

(2011) 06 MAD CK 0295

Madras High Court (Madurai Bench)**Case No:** Writ Petition (MD) No. 4096 of 2006 and M.P. (MD) No. 1 of 2006

K. Mani

APPELLANT

Vs

The District Forest Officer

RESPONDENT

Date of Decision: June 16, 2011**Acts Referred:**

- Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 - Rule 17

Hon'ble Judges: D. Hariparanthaman, J**Bench:** Single Bench**Advocate:** G. Thalaimutharasu, for the Appellant; D. Muruganantham, Additional Government Pleader, for the Respondent**Final Decision:** Dismissed

Judgement

@JUDGMENTTAG-ORDER

D. Hariparanthaman, J.

The Petitioner joined the service in the Respondent department as Forest Watcher on 31.01.1975. He was promoted in the year 1992 as Forester. He was retired from service on reaching the age of superannuation on 31.03.2009. He served as a Forester in Konalar Section in Berijam Range in Kodaikanal Forest Division between 09.06.1999 and 31.08.2000.

2. While so, three years after the Petitioner left the Konalar Section, a charge memo dated 12.06.2003 was issued under Rule 17(b) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules alleging that the Petitioner failed to maintain Sighai woods and thereby, caused loss to the department. Apart from the Petitioner six others i.e. one Ranger, one Forester and four Forest Guards were issued with similar charge sheet alleging that they failed to maintain Sighai woods and caused loss to the department. However, by an order, dated 21.01.2005 the Respondent dropped the charges.

3. After dropping the charge under Rule 17(b) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules, a fresh charge memo, dated 18.02.2005 was issued under Rule 17(a) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules alleging that an inspection was done by the Assistant Conservator of Forest and based on the report dated 06.01.2003 of the Assistant Conservator of Forest, it is seen that there was a shortage of Sighai woods to the tune of Rs. 15,26,600/-. It is stated that the Petitioner's share towards the loss is Rs. 3,78,611/-. The Petitioner was directed to show cause why action should not be taken for the afore-said loss. The Petitioner gave representations dated 12.04.2005 and 21.11.2005 requesting the Respondent to furnish him certain documents so as to submit his explanation. Without furnishing those documents, the Respondent passed the impugned order, dated 28.02.2006 alleging that the Petitioner was responsible for the loss of Sighai woods as per the reports dated 06.01.2003 and 22.06.2004 of the Assistant Conservator of Forest of the Kodaikanal Division and the total loss was to the tune of Rs. 15,26,600/- and the share of the Petitioner was Rs. 3,78,611/-. The Petitioner was responsible for the loss and he was ordered to remit Rs. 3,78,611/- in 36 installments. The Petitioner filed the present writ petition, to quash the afore-said recovery order.

4. According to the Petitioner, he left the Konalar Section on 31.08.2000. When he left the Konalar Section, No. allegation was made with regard to loss of stocks. It is also his case that three years after, the Assistant Conservator of Forest conducted inspection and found that there was a shortage in the Sighai wood and therefore, the Petitioner is not at all responsible for the said loss. It is further submitted that the said report of the Assistant Conservator of Forest was not furnished to him. It is also pleaded that the documents required by him in his letters dated 12.04.2005 and 21.11.2005 were not furnished to him. More importantly, it is pleaded that those who have also been issued with similar charge memos did not suffer with the punishment of recovery. On the other hand, they were imposed with the punishment of stoppage of increment for 9 months without cumulative effect.

5. When the writ petition came up for admission, this Court admitted the writ petition and granted interim stay for a period of four weeks on 17.05.2006. Subsequently, the interim stay was made absolute.

6. The Respondent filed counter affidavit refuting the allegations.

7. Heard both sides.

8. The Petitioner served as Forester in Konalar Section of Berijam Range in Kodaikanal Forest Division between 09.06.1999 and 31.08.2000. Thereafter, he did not serve there. While so, the Assistant Conservator of Forest inspected only in the year 2003 after three years he left the Konalar Section. Further more, the Assistant Conservator of Forest found that there was shortage of Sighai wood. Based on his report, a charge memo was issued initially under Rule 17(b) of the Tamil Nadu Civil

Service (Discipline & Appeal) Rules and thereafter, under Rule 17(a) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules. However, the report based on which charge memo was issued was not furnished to the Petitioner. The Petitioner also sought some more documents to establish his innocence and those documents were also not furnished to him.

9. The learned Counsel for the Petitioner drew my notice to the Rule 155 of the Forest Manual which provides that the Respondent should make annual inspection. Rule 155 of the Forest Manual is extracted hereunder:

The examining officer will have an examination of all sale depots in his division conducted at least once in each financial year in the same manner in which the inspection of range offices is conducted. During such inspection the stock of timber and other forest produce on hand will be taken and compared with the stock shown in the registers. The Examining Officer is expected to see that the depot is properly managed and that all accounts returns and correspondence are in good order. A list of questions for the inspection of sale depots is contained in Appendix 34. A copy for the list with answers will be sent to the Conservator if the inspection has revealed any serious irregularity in procedure or deficit in stock. The list should be accompanied by a certificate that the Examining Officer has satisfied himself that the stock on the date of inspection was correct and agree with the registers.

Forest depots must also be inspected as prescribed by the Conservator u/s 54 and the above rules for the inspection of sale depots will be held to apply MUTATIS MUTANDIS.

Inspection of depots by Range Officer

Range officers must inspect all forest and sale depots in their range, a period of not more than six months being allowed to intervene between two consecutive inspections. The first inspection of any such depot should be done as soon as possible after the first transaction in it is recorded. A final inspection will be done as soon as possible after record of the final transaction in the depot and within six months of the previous inspection.

10. In the case on hand No. annual inspection was conducted. On the other hand, the inspection was conducted after 3 years. In the meantime if there was any deficiency in the stock, the Petitioner could not be held responsible. The Respondent did not explain in the counter affidavit that under what circumstances the others were granted the punishment of stoppage of increment for 9 months without cumulative effect, while the Petitioner was slapped with the severe punishment of recovery of huge sum of Rs. 3,78,611/-.

11. For the afore-said reasons, I am of the view that the impugned order is not sustainable and it is arbitrary. Hence, the impugned order is quashed and the writ petition is allowed. Consequently, connected miscellaneous petition is closed. No.

costs.