

17666
5/11/16



GOVERNMENT OF KERALA

Abstract

Forest & Wildlife Department-Order dated 28.01.2016 in TA 5578/2012 in WP(C) No.31047/2009 filed by Shri.A.C.Sreedharan, Retired Forest Range Officer-Complied with-Orders issued.

=====

FOREST & WILDLIFE (A) DEPARTMENT

G.O.(Rt)No.426/2016/Forest

Dated, Thiruvananthapuram, 04.11.2016

=====

Read:-

- 1) G.O.(Rt) No.233/2006/F&WLD dated 17.05.2006
- 2) G.O.(Rt) No.414/2011/F&WLD dated 22.09.2011
- 3) Order dated 28.01.2016 in TA No.5578/2012 filed by Shri.A.C.Sreedharan, Retired Forest Range Officer by Hon'ble Kerala Administrative Tribunal
- 4) Letter No.C3/TA 5578/2012/AGO dated 27.08.2016 of the Advocate General, Kerala

ORDER

In connection with irregularities in the extraction of raw materials by Hindustan Newsprint Limited in 1977 Eucalyptus Plantations in Thrissilery Section in Begur Range, North Wayanad Division which caused huge loss to Government to the tune of Rs.7,89,890/, Shri. A.C.Sreedharan, the then Range Officer along with another were suspended from service vide Government Order read as first paper above. Since A.C.Sreedharan retired from service on 31.05.2006, Memo of Charges could not served to him. Since Crime Branch Enquiry was going on, Government waited for the outcome of the enquiry. But Sri.A.C.Sreedharan filed WP(C) 29130/06 before the Hon'ble High Court and vide judgment dated 18.07.2007, the case was disposed by directing the Government to complete proceedings initiated against the petitioner within 4 months and to release the terminal benefits payable to him. In pursuant to that, Show Cause Notice dated 11.06.08 was issued to Sri.A.C.Sreedharan proposing recovery of proportionate Government loss amounting to Rs.1,12,841/- and to reduce Rs.250/- from his monthly pension by invoking Rule 59(b) Part III KSRs. Sri.A.C.Sreedharan submitted his explanation to the Show Cause Notice and remarks of Chief Conservator of Forest (Administration) was sought in this. The Chief Conservator of Forest (Administration) reported that the loss sustained to Government was adjusted from the

advance remittance for the year 2005-06 by M/S.Hindustan Newsprint Limited and recommended to proceed with the provisional decision of the Government to reduce Rs.250/- from his monthly pension, since the accused officers are found guilty of supervisory lapses, concealment of facts and other irregularities. Accordingly Government finalized the Disciplinary Action initiated against Sri.A.C.Sreedharan, by awarding the punishment of reduction of Rs.250/- from his monthly pension in consultation with Kerala Public Service Commission vide Government Order read as second paper above.

In compliance to the judgment dated 18/07/06 in WP(C) 29130/06 filed by Sri A.C.Sreedharan praying to release the pensionary benefits, the Government issued Show Cause Notice to the petitioner and as per letter No.14882/A1/07/F&WLD dated 26.03.2009 (Ext P3) the Chief Conservator of Forests (Administration) was intimated that it has been provisionally decided to impose a punishment of reduction of pension by Rs.250/- from the monthly pension of the petitioner and to finalise the proceedings against him. Further it was intimated that as no liability is sustaining against the petitioner, there is no restriction to release his terminal benefits and directed to disburse the terminal benefits. The decision was communicated to the Treasury Authority also enclosing the Liability Certificate since eligible pension has already been sanctioned to the petitioner as per Order No.P-05/Pen A/448/OE/06-07/25 dated 23.02.2007 of Accountant General, Thiruvananthapuram and thus the Court direction to release the retirement benefits has also been complied with.

Sri.A.C.Sreedharan filed WP(C) No.31047/09, challenging Government Letter No.14882/A1/07/F&WLD dated 26.03.2009 (Ext P3) and Letter No. E-4290/05 of the Divisional Forest Officer, North Wayanad Division to the District Treasury Officer, Kalpetta requesting to deduct an amount of Rs.2000/- from his D.C.R.G and to reduce Rs.250/- from his monthly pension in the light of Ext P3 (Ext P4). The petitioner prayed to release all terminal benefits with interest on the belayed payments since the entire proceeding related to Ext P3 & P4 are vitiated by malafide, contains procedural irregularity and in violation of natural justice.

Vide Order read as third paper above the Hon'ble Kerala Administrative Tribunal set aside Ext.P3 & P4 and ordered to release the amount recovered from the monthly pension of the petitioner up to this period within a period of 3 months from the date of receipt of a certified copy and no reduction will be made in future. While disposing the

T.A, the Hon'ble Kerala Administrative Tribunal observed that Ext P3 was issued so as to comply with judgment dated 18.07.2007 in WP(C) 29130/06 and no separate order was passed in the matter, and the relevant procedures also have not been followed and hence Ext P3 cannot be treated as a final order and to that extent cannot survive.

Even though Show Cause Notice dated 11/06/08 was issued in compliance to the judgment dated 18.07.2007 in WP(C) 29130/06 later separate order has been issued vide Government Order read as second paper above confirming the provisional decision taken to reduce Rs.250/- from the monthly pension of the petitioner, following all the procedural formalities including consultation of Kerala Public Service Commission. Hence contention of the Honourable Kerala Administrative Tribunal, that no separate order was passed in the matter and the relevant procedure also have not been followed and hence Ext P3 cannot be treated as a final order cannot be agreed to.

In this context, Legal opinion was sought from Advocate General as to whether there is any scope for filing appeal against the order dated 28.01.2016 in T.A.No.5578/12 (WP(C)31047/09) filed by Sri.A.C.Sreedharan, Range Forest Officer (Rtd). The Advocate General, Thiruvananthapuram has opined that there is no scope for appeal vide letter read as 4th paper above.

Government have examined the matter in detail and decided to accord sanction to release the amount, if any, recovered from the pension of Shri.A.C.Sreedharan, Range Forest Officer (Rtd) and to stop further deduction from the pension of the incumbent. The judgment of the Hon'ble Kerala Administrative Tribunal in T.A. No.5578/2012 dated 28.01.2016 is thus complied with.

The Accountant General shall take further necessary steps in this regard.

(By Order of the Governor)
ANIL KUMAR.G
Additional Secretary

The Additional Principal Chief Conservator of Forests (Administration)
Shri.A.C.Sreedharan, Retired Forest Range Officer
(through the Additional Principal Chief Conservator of Forests (Administration))
The Advocate General, Kerala Thiruvananthapuram (with C/L)
The Principal Accountant General (A&E/Audit), Thiruvananthapuram
✓ I&PRD (Web & New Media)
Stock File/Office Copy.



Forwarded/By Order


Section Officer