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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.414/2003

Tuesday, this the 8th day of July, 2003.

CORAM;

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

Jupudi Prasad.I.F.S.
Conservator of Forest,
Social Forestry & Nature Study Centre,
Edappally, Ernakulam.

- Applicant

By Advocate Mr M.P.Prakash

Vs

1. State of Kerala represented by its Chief Secretary to Government, Secretariat, Thiruvananthapuram.
2. Chief Secretary to Government, Secretariat, Thiruvananthapuram.
3. Principal Secretary to Government, Forest & Wild Life Department, Secretariat, Thiruvananthapuram.
4. V.Gopinathan.I.F.S.
Chief Conservator of Forests(Wild Life),
Forest Head Quarters,
Vazhuthacaud,
Thiruvananthapuram.

- Respondents

By Advocate Mr A.Renjith, G.P.

The application having been heard on 8.7.2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant, presently working as Conservator of Forest, Social Forestry & Nature Study Centre, Ernakulam, has filed this

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O.A. challenging A-1 Articles of Charge and statement of imputations dated 21.6.1999 levelling charges of certain serious irregularities like erecting cairns along the forest boundaries at Koonanmala and Kuttiyanchal areas under Enippara outpost of Pooyamkutty Forest Station in Kuttampuzha Range which had the effect of giving away large areas to the encroachers after accepting bribes, allowing encroachers to occupy various properties with Government plantations thereon, allowing encroachers to occupy a substantial portion of the evicted land and misleading the higher authorities by furnishing false information.

2. The applicant is aggrieved by A-7 reply dated 10.10.2002 to his A-6 representation dated 29.8.2002 and A-9 reply dated 29.4.2003 to his A-8 representation dated 25.11.2002.

3. The ~~crux~~ of the applicant's grievance, as per this O.A. is that, no proper articles of charge and statement of imputation have been given to the applicant along with the list of witnesses and the documents which are proposed to be relied on by the respondents, in spite of the representations in that regard. According to him, A-1 would serve the purpose of a show-cause notice only. A conscious decision to conduct an enquiry was taken as per A-3, after considering the applicant's A-2 reply to A-1. Therefore, it was necessary to issue a detailed charge sheet, statement of imputations, list of witnesses and documents as enjoined by Rule 8, 4 and 5 of All India Services (Discipline and Appeal) Rules, 1969. The applicant seeks the following reliefs:

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- i) To call for the records relating to Annexure A1, A7 and A9 and to quash the same;
- ii) To declare that the proceedings based on Annexure A-1 memo of charges are illegal, unconstitutional and unauthorised;
- iii) To grant such other reliefs which this Hon'ble Tribunal may deem fit, proper and just in the circumstances of the case; and
- iv) To award costs to the applicant.

4. The respondents 1,2 and 3 have filed a statement resisting the O.A. According to them, the disciplinary action was initiated against the applicant for the various irregularities involved in the construction of cairns, giving undue possession of forest lands to encroachers etc. After considering the applicant's written statement, the Government decided to conduct a detailed enquiry into the charges. According to the respondents the enquiry proceedings were progressing in accordance with the rules and the applicant was actively co-operating with the examination of witnesses. The cross-examination of the prosecution witnesses is half-way through. It is also stated by the respondents that the arguments raised by the officer has been taken into consideration during the course of enquiry. Suggesting that the O.A. is premature, the respondents have maintained that the Government will take a decision on the matter after a detailed consideration of the enquiry report. Further, the delinquent officer was to be given a chance of personal hearing before taking a decision on the Inquiry report. The matter being inconclusive and the inquiry is progressing in accordance with law, the Government cannot drop the proceedings at this stage of inquiry, according to the learned counsel for the respondents.

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5. When the matter came up for consideration before the Bench Shri M.P.Prakash, learned counsel appeared for the applicant and Shri A.Renjith, Government Pleader appeared for the respondents 1-3. Learned counsel for the applicant would state that no proper charge sheet or statement of imputation in accordance with the rules was issued in this case. All that was served on the applicant was impugned A-1 communication. The applicant thereupon gave a reply. After receiving and going through the reply, the respondents decided to hold an enquiry in detail. When a decision to conduct an enquiry was taken, it was the legal obligation of the respondents to serve on the applicant a proper charge sheet, statement of imputation, list of witnesses and list of documents proposed to be relied on. Citing the rules and also the legal position to support the applicants pleadings, learned counsel for the applicant would contend that some knowledge on the part of the applicant as to the nature of the charge would not be sufficient and since that would not tantamount to compliance with the legal requirements.

6. Shri Renjith, learned GP relying on the statement filed by the respondents 1-3 would argue that, this O.A. is premature. Since all the problems raised by the applicant can be addressed by the appropriate authority in accordance with the rules and procedure laid down therefor without causing any prejudice to the progress of the Inquiry, there was no scope for interference.

7. Learned counsel for the applicant would however, state that if the respondents are directed to consider the applicant's representations A-4, A6 and A-8 and make a list of documents and

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witnesses relied on by the respondents in support of the articles of charge, the purpose of the O.A. will be served. Learned Government Pleader, while reiterating the stand that the enquiry proceedings are progressing in accordance with law, would state that if any legal requirement is to be fulfilled in the light of the applicant's representations, the respondents would have no objection in considering the representations made by the applicant and disposing of the same in accordance with the rules. Counsel on either side agree for disposal of the O.A. in the above lines.

8. We have gone through the case records including the applicant's representations. We have also taken due note of the submissions made by the learned counsel on either side. In our opinion, A-1 cannot be construed as a proper charge sheet in the absence of list of documents and list of witnesses relied on by the respondents to substantiate the charges levelled against the applicant. It is only a show cause notice. Furnishing of such material along with charge sheet and statement of imputations would normally arise after issuing A-3. That has not been done. Whatever the legal rights the applicant has in connection with the enquiry proceedings should be satisfied and the enquiry should be carried out after filling the lacuna, if any, strictly in accordance with the procedure laid down for the purpose under the All India Services(Discipline & Appeal), Rules 1969. We, therefore, hold that A-5 order already made on A-4 representation requires to be reconsidered after taking into account the applicant's submissions not only in A-4, but also taking into

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account submissions made by the applicant in his A-6 and A-8 representations with specific reference to the question of furnishing of particulars like list of documents, list of witnesses etc.

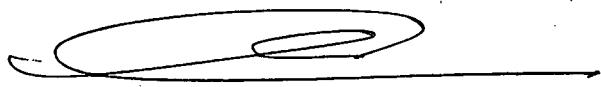
9. In view of what is stated above, we consider it appropriate to direct the respondents to reconsider the applicant's A-4, A-6 and A-8 representations in so far as those relate to the issue of Articles of charge, statement of imputations, list of documents and list of witnesses proposed to be relied on by the respondents, strictly in accordance with the rules, regulations and orders in respect of the enquiry proceedings against the All India Services officers as per All India Services(Discipline & Appeal), Rules, 1969, and we do so. We do not find that any further interference in the matter is for called as of now as enquiry proceedings should be allowed to progress in order that the ends of justice are met. Respondents are directed to take appropriate action and pass orders on the representations (A-4, A-6 and A-8) within a period of three months from the date of receipt of copy of this order with a view to render the enquiry proceedings already initiated proper and valid and in accordance with the principles of natural justice. The applicant shall, of course, co-operate with the respondents.

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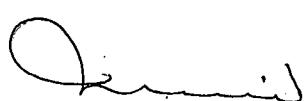
in of the enquiry which is already in progress.

10. The O.A. is disposed of as aforesaid. There is no order as to costs.

Dated, the 8th July, 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER