



WP(MD)No.10273 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.10273 of 2021

and

WMP(MD)Nos.7958 and 12304 of 2021

J.Chandra Sekaran

... Petitioner

Vs

1.The Additional Principal Chief

**Conservator of Forest,
Madurai Forest Circle,
Race Course Road,
K.Pudur, Madurai District.**

2.The District Forest Officer,

**Office of the District Forest Office,
Theni Forest Division,
Theni District.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Se.Mu.Aa.En.Aa3/3607/2020 dated 18.01.2021 confirming the order of punishment passed by the 2nd respondent vide his proceedings Se.Mu.Aa.En.Pa2/2469/2019 dated 31.01.2020 and quash the same as illegal.



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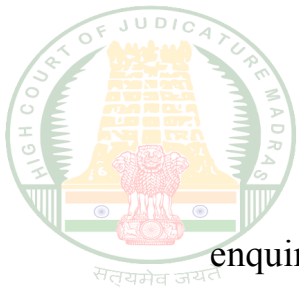


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For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates
For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

The petitioner is a retired Forest Ranger in the Forest Department. While he was working as a Forester in the year 2018 in Gudalur section of Cumbum west range in Theni Forest Division, he was issued with a charge memo under Rule 17(b) of the Tamil Nadu Civil Services Discipline and Appeal Rules with two charges viz., (i) that on 18.02.2019 this petitioner has failed to patrol the area properly and therefore valuable teak tree having a girth of 83 centimeter was fallen by the anti social elements in Suranganar Beat, Gudalur Section. The petitioner without conducting proper investigation and apprehending the accused has registered the case as in STOR No.1 of 2019 dated 30.07.2019 as 'undetected' and (ii) that the petitioner had found a wild boar died in an accident caused by an unidentified vehicle in the national highway from lower camp to Kumuli in Suranganar Beat, Gudalur Section on 04.01.2019, but the petitioner failed to take appropriate action to remove the carcass soon after receipt of the information. On these charges, an



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enquiry was conducted and the enquiry officer has filed his report on 01.11.2019 that the first charge was proved, and the second charge was not proved. However, the disciplinary authority has differed with the finding of the enquiry officer and he has issued a further showcase notice dated 29.11.2019 calling upon the petitioner's explanation on the reasons for disagreement with the enquiry officer's report. The petitioner has also offered his explanation. Thereafter the petitioner was imposed with a punishment of withholding next increment for one year with cumulative effect on 31.01.2020. The petitioner has also filed an appeal before the first respondent. However, the first respondent rejected the appeal and therefore, the petitioner is before this Court.

2.The learned counsel for the petitioner submits that he was issued with the duty to protect the tamarind trees, which were due for harvest on 29.01.2019. Therefore, he was on duty in Suranganar beat, Thakalodai region and therefore he was not able identify the accused, who cut and removed the teak tree within the forest range in the month of July 2019. However immediately he has registered a case, recovered the teak wood. But the respondents without providing sufficient opportunity to complete



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the investigation, transferred him to some other region within a period of 20 days and also issued the charge memo.

3.The learned counsel further submits that the Suranganar beat is spread over 510 hectares. He was also in charge of the tamarind trees which were due for harvest. The teak tree was also recovered and the petitioner has also registered a case. However he was held responsible for the same and imposed with the punishment of stoppage of increment, that too with cumulative effect. With regard to the second charge the learned counsel submits that the wild boar died in an accident in the national highways and it was also not within his jurisdiction. This was considered by the enquiry officer and he has given a report that the second charge as against this petitioner was not proved. Even then without any reasons, the disciplinary authority has differed with the view of the enquiry officer and has imposed the punishment as against this petitioner, who has rendered 23 years of service in the department without any blemish.



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4.The learned Special Government Pleader appearing for the respondent submits that the Forester and Forest Guard are fully responsible for the protection of forest of their respective jurisdiction ie., flora and fauna. The petitioner has failed to conduct enquiry and to apprehend the accused, who cut the teak trees illegally. Moreover, he filed a report on that day itself as undetected and escaped from the responsibilities assigned to him.

