

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 575/93

Transfer Application No.

Date of decision 6.7.1993

Shri S.D. Sathe Petitioner

Shri M.S. Ramamurthy Advocate for the Petitioner

versus

Union of India & Anr. Respondent

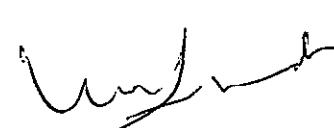
Shri G.K. Nilkanth. Advocate for the Respondent(s)

Coram :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri M.Y.Priolkar, Member(A).

1. Whether the Reporters of local papers may be allowed to yes 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 ?


(M.S.DESHPANDE)
VICE-CHAIRMAN

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

Original Application No. 575/93.

Shri S.D.Sathe.

.... Applicant.

V/s.

Union of India & Anr.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:

Applicant by Shri M.S.Ramamurthy.
Respondents by Shri G.K.Nilkanth.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dated: 6.7.1993.

Heard Shri M.S.Ramamurthy for the applicant and
Shri G.K.Nilkanth for Respondent No.2.

2. The applicant who is working as an Indian Forest Service Officer has filed this application for declaring that the Suspension Order dt. 4.7.1992 passed against him and the charge sheet dt. 6.7.1992 are malafide, vindictive, arbitrary, bad in law and are liable to be quashed and set aside, and to direct payment of full emoluments to him for the period of suspension.

3. The applicant was suspended by the Order dt. 4.7.92 and was chargesheeted by the charge sheet dt. 6.7.1992. The five articles of charge briefly are that he was grossly negligent in performance of his duties relating to protection of forests, grossly negligent in granting permission for transport of material derived from felling of trees from private holdings and in regulating cases where trees in private holdings were felled without the previous permission of the concerned Tree Officer, dis-obeyed the instructions of his official superiors and failing to maintain absolute integrity and devotion to duty. The statement of imputations (Annexure - II) gives

the details of mis-conduct or misbehaviour in support of each article of charge. The applicant filed a reply denying these imputations and characterising the charges as vague while detailing the actions that he had taken and how further supervision was not practicable. It is not necessary for us to go into what would be the defence of the applicant at the inquiry because that shall have to be considered in the context of the material that would be placed before the Enquiry Officer.

4. The first submission on behalf of the applicant was that the Range Officer/Tree Officer under the Maharashtra Felling of Trees (Regulation) Act, 1964 exercises quasi-judicial functions and there could not be any interference with his working as was sought to be done under the administrative instructions issued. The articles of charge to which our attention was drawn however, do not say that the applicant should have interfered with the functions of the Tree Officer and refer to other regulatory actions which he should have taken. It is obvious that reference to Sections 193, 219 and 228 in Section 8 of the Act would not lend to the Tree Officer an independent judicial character. The sections 193, 219 and 228 relate to adducing of false evidence filing a corrupt report and intentional insult respectively. Shri Ramamurthy, the learned Counsel for the applicant urged that the decision of the Tree Officer was subject to only an appeal by the aggrieved party if the permission were to be refused. However, it is clear that there is no remedy of appeal if permission were to be granted by the Tree Officer to the felling of trees indiscriminately and without a proper application of mind. The question would be whether such conduct on the part of the Tree Officer would be amenable to administrative supervision, but this is a point which



must be left to be considered at the inquiry. Suffice it to say, that we see nothing in Articles I to III and V of the charges which would make them improper. The applicant obviously had the authority as a Deputy Conservator of Forest to grant permission for transporting material derived from the felling of trees and the allegation against him was that this was indiscriminately granted. The learned counsel referred to the vagueness in the charge regarding disobedience of the instructions of his superiors and contended that this vague charge in any event must be dropped. We do not think that we can consider the extreme position at this stage. It would depend on the nature of the instructions issued and the action taken by the applicant in pursuance of the instructions and this is a matter which will have to be settled at the Inquiry. Suffice it to say, we do not think that Article - IV of the charge should be quashed at this initial stage.

5. The thrust of the argument was that the order of suspension which came to be based under Rule 3 of the All India Services (Discipline & Appeal) Rules, 1969 could not have been passed in the circumstances. It may be noted that the order was passed on 4.7.1992 and the charge sheet was issued on 6.7.1992 i.e. within two days of placing the applicant on suspension. There is a reference to the Government of Maharashtra having carefully considered the material available with it and the circumstances bearing upon it. It is clear that the Disciplinary Proceedings were contemplated at the time of the passing of the Order. In 1973 LIC 411 K.K.Raman Kutty V/s. State a decision of the Kerala High Court it was pointed out in para 9 that a separate formal order for initiating proceedings against an alleged delinquent before he is suspended from service was not necessary.



In the present case the suspension and initiation of proceedings were almost simultaneous. The charges were based on the items of mis-conduct for the years 1989-90 and this obviously was taken into consideration while suspending the applicant and framing the charge sheet against him.

6. The contention further was that it was not necessary to place the applicant under suspension because the charges were not so grave as to warrant that course. All that we have to ascertain at this stage is whether there was material before the Government upon which the State Government could have been satisfied that the suspension was essential. The allegation was that the forest wealth was being denuded and that was a serious allegation and no exception can be taken to the course adopted by the State Government if it were to think that the suspension of the Officer pending inquiry was necessary.

7. Shri Ramamurthy referred to the delay in appointing the Enquiry Officer. Initially, the Special Enquiry Officer was to hold the inquiry, but since it was feared that he would not be in a position to complete the inquiry early, Shri M.S.Parasnisi, Chief Conservator of Forests was appointed as Enquiry Officer on 16.6.1993. It was urged that the second appointment came only after the present application was filed before the Tribunal. We do not think that any fault could be found with the State Government if it were to think that the change of the Officer was necessary for the purpose of an expeditious inquiry. We have been referred to the Circular dt.20.8.1974 (Annexure - D) to the application which prescribed six months period as a rule for completing the inquiry. That has no bearing upon revoking of suspension. All that is necessary to justify a suspension is prompt initiation of the inquiry and that has been done in the present case.

8. Our attention was drawn to the Government's action in revoking the suspension by the order dt. 9.5.1991 of two Range Officers who had been placed under suspension. That was done apparently because the charge sheet had not been lodged against them for nearly four months after they were placed under suspension and it only goes to show that in proper cases the State Government did revoke the suspension. So far as the applicant is concerned the proceedings were initiated against him by filing a charge sheet within two days of the passing of the order of suspension and we do not think that the order of suspension suffers from a vice which would make the order unsustainable.

9. In the result, we see no merit in the application. It is dismissed. We hope that Shri M.S.Parasnig who has been appointed as the Enquiry Officer would take every step to see that the inquiry is completed early and as far as possible within 10 months.


(M.Y.PRIOLKAR)
MEMBER(A)


(M.S.DESHPANDE)
VICE-CHAIRMAN

B.