

(2000) 02 KL CK 0003
In the High Court Of Kerala
Case No : W.A. No. 2045/98

Gopalan, P.K.

APPELLANT

Vs

The Chief Conservator of Forests and Another

RESPONDENT

Date of Decision : 14-02-2000

Acts Referred:

Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 — Rule 11, 11(1)

Citation : (2000) KLJ 455

Hon'ble Judges : Arijit Pasayat, C.J.;K.S. Radhakrishnan, J

Bench : Division Bench

Advocate : Subramani, for the Appellant; Preethy Ramakrishnan, Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Arijit Pasavat, C.J.—An interesting point has been raised in this Writ Appeal relating to the question whether three punishments as enumerated in Rule 11 of the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 (in short "the Rules") can be imposed in one proceeding.

2. Factual background is to be noted in brief. Appellant was proceeded against for alleged misconduct. Charges against him were as follows:

1. He along with smugglers committed theft of teak poles and valuable timber from Government Chully Plantation in Kalady Range;
2. He actively connived with the smugglers in committing theft of teak and valuable timber from Government Chully Plantation in Kalady Range.
3. He committed dereliction of duty by not preventing or detecting smuggling from chully plantation in time and this caused heavy loss to Government.

All the charges were proved in the departmental proceedings. Thereafter, following punishments have been imposed.

1. Barring of three increments with cumulate effect.
2. Barring of promotion for 5 years from the date on which it becomes due.
3. Recovery of loss amount of Rs. 2,725 in 54 instalments at Rs. 50 per month and last instalment at Rs. 25.

An appeal was preferred before the prescribed authority, which was dismissed. The review petition filed was also dismissed by the Government.

3. In the Original Application filed before this Court it was contended that Rule 11 of the Rules does not authorise imposition of three punishments simultaneously against alleged commission of misconduct in one departmental proceeding. Further it was submitted that the punishment was highly disproportionate to the misconduct established. Learned Single Judge found that the Public Service Commission. (in short "Commission") was also consulted and on the basis of the advise of the Commission, it was found that the antecedents of the Appellant makes him ineligible for any mercy than already imparted by the Chief Conservator of Forests and the Government. The alleged offences were of serious nature and in view of the factual background highlighted, the Original Petition was dismissed.

4. The stand before the learned Single Judge was reiterated and it was submitted that the penalty could be individually imposed and not collectively. In any event, it was submitted, withholding of increment and promotion cannot be imposed simultaneously.

5. Learned Counsel for the State supported the order stating that there is nothing spelt out in Rule 11 to support Appellant's stand.

6. Rule 11, so far as relevant and applicable to the facts of the case reads as follows:

Rule 11. The nature of penalties.- (1) The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant, namely:

(i) Censure;

(ii) Fine (in case of persons on whom such penalty may be imposed under these rules);

(iii) Withholding of increments or promotion;

Explanation.- In case of stoppage of increment with cumulative effect the monetary value equivalent to three times the amount of increments ordered to be withheld may be recovered.

(iv)(a) Recovery from pay of the whole or part of any pecuniary loss caused to a State Government or the Central Government or to a local authority by negligence or breach of orders;

Punishments 1 and 2 imposed in the case at hand are covered by Clause (iii) Sub-rule (1), while the third punishment is relatable to Clause (iv). Rule 11 set forth the punishments that are available for imposition when a delinquent officer is guilty in the departmental proceedings. The authority competent to impose punishment is left with the discretion of imposing any of the punishments individually or collectively. This Court has been consistently taking a similar view and in our considered opinion rightly. See *Parameswaran v. Dy. Director of Panchayats* 1974 K.L.T 431, *Chellappan Nair v. State* 1970 KLT 162 and *Punnose v. Manager, P and T Motor Service* 1977 (2) S.L.R. 399. Punishments can be imposed individually or collectively at the discretion of the concerned authority as there is nothing in the provision to show otherwise.

We do not find any merit in this Writ Appeal, which is accordingly dismissed.

*A reproduction from ILR (Kerala Series).