5.The learned Special Government Pleader further submits that the place of the death of the wild boar lies in the national highways road, which is locally stated as a boundary between Suranganar beat of Cumbum west range and lower camp beat of Gudalur wildlife range. The highways road being a common boundary to both beats, the beat subordinate, who receives the message of an accident is entitled and is bound to take the immediate follow up action on the accidental death. In this case the petitioner who got the message had failed to take action and deserted his duty willfully. The forest protection is the prime duty of the Forester and Forest Guard. If the petitioner as a Forester had conducted frequent / continuous patrolling of the forest areas under his



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jurisdiction, the illicit felling of a teak tree would not have been occurred and could have been prevented. Even after knowing the tree illicitly felled, the petitioner had failed to conduct the investigation to apprehend the accused and simply registered a case as undetected for the namesake to safeguard himself from the disciplinary action. Moreover, the contention of the petitioner that there is no loss sustained to government since all the timbers from the felled trees have been recovered in full cannot be accepted. Preservation / protection of a tree in the forest is more important than that of the financial implication of a tree as it involves conservation of forest wealth to be sustained forever. Hence the punishment awarded to the petitioner is reasonable and just.

6.This Court considered the rival submissions made and also produced the materials placed on record.

7.The Hon'ble Supreme Court in ***State of Rajasthan and Others v. Heem Singh*** reported in [2021 (2) CTC 332] has held that the scope of judicial review in matters relating to disciplinary proceedings is very limited. It is meant to ascertain as to whether due process was followed



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and whether a fair opportunity was accorded to the employee concerned.

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The power of Courts is limited to reviewing the decision making process, rather than the merits of the decision itself. This is to ensure fairness in treatment and not the fairness of the conclusion. The Courts should not interfere with the findings of the fact arrived at in the departmental enquiry proceedings, except in cases of mala fide or perversity.

8. In this case, the petitioner was issued with a charge memo, provided with opportunity, the petitioner has also offered his explanation, participated in the inquiry, enquiry report has also been furnished to the petitioner and thereafter the disciplinary authority has imposed the punishment. The order of punishment passed by the disciplinary authority is also confirmed by the first respondent / by the appellate authority. This petitioner has not made out any grounds that the procedure for conducting the disciplinary proceedings has been violated. The enquiry officer has found the second charge as not proved, however, the disciplinary authority disagreed with the findings of the enquiry officer in respect of second charge and has issued a show cause notice with the reasons for disagreement in his notice dated 29.11.2019.



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The petitioner has also offered his explanation to this second show cause notice on 20.12.2019. The disciplinary authority is having every right to disagree with the findings of the enquiry officer. As rightly pointed out by the learned Special Government Pleader it is the petitioner's duty to protect the forest, but at the same time this Court is of the view that the order of punishment imposed as against this petitioner is excess. Therefore, this Court verified with regard to the stand taken by the respondents in paragraph No.9 of their counter of affidavit, which reads as follows:

“9. After examining the final explanation dated 22.12.2019 of the petitioner with the various aspects of the evidence and satisfying himself that the evidences prove the guilt of the petitioner. The 2nd respondent being the competent authority had passed the order imposing the punishment of withholding next increment of the petitioner for one year with cumulative effect after considering that this punishment is instead to have this effect on the pension in his Proc.No.E2/2469/2019 dated 31.01.2020. Further it was stated in the impugned order that the petitioner is due to retire on superannuation on 31.05.2021 and hence the monetary value equivalent to punishment of Rs.58,968/- is ordered to be recovered in



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11 installments vide instructions under Chapter 8(iii) of the Hand Book on disciplinary proceedings as the next increment is due on 01.01.2021 and the punishment ordered cannot be given effect to in full before his retirement. The impugned order is a self contained speaking order duly signed by the 2nd respondent in accordance with the provisions under Rule 18(b) of the said Rules.”

9.This counter affidavit reveals that the order of punishment has been imposed without affecting his pensionary benefits and he was directed to remit a sum of Rs.58,968/- alone as a punishment. Based on this averment made in the counter affidavit this court has directed the learned Special Government Pleader to ascertain whether this punishment imposed as against this petitioner would affect his pension benefits and the learned Special Government Pleader based on the written instructions dated 22.01.2025 submits that this order of punishment would not affect his pension benefits.

10. Considering the scope of the writ petition and recording the stand taken by the respondents that this punishment would not affect the



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petitioner's pensionary benefits, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

22.01.2025

DSK

To

- 1.The Additional Principal Chief
Conservator of Forest,
Madurai Forest Circle,
Race Course Road,
K.Pudur, Madurai District.
- 2.The District Forest Officer,
Office of the District Forest Office,
Theni Forest Division,
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B.PUGALENDHI.J.,

DSK

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