

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 205 of 2004

Jabalpur, this the 16th day of December, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Kapoor Singh, S/o. S. Singh, Aged about
46 years, Conservator of Forest Circle,
Bhopal.

... Applicant

(By Advocate - Shri Atul Nema)

V e r s u s

1. Union of India, through Secretary,
Ministry of Forest & Environment,
CGO Complex, Lodhi Road, New Delhi.

2. State of M.P. through Principal
Secretary, Ministry of Forest,
Vallabh Bhawan, Bhopal.

3. Chief Conservator of Forest, Satpura
Bhawan, Bhopal.

... Respondents

(By Advocate - Shri Om Namdeo)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has
claimed the following main relief :

"(1) a writ in the nature of mandamus may please
be issued for commanding the respondent to give pay
scale of Rs. 16400-450-20000 to the applicant from the
date when his retrospective promotion order issued
i.e. 01.06.2001."

2. The brief facts of the case are that the applicant was
appointed in the year 1982 as Divisional Forest Officer. In
the year 1983 he was posted in Divisional Attachment Training
at Devas. The applicant has been transferred from Devas to
Panna. While working as Divisional Forest Officer at Raisen
in August, 1991 an incident took place in Godown and the
applicant was suspended. Further a departmental enquiry was
initiated against him. Two charges were levelled against him.
In March, 1993 the suspension order of the applicant had been
revoked and period of suspension was regularised by the
respondents. In the year 1997 the enquiry officer exonerated

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the applicant from all the two charges. The disciplinary authority also agreed to it. Surprisingly on 19.4.2002 the applicant has been promoted with retrospective effect from the post of Sub Conservator of Forest to Conservator of Forest without getting the benefit of pay scale. But his junior has been promoted on the post of Conservator of Forest with all consequential benefits. The applicant made a representation to the respondents in this regard but the respondents paid no heed to it. In the OM dated 8.11.1993 issued by the Government of India, it is specifically mentioned that in case of complete exoneration, the officer will also be paid, the arrears of salary and all other allowances. Hence, this Original Application.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that to Appendix-II according to the letter dated 22.12.2000 (Annexure A-6), in Para 18.1 it is mentioned as under :

"18.1 पदोन्नति के लिए समिति की बैठक के दौरान अनुशासनिक मामले / अपराधिक अभियोजन के निष्कर्ष के संबंध में यदि सीलबन्द लिफाफों में निर्णय हो तो सीलबन्द लिफाफे अथवा लिफाफों को खोला जाना चाहिए। यदि अधिकारी को पूरी तरह से माफ कर दिया जाता है तो उनकी पदोन्नति की तारीख सीलबन्द लिफाफे / लिफाफों में रखी गई संचालन समिति के निष्कर्ष के आधार पर उसके अगले कनिष्ठ अधिकारी की पदोन्नति की तारीख से निर्धारित की जानी चाहिए। अधिकारी को पदोन्नत किया जाएगा चाहे इसके लिए कनिष्ठतम स्थानापन्न अधिकारी को रिबेट ही क्यों न करना पड़े। ऐसी पदोन्नति उनके कनिष्ठ की पदोन्नति की तारीख से ही की जाएगी और ऐसे मामलों में अधिकारी को वेतन एवं भत्तों के बकाया का भुगतान किया जाएगा।"

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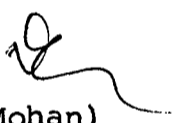
Vide order dated 14.9.1994 the departmental enquiry proceedings were quashed and the period of suspension from 9.6.92 to 16.3.1994 was ordered to be treated on duty. The applicant was promoted with retrospective effect but he was not paid the arrears for which he is legally entitled for.

5. In reply the learned counsel for the respondents argued that in the departmental proceedings, the charges were proved against the applicant. Subsequently, the respondents vide order dated 14.9.1994 quashed the departmental proceedings. The DPC convened the meeting on 21.3.2001 for the promotion on the post of Conservator. The name of the applicant was considered by the DPC. The DPC due to pendency of the disciplinary proceedings against the applicant, did not recommend the name of the applicant for further promotion and his name was kept in sealed cover envelope. When the sealed cover was opened the applicant was declared fit for promotion on the post of Conservator and thereafter vide order dated 19.4.2002, the applicant was granted notional promotion w.e.f. 1.6.2001 without giving the benefit of pay scale.

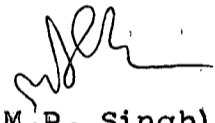
6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the departmental proceedings were concluded and subsequently quashed by the respondents vide order dated 14.9.1994 (Annexure R-2(i)). When the DPC met on 21.3.2001 for consideration for promotion to the post of Conservator, it kept the recommendation made with respect to the applicant in sealed cover, as on that date disciplinary proceedings were pending against the applicant. But later when the departmental proceedings were quashed by the respondents, the sealed cover was opened and wherein it was found that the DPC declared the applicant fit for promotion on the post of Conservator and vide order dated 19.4.2002 he was promoted notionally w.e.f. 1.6.2001 without

giving the applicant the benefit of the pay scale. As per the directions given in appendix-II to the letter dated 22nd December, 2000 (Annexure A-6) the applicant is entitled for the reliefs claimed i.e. pay and other benefits. The relevant portion of the Appendix-II to the letter dated 22.12.2000 (Annexure A-6) is quoted in para 4 of this order.

7. In view of the aforesaid, we are of the considered opinion that the applicant is entitled for the relief claimed. Accordingly, the Original Application is allowed and the respondents are directed to grant the applicant ^{arrears} of pay and allowances from the date of his notional promotion i.e. on 1.6.2001 in view of para 18.1 of Appendix-II to the letter dated 22.12.2000, within a period of three months from the date of receipt of a copy of this order. No order as to costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

पलिकायि अवेलेका-

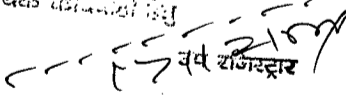
(1) सचिव, उच्च न्यायालय का. प्र. विभाग, जबलपुर

(2) आवेदन पी/डीसी/पुके सहायक

(3) प्रत्यक्षी पी/डीसी/पुके सहायक

(4) बांधपाल, खेसवा, जबलपुर का. प्र. विभाग

सचना एवं आवेदक का. प्र. विभाग



सचिव

Atul Kumar Adarsh

सचिव

as Member

Issued
On 17.12.04
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