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GOVERNMENT OF KERALA

Abstract

Forest & Wildlife Department-Review petition submitted by Shri.Chandrabhanu Panicker, Range Officer (Rtd)-Disposed off-Orders issued.

FOREST & WILDLIFE (A) DEPARTMENT

G.O.(Rt) No.33/2017/F&WLD

Dated, Thiruvananthapuram 31.01.2017

- Read:-
- 1) Letter No.A6-1442/2006 dated 07.04.2009 of Divisional Forest Officer, Timber Sales Division, Thiruvananthapuram.
  - 2) Representation dated 14.07.2016 submitted by Shri.Chandrabhanu Panicker, Range Officer (Rtd).
  - 3) Orders of Hon'ble Kerala Administrative Tribunal dated 24.07.2016 in TA 217/2013 filed by Shri.Chandrabhanu Panicker, Range Officer (Rtd).
  - 4) Letter No.F3-4464/11 dated 15.11.2016 of the Additional Principal Chief Conservator of Forest (Administration).

ORDER

Shri.Chandra Bhanu Panicker retired from service as Range Officer on superannuation on 30.06.2006 from Government Timber Depot Achencoil. The Accountant General (A&E) has sanctioned an amount of Rs, 2,20,282/- as DCRG. But this was withheld on the ground that a total liability of Rs.2,49,413/- is outstanding on four different heads viz.

Periyar East Division - Rs.1,61,572/-  
Nilambur North - Rs14,712/-  
Kottayam Division - Rs.2,501/ + Rs.55,430/-  
Wildlife Warden Tvm - Rs15,198/-

2. As per the letter read as first paper above, the Divisional Forest Officer, Timber Sale Division, Thiruvananthapuram has fixed a liability of Rs.1,93,983/- against Shri.Chandra Bhanu Panicker, Range Officer (Rtd) and intimated to him.

3. This was acknowledged by him on 20.04.2009. One vigilance case regarding misappropriation of fund, sanctioned to the work of honeymoon cottage at Vellappara, Idukki was finalized as per G.O.(Rt) No.401/09/F&WLD dated 22.08.2009 in which it was ordered to recover an amount of Rs.55,430/- from his DCRG.

4. Thus the total liabilities to be recovered from his DCRG is (1,61,572+ 14712+2501+55430+15198) =2,49,413/-. His DCRG amount is Rs.2,20,282/- As such the excess liability, after deducting from the DCRG, comes to Rs.29,131/- which has to be recovered from him through legal steps.

5. As per the letter read as 2<sup>nd</sup> paper above, Shri.Chandrabhanu Panicker has submitted a representation before Government for exonerating him from the total

liabilities and to disburse the retirement benefits. He had filed WP(C) 21534/11 before the Hon'ble High Court which is transferred to Hon'ble Kerala Administrative Tribunal and renumbered as TA217/13.

6. As per the order read as 3<sup>rd</sup> paper above, the Hon'ble Kerala Administrative Tribunal ordered to consider and pass appropriate orders on the representation dated 14.07.2016, filed by Shri.Chandra Bhanu Panicker, after affording an opportunity of personal hearing in the matter, within a period of four months from the date of receipt of a certified copy of the order.

7. In the representation he has submitted that regarding the liability of Rs.1,61,572/- in Periyar East Division, the III<sup>rd</sup> Additional Munsiff, Thiruvananthapuram in the judgment in OS No.380/2000 dated 28.11.2000 ordered permanent prohibitory injunction from proceeding with recovery of Rs.57,260/-. The details of the balance liabilities of Rs.1,04,312/- have not been intimated to him.

8. Regarding the liability of Rs.14712/- outstanding against him in Nilambur North Division, it relates to the award in OP (MV) 825/91 of Motor Accident Claims Tribunal, Manjeri. Divisional Forest Officer, Nilambur North Division being the custodian of the vehicle is vicariously liable for the act of his employee. The details of liabilities of Rs.2,501/- outstanding against him in Kottayam Division have not been intimated to him so far.

9. Regarding the liability of Rs.15,198/- outstanding in Wildlife Division, Thiruvananthapuram, as per the Proceedings No.A1-1154/98 dated 24.04.2000 of the Wildlife Warden (Sanctuary), Thiruvananthapuram, Rs.11,177/- disallowed from the vouchers had been re-admitted and re-adjusted. The balance liability is Rs.4,021/- (Rs.15,198/- - Rs11,177/-) and the details of the above liabilities have not been intimated.

10. As ordered by the Hon'ble Kerala Administrative Tribunal, the petitioner was heard in person on 30.11.2016. During hearing the petitioner informed that the details of liability have not been intimated to him. No opportunity was given to him for justifying his part. Withholding the DCRG is a painful experience to him as he had executed the departmental work in Government interest.

11. As per the letter read as 4<sup>th</sup> paper above Additional Principal Chief Conservator of Forest (Administration) has furnished a detailed report. Forest Department had given a clear picture of liabilities outstanding against Shri.Chandrabhanu Panicker within a period of 3 years on becoming pensioner. The same is acknowledged by him on 20.04.2009. The Department has quantified the liability as per the rules and hence the same is to be recovered at the earliest.

12. Having examined the available details, it is seen that as per D.O.letter No.A-363/96 dated 31.05.2003 from the Deputy Registrar, Project Tiger, Periyar East Division Shri.Chandrabhanu Panicker has been informed about the liability of Rs.1,61,572/-. Thus he has been given a chance to explain the reasons for the liabilities. But without giving proper reply and followup, he has filed WP(C) in Hon'ble Court and stick on to the rule position that after 3 years of retirement no

liability has to be quantified. If he had executed the work in Government interest, such liabilities could not have been quantified from various divisions.

13. In considering the natural justice the petitioner has been given several opportunities to submit his explanation regarding the liabilities. Without using this he has challenged the action of non-disbursement of DCRG.

14. As per Note (2) (3) under Rule 3 Part III KSR liabilities quantified can be recovered from DCRG, without the departmental/judicial proceedings, but after giving the person concerned reasonable opportunities to explain. Also in Ruling (3) there in it is specified that note 2 does not mean that the employee's consent should be obtained for recovering the liabilities from DCRG. What it contemplated is only a communication of such liabilities to him so as to enable him to submit his explanation before the recovery is effected.

15. Government have examined the whole matter in detail and feels not to interfere the liabilities quantified against the petitioner by the competent authorities concerned as there is no violation of principles of natural justice and relevant Rules. Shri.Chandrabhanu Panicker, Range Officer (Rtd) shall submit his explanation for the notice issued regarding the liabilities. Additional Principal Chief Conservator of Forest (Administration) should consider his explanations and re-asses the liabilities if it requires so. The representation from Shri.Chandrabhanu Panicker is disposed off accordingly and the judgment of Kerala Administrative Tribunal read as 3<sup>rd</sup> paper above is complied with.

(By Order of the Governor)

Nazarudeen A.

Under Secretary to Government

Additional Principal Chief Conservator of Forest (Administration).

Shri.Chandrabhanu Panicker, Range Officer (Rtd) (through the Additional Principal Chief Conservator of Forest (Administration))

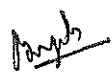
The Advocate General, Kerala Administrative Tribunal (with C/L)

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

The Information & Public Relations (Web & New Media) Department

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Section Officer

