

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 1118/92

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DATE OF DECISION 13.11.1992

Shri Navin Singh Petitioner

Applicant in person Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri G.K.Nilkanth Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice Chairman

The Hon'ble Shri Ms. Usha Savara, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

(S.K.Dhaon)  
Vice Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

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QA.NO. 1118/92

Shri Navin Singh

... Applicant

V/S.

Union of India & Ors.

... Respondents

**CORAM:** Hon'ble Vice Chairman Shri Justice S.K.Dhaon  
Hon'ble Member (A) Ms. Usha Savara

Appearance

Applicant in person

Shri G.K.Nilkanth  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 13.11.1992

(PER: S.K.Dhaon, Vice Chairman)

The order dated 17.10.1992 purported to have been passed by the State of Maharashtra reinstating the applicant and appointing him on the vacant post of Divisional Forest Officer (Planning), Kolhapur Forest Division, Kolhapur is being impugned in the present application.

2. A reply has been filed on behalf of the respondents. The applicant who appears in person and Shri G.K.Nilkanth who appears on behalf of the respondents have been heard.

3. The short point raised by the applicant is that in the normal course he could be posted only to a post specified in Schedule III of Indian Forest Service (Pay) Rules, 1968. The post of Divisional Forest Officer (Planning), Kolhapur does not fall under the said Schedule and therefore he could not be posted to that post. He has also pointed out that Rule 9(1) of the aforesaid Rules carves out an exception and that being that either Central Government or State Government shall issue a declaration that the post of Divisional Forest Officer (Planning) is equivalent in the

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status and responsibility to the post specified in the Schedule. The applicant has come out with a specific case that no such declaration was issued before the passing of the impugned order. He, therefore, contended that the portion of the order in so far as it relates to the posting of the applicant was without jurisdiction. (12)

4. In the reply filed on behalf of the applicant, it appears to be accepted that in the absence of any declaration as envisaged in Rule 9 of the said Rules, the applicant could not be posted as the Divisional Forest Officer (Planning). However, to the reply a copy of the Notification dated 12.11.1992 has been annexed. This copy indicates that on 12.11.1992 the State Government issued a declaration in accordance with Rule 9 (1).

5. The question still remains as to whether the impugned order can be sustained on the basis of the subsequent notification dated 12.11.1992. We have already indicated that the posting of the applicant as Divisional Forest Officer (Planning) was without jurisdiction. The impugned notification cannot have any retrospective operation. Therefore, the said Notification cannot infuse life into the impugned order which was nonexistent in so far as it related to the posting of the applicant.

6. The two portions of the impugned order, namely, one by which he had been reinstated and the other by which he had been posted as Divisional Forest Officer (Planning) are severable. We, therefore, quash the portion of the order by which the applicant had been posted as Divisional Forest Officer (Planning). We, however, make it clear that it will be open to the respondents to pass a fresh order of

Stay

posting on merits in accordance with law.

7. The applicant had made certain other submissions to the effect that he cannot be posted at all as the Divisional Forest Officer (Planning) inspite of the declaration as contained in the Notification dated 12.11.1992. We are not called upon to go into that question at this stage. We, therefore, make it clear that it will be open to the applicant, if a situation so arises, to reagitate the matter before an appropriate forum, if an occasion arises.

8. With these directions this application is disposed of finally but without any order as to costs.

*b. Savara*  
(MS.USHA SAVARA)  
MEMBER (A)

*S.K. Dhaon*  
(S.K.DHAON)  
VICE CHAIRMAN