

(2008) 02 MAD CK 0087

In the Madras High Court

Case No : Writ Petition No's. 16194, 17820 and 17821 of 2007 and M.P. No. 1 of 2007 in Writ Petition No. 16194 of 2007

S. Tamilmani

APPELLANT

Vs

The Principal Chief Conservator of Forest

RESPONDENT

Date of Decision : 08-02-2008

Acts Referred:

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

Citation : (2008) 02 MAD CK 0087

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : M. Ravi, for the Appellant; K. Rajasekar, GA, for the Respondent

Judgement

K. Chandru, J.—Heard the arguments of Mr. M. Ravi, counsel for the petitioner and Mr. K. Rajasekar, learned Government Advocate

representing the respondent and perused the records.

2. The petitioner is working as a Ranger in Pudukkottai Range under the control of the respondent and in the present writ petition, he is seeking to

challenge two orders dated 30.3.2007 by which he was placed under suspension and also not permitted to retire from service on reaching the age

of superannuation which fell on 31.3.2007.

3. The petitioner's entire contention in filing the writ petition was that the charge sheet dated 27.02.2002 issued under Rule 17(a) of the Tamil

Nadu Civil Services (Discipline and Appeal) Rules [for short, "Rules"] which culminated with a direction to recover a sum of Rs. 3,06,335/- on a

monthly instalment was stayed by the Tamil Nadu Administrative Tribunal by an order dated 16.4.2004 in O.A. No. 1622 of 2004. Further, a

show cause memo dated 04.3.2003 was issued under Rule 17(a) of the Rules

which ultimately culminated in a recovery of a sum of Rs.

1,43,848/- by an order dated 30.11.2003 was also stayed by the Tribunal by an order dated 16.4.2004 in O.A. No. 1621 of 2004. In view of

the abolition of the Tamil Nadu Administrative Tribunal, these two O.As. were transferred and re-numbered as W.P. Nos. 17820 and 17821 of

2007. Since they were inter-connected with the present writ petition, they were also directed to be posted along with this writ petition.

4. The contention of the petitioner is that the impugned order dated 30.3.2007 passed by the respondent stating that grave charges for recovery of

a sum of Rs. 4,50,183/- had not been finalised and the petitioner was to be retained in service till the finalisation of those two orders, would not

amount to exercising the power.

5. A counter affidavit dated 30.10.2007 was filed by the respondent stating that the continued retention was necessary with a view to recover a

sum of Rs. 4,50,183/- which was due from the petitioner and that could not be done. In the light of the stand taken by the respondent, it is

necessary to hear the two Original Applications, which were transferred as writ petitions in W.P. Nos. 17820 and 17821 of 2007 before this

Court and that will decide the outcome of W.P. No. 16194 of 2007.

6. Mr. M. Ravi, learned Counsel for the petitioner submitted that the charges levelled in those two writ petitions are issued under Rule 17(b) of the

Rules by charge memo dated 08.7.2002. Subsequently, after the petitioner submitted an explanation dated 05.8.2002, the charges under Rule

17(b) were dropped and a charge under Rule 17(a) of the Rules was framed. Despite the petitioner submitting his explanation, the impugned order

was passed fixing the responsibility for the loss against the petitioner and recovery was made on instalment basis. It was stated in ground No. 2

that the petitioner had asked for copies of relevant documents and they were neither furnished to him nor was he allowed to peruse the same. Even

though originally the petitioner had objected to framing of charge under Rule 17(b) of the Rules, in ground No. 4, he had made a grievance that no

detailed enquiry was held in terms of the grave charges. Similar contentions were raised in O.A. No. 1622 of 2004 (W.P. No. 17821 of 2007).

7. The learned Government Advocate appearing for the respondents has no answer with reference to the converting Rule 17(b) of the Rules

merely because the petitioner objected to the same at an earlier point of time. When a liability of this nature has been fixed on the petitioner, that

too, initially, by framing a charge under Rule 17(b) of the Rules which involves an elaborate procedure of conducting an enquiry, the respondents

cannot short circuit the same and make a recovery order by merely rejecting the petitioner's explanation.

8. In the light of the above, W.P. Nos. 17820 and 17821 of 2007 will stand allowed and the recovery order will stand quashed. The respondents

are at liberty to frame charge memo under Rule 17(b) against the petitioner in respect of the loss caused by him covered by the two writ petitions.

In the light of the fact that the charges framed against the petitioner have now been revived, the question of allowing him from getting retired on

31.3.2007 does not arise and the orders impugned in W.P. No. 16194 of 2007 are perfectly valid and it is for the petitioner to await the

disciplinary proceedings to be conducted by the respondent in the light of the charges covered by W.P. Nos. 17820 and 17821 of 2007 in

accordance with law. However, there will be no order as to costs. Connected Miscellaneous Petition is closed.