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 22/12/18



GOVERNMENT OF KERALA

Abstract

Forest & Wildlife Department - Judgement dated 31.07.2018 of Hon'ble Kerala Administrative Tribunal in TA 3022/2012 (WP (C) No. 30730/2005) – filed by Sri.M.A.Jose, Forester (Rtd.) - Complied with- Orders issued.

FOREST & WILDLIFE (A) DEPARTMENT

G.O.(Rt)No.517/2018/F&WLD Dated, Thiruvananthapuram,
 19/12/2018

- Read 1 G.O. (Rt.) No.259/98/Forest dated 03.06.1998
 2 G.O. (Rt.)No. 441/01/F&WLD dated 20.10.2001
 3 Judgement dated 15.07.2002 of Hon'ble High Court in O.P. No. 23709 of 1998 filed by Sri.M.A.Jose.
 4 G.O. (Rt.) No. 15/2004/Forest dated 09.01.2004
 5 Judgement dated 15.04.2005 of Hon'ble High Court in the WP(C) No. 12069/2004 filed by Sri.M.A.Jose.
 6 G.O. (Rt.)No. 383/2005/Forest dated 08.07.2005
 7 Judgement dated 31.07.2018 of Hon'ble Kerala Administrative Tribunal in TA 3022/2012 (WP (C) No. 30730/2005).

ORDER

Sri.M.A.Jose, Forester, while working as Forest Guard in Malampuzha Beat of Walayar Range, the Flying Squad of Forest Vigilance Wing detected cultivation of Gunja on 01.01.1993 in six areas in Attumala Area coming within Malampuzha Beat. The tree growth in the area was seen destroyed. The Flying squad calculated a loss of Rs.15,000/- due to the illicit felling of trees. Twelve officers including Sri.M.A.Jose were charge sheeted on 28.10.1993 on the allegation that they failed to detect the ganja cultivation and illicit felling of trees in Attumala area on account of their dereliction of duty. A formal enquiry under Rule 15(2) of the Kerala Civil Services (CC&A) Rules was ordered by the Chief Conservator of Forests (Protection). The Enquiry officer reported that the actual loss due to tree felling was Rs.1,600/-. The disciplinary action was finalised on 04.08.1996 with a decision to recover the loss from all the delinquent officers equally

(Rs.267/- each) and to impose a punishment of barring of two increments with cumulative effect. Sri.M.A.Jose filed appeal dated, 09.02.1997 against this order before the Government. Government examined the appeal and declined his request vide the order read as 1st paper above.

2) Against this ,Sri.M.A.Jose had filed OP No.23709 of 1998. The Hon'ble High Court disposed of the OP as per the judgment read as 3rd paper above, directing the Government to re-examine his appeal petition in the light of the petitioner's submission. Government re-examined his appeal as directed by the Hon'ble High Court and decided to decline his request for exonerating him from the charges and issued order as per the reference read as 4th paper above.

3) Sri.M.A.Jose filed Writ Petition challenging the above decision. The Hon'ble High Court disposed of the Writ Petition as per the judgement read as 5th paper above and directed Government to reconsider the matter and pass orders after hearing the petitioner. Government considered his submissions with reference to the records. Government find no reason to agree to the petitioner's submission for exonerating him from the charges and setting aside the punishments imposed on him. His request is , therefore, rejected as per the reference read as 6th paper above.

4) Sri.M.A.Jose challenged this in the WP (C) No. 30730/2005 and as per the reference read as 7th paper above ,the Hon'ble Kerala Administrative Tribunal viewed that " imposition of a major penalty against him is totally perverse which requires interference.It was never considered by Government that whether it was humanly possible for any person to perambulate the entire Malampuzha Beat without the assistance of at least one person to accompany.As such at any rate, only a minor penalty need be imposed. Accordingly the punishment imposed by way of major penalty, barring of two increments with cumulative effect is set aside and it will stand converted as barring of two increments without any cumulative effect, as it is felt that at this distance of time the matter need not be sent back again for fresh consideration. The Government have to pass a consequential revised order in accordance with the above finding .The applicant has already retired form service. In the light of the said fact, the pensionary benefits of the applicant will be recomputed and eligible monetary benefits on all counts will be disbursed".

5) Government have examined this case in detail and in compliance of the order of the Hon'Kerala Administrative Tribunal, hereby order to convert the punishment imposed on Sri.M.A.Jose ,Forester (Rtd.)by way of major penalty as barring of two increments with cumulative effect as barring of two increments without cumulative effect.

Additional Principal Chief Forest (Administration) is hereby directed to recompute the pensionary benefits of the applicant and eligible monetary benefits on all counts are to be disbursed within the time limit as stipulated in the judgement read as 7th paper above.

6) Judgement dated 31.07.2018 of Hon'ble Kerala Administrative Tribunal in TA 3022/2012 is complied with accordingly.

(By order of the Governor)

VENU V

PRINCIPAL SECRETARY

Additional Principal Chief Conservator of Forest (Administration)

Sri.M.A.Jose, Forester (Rtd.) (Through Additional Principal

Chief Conservator of Forest (Administration)

Advocate General , Vanchiyoor, Thiruvananthapuram(with C/L)

Secretary , Kerala Public Service Commission (with C/L)

Principal Accountant General (A&E/Audit), Kerala, Thiruvananthapuram

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