

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 419 OF 2005[Patna, this Friday, the 18th Day of July, 2008]C O R A MHON'BLE MR. SHANKAR PRASAD, MEMBER [ADMN.]
HON'BLE MS. SADHNA SRIVASTAVA, MEMBER [JUDL.]Murari Jee Mishra, S/o Late Kanhji Mishra, at present posted as Conservator of Forest, Purnea Division, Purnea. APPLICANT.
By Advocate :- N o n e.

Vs.

1. The Union of India through Secretary, Ministry of Environment and Forest, CGA Complex, Lodhi Road, New Delhi.
2. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna, Old Secretariate, Patna.
3. The Secretary, Department of Environment & Forest, Sinchai Bhavan, Old Secretariate, Patna-15.
4. The Principal Chief Conservator of Forests, Bihar, 4th Floor, Technology Bhavan, Bailey Road, Patna.
5. Shri Ashok Prasad, I.F.S., Regional Chief Conservator of Forest, Muzaffarpur and Chief Conservator of Forest-cum-Chief Wildlife Warden, Bihar, Patna, 4th Floor, Technology Bhavan, Bailey Road, Patna. RESPONDENTS.

By Advocate :- Shri Shekhar Singh, SC.

Shri Rajesh Kumar, ASC for U.O.I.

Shri A.N.Jha [Res. No.5]

O R D E R

Shankar Prasad, M[A] : - Aggrieved by the action of respondents in not acting on the recommendations of DPC and not promoting him as CCF, the applicant has preferred the present OA. He seeks a direction to the respondents to promote him to the post of CCF and also for cancelling part of the notification at Annexures-A/1 & A/2 by which the private respondent has been allowed to hold current charge of higher level posts. A.

2. [a] The facts lie in a narrow compass. The applicant is a direct recruit Indian Forest Service Officer of the 1984 batch. He had earlier approached this Tribunal by filing OA 449 of 2004. That OA along with two other OAs was decided vide order dated 05.04.2005. The Tribunal had held as under :-

“.....Learned counsel for the Government of India and the Government of Bihar submit that DPC has already been held and the matter is under active consideration of the Government of Bihar and they will have no objection if direction is given to the Government of Bihar to take decision on the recommendations of the DPC, in accordance with rules and law.

2. Therefore, we dispose of the aforesaid three Original Applications with directions to respondent no.2, Government of Bihar, through Secretary, Environment & Forest Department, to take appropriate decision upon the recommendations of the DPC within six weeks from the date of production/receipt of this order. It is made clear that at this stage we have not expressed our opinion about the merits in any of the cases or about the case of the private respondents.”

[b] The applicant had also preferred CCPA 70 of 2005. The said CCPA, along with CCPA 74 of 2005, had been disposed off vide order dated 29.11.2005. The Tribunal held -

“Considering that the Govt. of Bihar has already issued promotion order and there is substantial compliance with the order of the Tribunal, both the CCPAs are fit to be dropped.....We expect that the Govt. of Bihar shall post these officers expeditiously and in any case not later than three weeks from the date of receipt of a copy of this order.”

[c] During the pendency of this OA the applicant has been promoted vide notification no. 3589 dated 09.11.2005.

3. [a] The applicant in his representation dated 04.12.2004 had

highlighted that all the five posts of CCF are vacant as they are being held in additional charge and that he has been recommended by DPC.

[b] The applicant in his subsequent representation dated 05.01.2005 has mentioned that of the 13 higher level posts including that of PCCF-1, CCF-5, CF-7 are being held by junior officers in their own pay scale. Recommendations of DPC have not been acted upon.

[c] The applicant in his representation dated 10.03.2005 highlighted the case of these officers including the private respondent, who have been given charge of higher posts inspite of their long unauthorized absence resulting in non grant of Selection Grade, CF scale and pending DEs.

[d] Representation dated 14.05.2005 regarding his promotion referring to his earlier representation.

[e] The applicant has also brought on record a notification dated 13.04.2005 by which the penalty of reducing ~~him~~ ^{in the private respondent} to lowest stage in the scale of pay for three years without cumulative effect has been imposed. This was with reference to charge-sheet dated 30.09.2003. Notification 3309 dated 15.09.2003 giving him charge of RCCF, Muzaffarpur while remaining in the scale of CF is ~~in~~ ^{not} on record. The notification 1504 dated 28.05.2005 giving him additional charge of the post of CCF-cum-Chief Wild Life Warden is ~~not~~ ^{not} on record.

4. The applicant had filed a supplementary affidavit stating that a fresh meeting of DPC took place on 22.06.2005 ignoring the recommendations of earlier DPC.

5. The State of Bihar has filed a very short reply to bring on record the notification promoting him. No other averments have been brought on record. It is stated that the applicant has been posted as CCF-cum-Chief Wild Life Warden. The private respondent has been posted as Director, Social Forestry and is in additional charge of Advisor, Environment & Forest in the pay scale of Conservator of Forest.

6. Neither the Union of India nor the private respondents have filed any reply.

7. We have heard the learned counsels.

8. We find that this OA was filed on 11.07.2005. The supplementary affidavit was filed on 20.07.2005. No subsequent pleadings have been brought on record by the applicant. It appears that he has lost interest in matter.

9. The reply filed by State of Bihar does not disclose the date when applicant took charge. This is notwithstanding our expressing a hope in the contempt petition that he will be posted within three weeks of the receipt of the order. This was necessitated by the fact that the notification promoting him indicated that he will be promoted from the date he took charge of the post. The order posting him is not brought on record. Some other OAs have been filed on account of such practice. OA 04 of 2008, Shri B.N.Jha Vs. State of Bihar & Ors. refers.

10. The respondents have not also commented on the grave allegation that an officer, who has been inflicted with penalty of reduction to the lowest of the scale for three years without cumulative effect has been given current charge of higher level posts. Whether such action is conducive to maintaining the morale of the service or public confidence in administration, is for the State Government to consider.

11. The OA is disposed off as not pressed. No costs.



[Sadhna Srivastava]/M[J]



Shankar Prasad
[Shankar Prasad]/M[A]

skj.