



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A.No.060/00839/2019

Chandigarh, this the 08th January, 2020

HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN

HON'BLE MR. MOHD. JAMSHED, MEMBER (A)

Jitendra Sharma S/o Late Sh. Dina Nath, Aged 58 years, Indian Forest Service (IFS), Principal Chief Conservator of Forests (Head of Forest Force), Department of Forest & Wildlife Preservation, Govt. of Punjab, Forest Complex, Sector-68, SAS Nagar (Mohali), R/o H.No. 1615, Sector 39-B, Chandigarh (Post-Group A-All India Service).

Applicant

(BY: MR. SANJEEV SHARMA, SR. ADVOCATE WITH
MR. RAKESH SOBTI, ADVOCATE)

Versus

1. Union of India through its Secretary, Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, Aligunj, New Delhi-110003.

(BY: MR. SANJAY GOYAL, SR.CGSC)

2. State of Punjab, through its Additional Chief Secretary-cum-Financial Commissioner, Department of Forest & Wild Life Preservation, Punjab Civil Secretariat, Sector 9, Chandigarh.

(BY: MS. ANU CHATRATH, SR. ADVOCATE WITH
MR. RAKESH VERMA, ADVOCATE)

3. Mr. Kuldeep Kumar, Principal Chief Conservator of Forests (Wildlife), Department of Forests & Wildlife



Preservation, Govt. of Punjab, Forest Complex,
Sector-68, SAS Nagar (Mohali).

(BY: MR. PUNEET BALI, SR. ADVOCATE WITH
MR. PANKAJ MAINI, ADVOCATE)

.. Respondents

O R D E R(Oral)

JUSTICE L. NARASIMHA REDDY:

1. The applicant and the 3rd respondents are IFS Officers of the Punjab Cadre. It is stated that in the year 2014, the applicant was sent on Central Deputation. Steps were initiated for promotion to the post of Principal Chief Conservator of Forests (Head of Forest Forces) (for short "HoFF") of the State of Punjab. It is stated that though the 3rd respondent was junior to the applicant, he was selected and appointed as HoFF, on the sole ground that the applicant was not immediately available. On completion of deputation, the applicant is said to have made a representation to the Government stating that when he is very much available and willing to serve as HoFF, there was no basis to select and appoint 3rd respondent, who is junior to him. It is also stated that on the representation of the applicant the State of Punjab passed order dated 28.8.2017 (Annexure A-4) extending benefit of the *proforma* promotion and posting him as HoFF.

2. The grievance of the applicant is that the 2nd respondent, i.e., State of Punjab passed order dated



9.8.2019 (Annexure A-10), transferring/posting him as Managing Director, Punjab State Forest Development Corporation and posting the 3rd respondent on the post of HoFF. The said order is challenged in this O.A. by raising several grounds.

3. 2nd respondent on the one hand and Mr. Kuldeep Kumar, 3rd respondent on the other have filed counter affidavits separately.

4. According to the respondents, the 3rd respondent was selected and appointed as HoFF in 2014, as applicant was on Central deputation. It is stated that though he was given *proforma* promotion after he returned in October, 2017, he was posted as HoFF replacing the 3rd respondent, and that on realizing the mistake, 2nd respondent has taken corrective steps. It is stated that there is no illegality in passing the impugned order.

5. On 13.8.2019, the Tribunal passed the interim order staying the operation of the impugned order, Annexure A-10.

6. We heard Sri Sanjeev Sharma, learned senior counsel with Sri Rakesh Sobti, learned counsel for applicant, Sri Sanjay Goyal, senior CGSC for respondent No.1, Ms. Anu Chatrath, learned senior counsel with Mr. Rakesh Verma, learned counsel for respondent No.2 and Mr. Puneet Bali,



learned senior counsel with Mr. Pankaj Maini, learned counsel for respondent No.3, at length.

7. The challenge in this O.A. is to the order dated 9.8.2019 (Annexure A-10), through which the applicant, who was working as PCCF (HoFF) was transferred as MD, PSFDC and the 3rd respondent is posted in his place. It is a matter of record that the 3rd respondent herein was promoted to the post of HoFF in the year 2014 whereas the applicant was extended the benefit of proforma promotion. As to who, amongst them, is entitled to be posted as HoFF, particularly when there is only one post, should have been decided by the State Government by giving opportunity of hearing to both the parties. In case the applicant is of the view that he deserves priority over the 3rd respondent, in the context of the posting as HoFF, it shall be open to him to make a representation. The need to compare the regular promotion on the one hand and *proforma* promotion on the other hand, would arise. If such a representation is made, the 2nd respondent shall give opportunity to the 3rd respondent and then an order. As of now, we do not find any illegality in the impugned order. We do not find any serious infirmity, warranting interference with the same. It is brought to our notice that by the time the interim order was passed, 3rd respondent had already joined the post of HoFF.



8. We, therefore, dispose of this O.A. by vacating the interim order dated 13.08.2019 and directing that the 2nd respondent shall consider the claim of the applicant vis-à-vis 3rd respondent in the context of posting on the post of HoFF and pass a fresh order, within 3 weeks from the date of receipt of a copy of this order, if representation is made in this behalf. It is needless to mention that opportunity shall be given to the 3rd respondent, to present his version. Pending M.A., if any, also stand disposed of.

9. We, however, make it clear that the observations made hereinabove shall not have any effect on the rights of applicant of connected O.A.No.060/00978/2019 (**Harinder Singh Grewal Vs. Union of India & Others**).

There shall be no order as to costs.

(**Mohd. Jamshed**)
Member (A)

(**Justice L. Narasimha Reddy**)
Chairman

Place: Chandigarh
 Dated: 08.01.2020

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