

GOVERNMENT OF KERALA

Abstract

Forests Department-Orders of the Chief Conservator of Forests dismissing Sri.T. Govindankutty Menon- Forests- Set aside-
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AGRICULTURE & RURAL DEVELOPMENT DEPARTMENT

(Agriculture-Forests Establishment)

G.O.Rt.2654/66/Agri.

Dated 17-11-1966
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- Read 1. Proceedings of the Chief Conservator of Forests in his order No. B3-44576/63 dated 11-12-1964
2. Appeal petition dated 11-1-1965 from Sri. T.Govindankutty Menon, Thondikattil House, Panangattukara, Vadakkancherry, Trichur District.
 3. Letter no.A1 (7) 75549/66 dated 17-8-66 from the Secretary, Kerala Public Service Commission, Trivandrum.

ORDER
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The Chief Conservator of Forests reported in March 1962 that the Flying Squad Pick up van of the Malayattur Division had dashed against tree and was heavily damaged as a result of misuse of the vehicle by Forester Sri.T. Govindankutty Menon, In G.O.Rt. 1647/62/Agri.dated 17-7-1962sanction was accorded by Government to get the Vehicle repaired and the Chief Conservator of Forests was requested to take steps to recover the entire cost of repairs from those at fault. The Chief Conservator of Forests subsequently reported on 2-1-1964 that Forester Sri.T. Govindankuty Menon and Driver Sri.P.A. Abdullah involved in the affair were placed under suspension pending enquiry into their misconduct and that the driver being only a provisional hand recruited through the Employment Exchange, the Divl. Forests Officer was pursuing action to dispense with his service. The Chief Conservator of Forests, therefore, recommended that the entire cost of repairs of Rs. 5493.49 and an amount of Rs. 300/-being transport charges, be recovered from the Forester Sri. Govindankutty Menon. He also proposed that Sri. Govindankutty Menon be dismissed from service taking into account the gravity of the offence committed and the loss sustained by Government may be written off. The Chief Conservator of Forests was then informed on 17-5-64 that since his proposal was to impose a major punishment viz. dismissal from service, the detailed procedure laid down in Rule 15 of the Kerala Civil Services (Classification, Control and appeal) Rules 1960 should be observed and that the question of write off of the loss sustained be Government be considered after the disciplinary action was concluded and the final punishment decided. The disciplinary action was finalized and Sri. Govindankutty Menon was dismissed from service as per Proceedings No. B3-44576/63 dated 11-12-1964 of the Chief Conservator of Forests.

2. Sri. Govindankutty Menon thereupon submitted before Government an appeal dated 11-1-1965. Government have examined the appeal and the report of the Chief Conservator of Forests together with his office records connected with the case.

3. According to Rule 15(2) (a) Kerala Civil Service (classification, Control and Appeal) Rules, 1960 as amended, laying down the procedure to be followed for major penalties, the appointing authority, when it is satisfied that there is prima facie case against a Government servant, should frame the charge against him and call for a written statement of defense from him. If after the written statement is received from the accused officer, the said authority is satisfied that a formal enquiry should be held into the conduct of the Government servant, it shall forward the record of the case to the enquiring authority and order a formal enquiry. The Chief Conservator of Forests is the appointing authority in relation to the appellant. He did not frame any charge against the appellant for did he order an enquiry. The Divl. Forest Officer himself framed the charges against him and conducted the enquiry. The action of the Divl. Forest Officer in having framed the charges and having conducted the enquiry is without jurisdiction.

4. The Chief Conservator of Forests in his final order has not adverted to the several points raised by the appellant in his representation submitted in response to the show cause notice. What is stated by the Chief Conservator of Forests in his final order about the appellant's representation is that he has not put forward any new points to absolve him of the charges. One of the purpose of show cause notice is to allow the Government servant an opportunity to prove before the disciplinary authority that the findings entered against him are not sustainable. The appellant had in his representation explained that the charge against him had not been proved by evidence and that no punishment could be imposed on him. It was, therefore , necessary for the Chief Conservator of Forests to consider whether the contentions of the appellant were tenable. The orders passed in a disciplinary proceedings should be a speaking order, that is to say, it should have advertence to the various contentions raised by the accused Officer. As this has not been done in the present case, the order of the Chief Conservator of Forests is not sustainable.

5. In view of the above irregularities the disciplinary proceedings against the appellant are vitiated and the orders passed by the Chief Conservator of Forests dismissing the appellant from service cannot be sustained.

6. In the circumstances, the order of the Chief Conservator of the Conservator of Forests in his Proceedings no. B3-44576/63 dated 11-12-1964 is set aside and the Chief Conservator of Forests is directed to conduct a fresh enquiry under the Kerala Civil Service (Classification, Control and Appeal) Rules in the matter. His office records (3 files) and the appellant's Service Book are returned to him

(By order of the Governor)
M.K. Bhaskaran.
Assistant Secretary to Government..

To

The Appellant.
The Chief Conservator of Forests.