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O.A. No. 452 of 2009

M.Satyanarayan.....Applicant

Vs

Union of India & Ors.....Respondents

Order dated: 14.12.2011

CORAM:

Hon'ble Shri C.R.Mohapatra, Member (Admn.)

&

Hon'ble Shri A. K. Patnaik, Member(Judl.)

Heard Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel appearing for the Union of India and Mr. G.C.Nayak, Ld. Govt. Advocate for the State of Orissa. None appears for the applicant.

2. Applicant, who is working as Conservator of Forest (Nodal) in the office of Principal Chief Conservator of Forest, Bhubaneswar faced a departmental proceeding. The Inquiry Officer while submitting his inquiry report recommended for minor penalty of "Censure and caution for future". However, disciplinary authority proposed for stoppage of two increments without cumulative effect vide Order No. 401/F&E dated 10.01.2005. It is the case of the applicant that though more than 3 and ½ years have elapsed, the disciplinary authority neither finalized the proceeding nor imposed punishment against the applicant. In the above

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background, the applicant has approached this Tribunal in the present O.A. seeking the following relief:

- i).....to admit the original application.
- ii) and may quash the Departmental proceeding and direct the Respondents to promote the applicant from the Post of Conservator of Forest to post of Chief Conservator of Forest from the date his juniors were promoted to the said post.
- iii) To any other relief....."

3. While admitting this O.A. notices were issued to the Respondents on 21.10.2009. Thereafter counter has been filed by the State of Orissa, which has been adopted by the Union of India as submitted by Mr. U.B.Mohapatra, Ld. Sr.S.Counsel. Rejoinder has also been filed by the applicant.

4. Challenging the order dt. 25.11.2009 passed by this Tribunal in M.A. 645/09 arising out of the present O.A., the applicant approached the Hon'ble High Court of Orissa in W.P(C). No. 18927/2009. The Hon'ble High Court of Orissa while disposing of the said Writ Petition vide its order dated 09.04.2010 made following observation/order:

"5.Under the circumstances, the case of the petitioner cannot be equated with the case of those officers whose writ applications were disposed of giving them promotion subject to the result of the departmental proceedings. In the case of Shi M. Gourinath Vrs. State of Orissa and others, retirement of the petitioner was due very soon

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and, therefore, it was necessary to consider his case for promotion before retirement. Since the petitioner is having more than three years of service, we do not propose to pass any interim order directing opposite parties to give him promotion to the post of Chief Conservator of Forest ending disposal of disciplinary proceeding. However, we direct the Tribunal to dispose of the O.A. as early as possible preferably within a period of four months. Learned counsel for the parties are requested not to seek unnecessary adjournments before the Tribunal".

5. Copy of the above order dated 09.04.2010 was received in this Tribunal on 03.05.2011. Thereafter, the matter came up before this Tribunal on several occasions, i.e. on 09.05.2011, 20.05.2011, 29.06.2011, 05.08.2011, 16.09.2011, 20.10.2011, 14.11.2011 and 18.11.2011. On 20.05.2011, it had been submitted by the Ld. Counsel for the applicant that he has already filed a review application against the order of the Hon'ble High Court of Orissa dated 09.04.2010 passed in W.P(C). No. 18927/09. On 14.11.2011 when neither the applicant nor his counsel appeared, it was posted to 18.11.2011. On 18.11.2011 again, neither the applicant nor his counsel was present and following orders were passed:

"Today, when the matter is called neither the applicant nor his counsel appeared. Heard Shri U.B.Mohapatra, Ld. Sr. Standing



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Counsel appearing on behalf of Union of India and Shri G.C.Nayak, learned Govt. Advocate appearing on behalf of the State of Orissa. Sri Mohapatra and Shri Nayak submitted that the Review Application stated to have been filed by the applicant has not yet been listed before the Hon'ble High Court of Orissa for admission. Shri Nayak also submitted that in the meantime, the applicant has been promoted to the post of Chief Conservator of Forests vide notification dated 14.03.2011.

While recording the above statements, we make it clear that since the stipulated time for disposal of this O.A. as directed by the Hon'ble High Court of Orissa has long since been over, this matter cannot be allowed to drag on indefinitely. The matter is, therefore, adjourned to 30.11.2011. It is made clear that no further adjournment shall be granted under any circumstances and the matter shall be disposed of as per rules even in the absence of learned counsel for either of the parties".

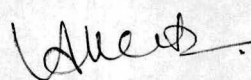
6. On 30.11.2011, Mr. S. Das, Ld. Counsel for the applicant had appeared and Mr. G.C.Nayak, Ld. Govt. Advocate for the State of Orissa was also present. Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel was on accommodation. On that date, it was ordered to list the matter for hearing on 14.12.2011. Accordingly, this matter has been listed today. Even today, we find that neither the applicant nor his counsel is present and also none of the Advocates on record representing the applicant is found to be on accommodation. However, Mr. U.B.Mohapatra, Ld.

Sr. Standing Counsel appearing for the Union of India and Mr. G.C.Nayak, Ld. Govt. Advocate for the State of Orissa are present.

7. Mr. G.C.Nayak, Ld. Govt. Advocate for the State of Orissa by filing a memo on 20.11.2011 has brought to our notice GA Department, Govt. of Orissa, notification No. 5877 dated 14.03.2011 promoting the applicant to the post of Chief Conservator of Forests. It has been stated by the Govt. Advocate for the State of Orissa that Review Application RVWPET No. 87 of 2010 arising out of W.P.(C) No. 18927/2009 filed by the applicant in the Hon'ble High Court is not admitted/listed till 16.11.2011.

8. It appears that after the above promotion order, perhaps the applicant has lost interest in pursuing this case further in this Tribunal. Thus, due to non-prosecution of this case, we are constrained to dismiss this O.A. for default. Ordered accordingly.

9. Send copy of this order to the counsel for the parties. Applicant be informed at his address given in this Original Application.


MEMBER (Judl.)


MEMBER (Admn.)