

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 29th day of July, 2010

Original Application No. 445/2006

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. K.S.SUGATHAN, MEMBER (ADMV.)

Ambarish Chandra Chaubey,
s/o Late Shri Panna Lal Chaubey,
aged around 53 years,
r/o F-2, Princess Garden,
140, Vidhyut Nagar 'A',
Prince Road, Jaipur

... Applicant

(BY Advocate: Shri S.P.Sharma)

Versus

1. Union of India
through Secretary,
Ministry of Environment and Forest,
Government of India,
Parivaran Bhawan,
C.G.O. Complex,
Lodhi road, New Delhi.
2. State of Rajasthan
through Department of Personnel,
Government of Rajasthan,
Government Secretariat,
Jaipur

... Respondents

(By Advocate: Shri D.C.Sharma and Shri V.D.Sharma)

ORDER (ORAL)

Grievance of the applicant in this case is regarding
memorandum/chargesheet dated 18th October, 2006 (Ann.A/1)
whereby he was informed about holding of enquiry against him

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under Rule 8 of All India Services (Discipline and Appeal) Rules, 1969 in respect of article of charges enclosed with this memorandum. The applicant has prayed that this impugned memorandum dated 18th October, 2006 may be quashed and set aside.

3. Notice of this application was given to the respondents. The respondents have filed reply thereby justifying their action.

4. Heard the learned counsel for the parties and gone through the material placed on record.

5. The matter was adjourned from time to time and was taken up for hearing on different dates. When the matter was listed on 26.5.2010, since the Division Bench was not available, as such, application for interim relief was taken up by the Single Bench, as the applicant was praying that his case for promotion to the post of Principal Chief Conservator of Forest (PCCF) be considered ignoring the chargesheet and he be granted promotion against one of two vacant posts which are likely to fall vacant on account of retirement of Shri Moti Lal Daima and Shri Abhijit Ghosh. This Tribunal in order to protect interest of the applicant directed the respondents to fill up the two posts which were likely to fall vacant on account of retirement of the aforesaid officers in accordance with the rules in which case of the applicant shall also be considered and appointment to the said posts of PCCF shall be made subject to the condition that in case person junior to the applicant as per the Civil List of IFS officers as on 7.5.2010 is appointed/promoted, such

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promotion shall be subject to decision of this OA. This Tribunal has further observed as under:-

"...One of the grievances of the applicant in this case is that although the applicant has extended full cooperation in the enquiry proceedings but the same has not been concluded so far despite the fact that the chargesheet has been issued in the year 2006. On the contrary, the learned counsel for the respondents submits that all endeavor has been made to expedite the enquiry. The respondents shall apprise this Tribunal about the progress of the enquiry proceedings on the next date of hearing. The respondents shall ensure that the enquiry proceedings against the applicant is expedited and as far as possible be concluded within a reasonable period. It is also expected that the applicant will extend full cooperation to the enquiry proceedings."

6. The matter was further taken up for hearing on 27.7.2010.

The learned counsel for the applicant submitted that at this stage, he will be satisfied if time bound direction is given to the respondents to complete the enquiry expeditiously especially in view of the observations made by this Tribunal vide order dated 26.5.2010, as reproduced above, but on the request of the learned counsel for the respondents the matter was adjourned for today. Today, the learned counsel for the respondent No.2 submits that all the prosecution witnesses except two witnesses have been examined by the Enquiry Officer. It is further stated that these two witnesses could not be examined by the Enquiry Officer as they were not present and the matter has been fixed for further evidence on 3.8.2010. Thus, from the facts as stated above, it is evident that enquiry proceedings against the applicant, so far as prosecution is concerned, are at the final stage and after closure of the

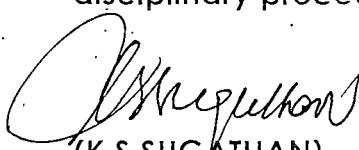
prosecution witnesses the applicant will be examined about the incriminating material appearing against him, in case he does not wish to examine his witnesses.

7. In view of above circumstances, we are of the view that ends of justice will be met if time bound direction is given to respondent No.2 to ensure that the Enquiry Officer completes the enquiry expeditiously especially when chargesheet against the applicant has been issued in the year 2006. Accordingly, respondent No.2 is directed to ensure completion of the enquiry proceedings against the applicant within a period of three months from today, and proceed in the matter in accordance with Department of Personnel and Administrative Reforms letter No.11018/7/78-AIS (III) dated 16.8.1978. In case remaining two witnesses do not turn up on the date so fixed, the Enquiry Officer may consider desirability of closure of prosecution witnesses as per rules or grant short adjournment for that purpose. Needless to add that the applicant shall also extend full cooperation in the enquiry proceedings.

8. The above direction given by us is in conformity with the law laid down by the Hon'ble Apex Court in the case of State of Andhra Pradesh vs. N.Radhakishan, (1998) 4 SCC 154 whereby the Apex Court has observed that the delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on

his part in delaying the proceedings. As can be seen from the facts as stated above, prejudice is being caused to the applicant as he would have been promoted against one of the posts of PCCF as per his seniority list, but for pendency of the present disciplinary proceedings.

9. In view of what has been stated above, the OA stands disposed of in the aforesaid terms and the interim order issued on 26.5.2010 is now made subject to the final outcome of the disciplinary proceedings against the applicant. No costs.



(K.S.SUGATHAN)
Admv. Member



(M.L.CHAUHAN)
Judl. Member

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