by the appellant before the learned Judge was that the charge memo dated 13.08.2021 was the third one for the same set of allegations.

5 Before the learned Judge, the learned Additional Advocate General defended the stance of the respondents *qua* the second respondent's authority to issue the impugned charge memo by placing reliance on Rule 12(2) and Rule 16, *ibid.* (Since the said provisions already find place in the order impugned herein, to avoid prolixity, the same are not extracted in this judgment). Garnering strength from the proviso to Rule 12(2), *ibid.*, it was the submission of the learned Additional Advocate General that upto the stage of completion of inquiry or after receipt of explanation to show cause notice, the second respondent is empowered to handle the proceedings and from that stage



W.A. No.1225 of 2024

onwards, the file will have to be forwarded to the competent authority for further action. By inviting the attention of the learned Judge to Rule 16, *ibid*, he further contended that the borrowing authority (in this case, the second respondent) shall complete the inquiry and revert the person concerned to the lending authority (in this case, the Animal Husbandry Department). Thus, according to the learned Additional Advocate General, the appellant cannot be heard to contend that the second respondent lacks authority to issue the impugned charge memo.

6 With regard to the allegation of repeated charges for the same set of allegations, the attention of the learned Judge was invited to the counter affidavit, wherein, it was stated that only pursuant to the proceedings dated 01.02.2021 of the first respondent finding certain irregularities in the functioning of the appellant, the second respondent had issued a memo to the appellant on 03.02.2021 and thus, though two memos were issued for the same lapse, they were issued by the respondents 1 and 2 separately followed by yet another memo dated 25.03.2021 issued by the first respondent and the impugned charge memo dated 13.08.2021 was issued since the appellant's explanation to the charge memos dated 03.02.2021 issued by the second respondent, and 25.03.2021 issued by the first respondent, was not satisfactory



W.A. No.1225 of 2024

and hence, the impugned charge memo dated 13.08.2021 cannot be termed as the third charge memo for the same set of allegations.

7 The learned Judge, by taking note of the fact that though the appellant is on deputation, he is under the immediate control of the second respondent, and also finding that the proviso to Rule 12(2), *ibid.*, empowers him to frame charges under Rule 17(b), *ibid.*, held that the second respondent is not incompetent to issue the impugned charge memo. It was further held by the learned Judge that the impugned charge memo cannot be termed as the third one, as contended by the appellant.

8 Heard the learned counsel for the parties and perused the materials available on record.

9 As regards the first stand of the appellant that the second respondent lacks authority to issue charge memo to him, be it noted, the proviso to Rule 12(2), *ibid.*, relied on by the respondents, states in unequivocal terms that all authorities higher to the members holding the posts, may frame charge under Rule 17(b), *ibid.*, even if they are not competent to impose penalty and



W.A. No.1225 of 2024

that they may even conduct inquiry. The said proviso leaves no room for ambiguity. In the instant case, though the second respondent is empowered even to conduct inquiry, that stage has not reached and challenging the charge memo issued even prior to that stage, the appellant has filed the writ petition contending that the second respondent lacks authority, which argument was, in the considered view of this Court, rightly rejected by the learned Judge.

10 Further, the stance of the appellant that the second respondent was inferior to him in rank cannot be countenanced in the light of Rule 16, *ibid.*, which empowers the borrowing authority, *viz.*, the second respondent in the case on hand, to even complete the inquiry and revert the person concerned to the lending authority for such action as may be considered necessary by the lending authority. At the cost of repetition, in this case, the second respondent has not gone to the stage of completing the inquiry, though he is empowered to, but has only issued the charge memo. Thus, it can safely be concluded that the second respondent does not lack authority to issue charge memo to the appellant, as contended by him. Accordingly, the first stand of the appellant has to, perforce, fall to ground.

11 As regards the second stand of the appellant that repeated charge memos were issued for the same set of allegations, it is borne out of records that certain serious violations had come to the notice of the first respondent which



W.A. No.1225 of 2024

necessitated him to issue a proceedings dated 01.02.2021 directing the second respondent to initiate disciplinary action against the appellant, pursuant to which, the second respondent has issued a memo dated 03.02.2021. Further, the first respondent has issued a memo dated 25.03.2021 admittedly for the same lapse. Since the second respondent was not satisfied with the explanation offered by the appellant to the charge memos dated 01.02.2021 and 25.03.2021 of the first respondent and 03.02.2021 of the second respondent, the impugned charge memo dated 13.08.2021, came to be issued by the second respondent.

12 Indisputably, the first respondent has issued memos dated 01.02.2021 and 25.03.2021 directing the second respondent to call for explanation from the appellant which was religiously followed by the second respondent by issuing the impugned charge memo dated 13.08.2021. As rightly observed by the learned Judge, at best, the simultaneous memos issued by the first respondent may be termed superfluous, but, by no stretch of imagination, can they be called as repetitive, inasmuch as, they get merged with the charge memo issued by the second respondent. Hence, in the considered view of this Court, the learned Judge rightly rejected the second ground of attack also of the appellant that repeated charge memos were issued for the same set of allegations.



W.A. No.1225 of 2024

WEB COPY

13 Superadded, the order impugned enables the appellant to participate in the disciplinary proceedings by placing all materials at his disposal. Thus, the appellant can very well partake in the inquiry proceedings by putting forth his defence.

14 In view of the above discussion, this Court finds that interference with the order of the learned Judge is uncalled for.

15 The learned counsel for the appellant, post his arguments, pleaded that some time frame may be fixed for completion of the inquiry.

16 Acceding to the said request, it is directed that the inquiry shall be completed, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this judgment.

This writ appeal stands dismissed with the above direction. No costs.
Connected C.M.Ps. stand closed.

cad

[R.M.D, J.] [M.S.Q, J.]
22.04.2024



WEB COPY



W.A. No.1225 of 2024



W.A. No.1225 of 2024

To
WEB COPY

- 1 The Chief Conservator of Forests & Field Director
Sathyamangalam Tiger Reserve
Erode Circle
Erode District
- 2 The Deputy Director
Sathyamangalam Tiger Reserve
Sathyamangalam Forest Division
Sathyamangalam
Erode District



WEB COPY



W.A. No.1225 of 2024

R. MAHADEVAN, J.

and

MOHAMMED SHAFFIQ, J.

cad

W.A. No.1225 of 2024

22.04.2024