

(2013) 04 MAD CK 0244

In the Madras High Court

Case No : Writ Petition No's. 34641 and 34652 of 2005

A.M. Sekar

APPELLANT

Vs

Principal Chief Conservator of Forests and Others

RESPONDENT

Date of Decision : 04-04-2013

Acts Referred:

Citation : (2013) 5 MLJ 66

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : M. Ravi, for the Appellant; Hidayatulla Khan, Government Advocate (Forests), for the Respondent

Final Decision : Disposed Off

Judgement

T. Raja, J.—Writ Petition No. 34652 of 2005 was filed seeking to quash the proceedings dated 29.6.2004 of the second respondent, as confirmed by the first respondent in his proceedings dated 22.9.2005, imposing the punishment of recovery of Rs. 18,312/- and further direction to refund the recovered amount. Writ Petition No. 34641 of 2005 was filed seeking a direction to the first respondent to include his name in the panel for promotion as Ranger for the year 2004-2005.

2. Learned counsel appearing for the petitioner submitted that the petitioner joined as Forester in the Forest Department on 13.5.1981. His next promotion is Forest Ranger. While so, his name was deferred in the panel fit for promotion to the post of Forest Ranger for the year 2004-2005, by the first respondent in his proceedings dated 26.11.2004, on the ground that the department has initiated proceedings under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, in respect of illicit removal of 20500 babul trees in 1985 Allikulam Eri Thottam in the year 1995 at Arakonam Social Forestry Range and thereby, he caused a loss to the tune of Rs. 73,249/-. Thereafter, when he was asked to submit his explanations, he submitted a detailed reply dated 5.6.2003, stating that he was in no way responsible for the alleged loss, since those trees were cut

during the period of his predecessors were there in the office, but not after he took charge at Wallaja Section on 1.7.1997. Further, he submitted that on 1.7.1997, when the petitioner was given additional charge of Wallaja Section, it was only three hundred trees standing in the said plantation given to the petitioner's control as additional charge and to that effect, he submitted a report to the Range Officer on 3.8.1987. Based on the said report submitted by the petitioner, the Range Officer also reported to the District Forest Officer stating that there were 300 trees only available in 1985 Allikulam Lake Plantation. Therefore, it was pleaded that, having accepted the report dated 3.8.1997 of the petitioner, it is not proper on the part of the respondents to impose a punishment of recovery against the petitioner. However, it is further pleaded that there is no record as on today to show that how many trees were standing when the petitioner took charge of Wallajah Section on 1.7.1997. Therefore, even though the petitioner has taken this point in his written explanation dated 5.6.2003, the respondents wrongly passed an order of punishment against the petitioner to pay the loss to the tune of Rs. 18,312/- and as a result, the petitioner, not only lost the said amount, but also losing his promotion to the higher post of Ranger. On that basis, he prayed for allowing the writ petitions, by setting aside the impugned orders passed by the respondents.

3. In reply, learned counsel appearing for the respondents, by filing a detailed counter, submitted that at the time of taking charge by the petitioner, admittedly, there were 20400 babul trees found in the plantation. Subsequently, when most of the trees were found missing, the department initiated proceedings not only against the petitioner, but also against the Ranger Vinayakam. The said Ranger, who was incharge of that area, accepting the charges, paid 3/4th of the entire amount, which comes to Rs. 54,937/-, but, in the case of petitioner only 1/3rd of the entire amount was recovered. Therefore, it is not open to the petitioner to say that the respondents have wrongly proceeded against the petitioner. Secondly, it was contended that when the Ranger has accepted the alleged charges by paying the recovery amount, it is not open to the petitioner, junior to the Ranger, to interfere with the impugned order of punishment.

4. Heard both sides.

5. When the matter was taken up on 13.3.2013, this Court specifically directed the learned counsel for the respondents to produce the relevant records to show that on the date of handing over the additional charge of Wallajah Section to the petitioner, there were 20400 trees found in the said plantation, since the petitioner raised a specific plea that on the date of taking over additional charge, namely, on 1.7.1997, only there were 300 hundred trees found in the said plantation. After several adjournments granted to the learned counsel for the respondents, he has produced the relevant records to that effect. A mere perusal of the records shows that when the petitioner was working in Arakonam Range from 31.1.1995, he was entrusted with the additional charge of Wallajah Section only from 1.7.1997. As the Range Officer, Arakkonam Range, instructed the

petitioner on 9.7.1997 with reference to DFO's No. 6436/95, dated 2.7.1997 to enumerate the standing trees in 1985 Allikulam Lake Plantation and thereupon to submit a report about the condition of plantation along with number of trees existed in the said place, the petitioner within one month from taking additional charge at Wallajah Section, submitted a report on 03.08.1997, stating that there were 300 trees surviving in the said plantation. Based on the petitioner's report, the then Range Officer also reported to the District Forest Officer about the condition of plantation as on 31.8.1997, mentioning that there were only 300 trees available in 1985 Allikulam Lake Plantation. Therefore, in these circumstances, issuing a charge memo against the petitioner alleging that he was responsible for missing of several trees in the said plantation, is unacceptable. Although one another officer, namely, Ranger Vinayakam has accepted the same charges by paying 3/4th of the entire amount, it does not deter the petitioner to challenge the charges levelled against him to pay the 1/3rd of the entire amount. Moreover, it is stated in the counter that when Ranganathan, Forester, was incharge of the plantation, there were 2000 trees available as on 31.8.1996. However, no record whatsoever was produced to establish the case of the department that when Kasim, who was successor to the said Ranganathan, Forester, was taking charge of plantation in question, the same number of trees were in existence. Therefore, when the records are not clear about the presence of 20400 trees, it is not proper on the part of the respondents department to hold that the petitioner is responsible for missing of trees, particularly, when he has submitted a report stating that there were only 300 trees available in the said Wallajah section allotted to him additionally, as stated above.

6. In that view of the matter, this Court, finding no substance in the impugned orders passed by the respondents, is inclined to interfere with the same and accordingly, they are set aside. Learned counsel for the petitioner stated that his client will not press for the payment of back wages and the same is recorded. Consequently, the first respondent is directed to include the name of the petitioner in the panel for promotion as Ranger for the year 2004-2005, in the appropriate place. Needless to mention that the amount, if any, recovered from the petitioner's salary, the same shall be refunded to him. The first respondent is directed to complete the above said exercise within a period of three months from the date of receipt of a copy of this order. In the above terms, both the writ petitions are disposed of. No Costs.