

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 684 of 2000

Jabalpur, this the 8th day of April, 2004

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

A.A. Ansari, IFS, Aged about 49 years,
Conservator of Forests, Working Plan
Circle, SFRI Campus, Polipather,
Jabalpur (M.P.).

... Applicant .

(By Advocate - Shri P.S. Nair, Sr. Advocate assisted with
Shri S.K. Nagpal)

V e r s u s

1. Union of India, Through the
Secretary, Ministry of Environ-
ment and Forests, Government of
India, CGO Complex, Lodhi Road,
New Delhi.
2. State of Madhya Pradesh, Through
the Secretary, Forest Department,
Mantralaya, Vallabh Bhawan,
Bhopal-462 004 (MP).
3. Secretary, Union Public Service
Commission, Shahjahan Road,
New Delhi.

... Respondents

(By Advocate - Shri B.da.Silva for respondents Nos. 1 & 3,
and Shri Om Namdeo for respondent No. 2)

O R D E R

By Madan Mohan, Judicial Member -

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


"(a) quash the impugned order dated 2.12.1997
(Annexure A-1) being arbitrary, unjustified, illegal
and against the principles of natural justice."

2. The brief facts of the case are that the applicant
is presently working as Conservator of Forests Working Plan
Circle at Jabalpur. The applicant took over the charge of
DFO, South Block on 25.6.1982 from Shri J.D. Basu, DFO.
The applicant was served with a show cause notice dated
13.9.1994 (Annexure A-2) by Government of Madhya Pradesh,
Forest Department alleging certain irregularities in a



Tendu Patta Contract relating to the year 1982 when he was working as DFO, South Bastar. The applicant was informed that the State of Madhya Pradesh have decided to impose minor penalty of Censure under Rule 6(1) of the All India Services (Discipline and Appeal) Rules, 1969. The applicant submitted his reply to the Chief Secretary, Forest Department, Government of Madhya Pradesh and fully explained the factual position in the same. The applicant has requested that the matter may be closed keeping in view of the fact that he has served the Government of Madhya Pradesh for 15 years with honesty and sincerity and had unblemished record of service. The applicant was not at all at fault and he had not committed any irregularity in this case. The reply to the show cause notice was not properly considered by the Government of Madhya Pradesh and the penalty of withholding of three increments without cumulative effect was imposed on the applicant vide order dated 2.12.1997 (Annexure A-1). The applicant was shocked to receive the impugned order, though the show cause notice was for imposing the penalty of Censure. The applicant was not given further show cause notice prior to imposing the enhanced penalty of stoppage of three increments. Being aggrieved with the said order the applicant has submitted an appeal but he did not receive any reply till date even after the lapse of about 2 years. The applicant understands that the officers junior to him were likely to be promoted ignoring the claim of the applicant in view of the penalty imposed upon him by the impugned order. Hence the applicant would suffer if the impugned order which is arbitrary and illegal is not set aside. Aggrieved by this the applicant has filed this OA claiming the aforesaid relief.

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



4. The learned counsel for the applicant argued that a show cause notice dated 13.9.1994 (Annexure A-2) was issued to the applicant with prior ^{imposition} information to impose the penalty of Censure. It is stressed on behalf of the applicant that this show cause notice issued with prior imposition of penalty is arbitrary, illegal and against the principles of natural justice. He further argued that the applicant made representation against it but subsequently vide order dated 2.12.1997 (Annexure A-1) the respondents passed an order by withholding three increments without cumulative effect. This order is also against the facts of the show cause notice issued on 13.9.1994. Both the afore-said orders are ^{issued} against the law and no opportunity of hearing was given to the applicant before imposing the enhanced penalty of withholding of three increments without cumulative effect while the show cause notice was issued for only imposing the penalty of, censure. Our attention was drawn towards the judgments of this Tribunal dated 17th February, 2004 passed in OA No. 148/2000 - Narendra Singh Watchman Vs. The Union of India & Ors. and order dated 26th February, 2004 passed in OA No. 175 of 2000 - Baban Gajbhiye Vs. Union of India & Anr., wherein the Tribunal has held that the disciplinary authority while forwarding the copy of the finding of the enquiry officer has already formed his opinion that he proposes to impose the penalty of stoppage of one increment for one year without cumulative effect, which is not sustainable in the eye of law.

5. The learned counsel for the respondents argued that the respondents have imposed the minor penalty on the applicant and he was given opportunity of being heard and show cause notice was issued to him and the respondents are not barred from passing the impugned order after issuing the show cause notice for imposing the minor penalty. The



respondents also raised the point of limitation in this case.

6. We have given careful consideration to the rival contentions made on behalf of the parties and we are of the view that the limitation point raised by the respondents, in the interest of justice should be condoned and it is hereby condoned. Secondly the order dated 13.9.1994 (Annexure A-2) being a show cause notice with prior opinion for imposition of minor penalty of censure seems to be not in accordance with law in view of the decisions of the Tribunal referred to above, wherein the disciplinary authority has already formed his opinion that he proposes to impose the penalty of stoppage of one increment for one year without cumulative effect, while forwarding the finding of the enquiry officer to the applicant and the Tribunal held that it is not sustainable in the eye of law. We also find that the show cause notice was issued for imposition of minor penalty of censure but the impugned order of penalty has been passed for stoppage of three increments without cumulative effect, which itself is against the principles of natural justice and law.

7. Accordingly, we are of the considered opinion that the impugned order dated 2.12.1997 (Annexure A-1) is liable to be quashed and set aside, following the judgments of the Tribunal referred to above. Hence the Original Application is allowed and the impugned order dated 2.12.1997 (Annexure A-1) is quashed and set aside with liberty to the respondents that after giving ^{all} opportunity to the applicant, conclude with the departmental proceedings within a period of four months from the date of receipt of copy of this order. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman