

(2009) 07 MAD CK 0233

In the Madras High Court

Case No : Writ Petition No. 2133 of 2007 (O.A. No. 135 of 2001)

N. Pandian

APPELLANT

Vs

The Conservator of Forests and The District Forest Officer

RESPONDENT

Date of Decision : 09-07-2009

Acts Referred:

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

Citation : (2009) 07 MAD CK 0233

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : R. Singaravelan, for the Appellant; A.N. Purusothaman, Government Advocate, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

2. The brief facts of the case are as follows:

The petitioner was in service as a regular Forest Guard of Varshanadu Forest Range. While so, he was in additional charge of Thummagundu

South Beat, from 6.4.1998 to 13.1.1999. While so, certain charges had been levelled against the petitioner, which are as follows:

1) Failure to prevent anti social elements who were said to have encroached the forest area to the extent of 20.00.0 hectares.

2) An attempt to cheat the Rangers of Varshanadu by telling him that the encroachment was made only to a small extent.

3) After arresting the anti social elements, remanding them to custody without the knowledge of the Forester and Ranger under minor sections so

as to enable them to come on bail.

4) From 6.8.1998 to 9.8.1998, 2752 fellings were detected by the Special Party and to divert their attention bogus records were created.

Based on the charge memo issued by the second respondent in his proceedings, dated 8.9.1998, under Rule 17(b) of the Tamil Nadu Civil

Services (Discipline and Appeal) Rules, an enquiry had been conducted by the Assistant Conservator of Forests, Cumbum, who had been

appointed as the enquiry officer. The enquiry officer had conducted the enquiry without giving a proper opportunity to the petitioner to put forth his

case. The enquiry officer had submitted his report to the second respondent holding that the charges levelled against the petitioner had been

proved. A copy of the report had been forwarded to the petitioner and it had been received by him, on 11.4.1999. Even before the petitioner

could submit his explanation, the second respondent had passed an order in his proceedings, dated 30.6.1999, awarding the punishment of

reduction of pay of the petitioner to the basic pay, for a period of five years, with cumulative effect, affecting his pensionary benefits. Against the

said order, the petitioner had preferred an appeal to the first respondent. However, the first respondent had rejected the said appeal.

3. The main contentions of the learned Counsel for the petitioner are that the enquiry officer had erred in holding that the charges levelled against

the petitioner had been proved. Further, the second respondent had passed the order imposing the punishment on the petitioner, without waiting

for the explanation called for from the petitioner. Proper reasons have not been given by the second respondent to impose the punishment on the

petitioner. Further, no opportunity has been given to the petitioner to put forth his case. The first respondent, who is the appellate authority had

dismissed the appeal, without application of mind and without considering the evidence and the relevant records, which are in favour of the

petitioner. Proper reasons have not been given by the first and second respondents, while passing the impugned orders.

4. At this stage of the hearing of the writ petition, the learned Counsel appearing on behalf of the petitioner had prayed that it would suffice if the

impugned order of the second respondent, dated 30.6.1999, and the appellate order of the first respondent, dated 24.2.2000, are set aside, as

being devoid of sufficient reasons and if the matter is remitted back to the second respondent for passing appropriate orders based on the enquiry

officer's report, dated 20.3.1999, on merits and in accordance with law, within a specified period, after giving a reasonable opportunity to the petitioner to put forth his case.

5. The learned Counsel appearing on behalf of the respondents has no objection for this Court passing such an order.

6. In view of the submissions made by the learned Counsel appearing for the petitioner, as well as the respondents, and on a perusal of the records

available, it is clear that the second respondent had passed the impugned order, dated 30.6.1999, imposing the punishment of punishment of

reduction of pay of the petitioner to the basic pay, for a period of five years, with cumulative effect, on the petitioner, without giving sufficient

opportunity to him to put forth his case. Further, the appellate authority, the first respondent herein, had passed the impugned order, dated

24.2.2000, confirming the punishment imposed on the petitioner, without showing sufficient reasons for his findings. In such circumstances, the

impugned order of the second respondent, dated 30.6.1999, and the appellate order of the first respondent, dated 24.2.2000, are set aside and

the matter is remitted back to the second respondent for passing appropriate orders, on merits and in accordance with law, within a period of

fifteen days from the date of receipt of a copy of this order, by giving a reasonable opportunity of hearing to the petitioner to put forth his case. The

writ petition is disposed of with the above directions. No costs.