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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

31.07.2012

OA No. 88/2011 with MAs 206/2012 & 65/2012

Mr. S.S. Shekhawat, Proxy counsel for
Mr. Gaurav Sharma, Counsel for applicant.
None present for respondent no. 1.
Mr. V.D. Sharma, Counsel for respondent nos. 2 & 3.

Heard. The OA is disposed of by a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

J.C.S. Rathore

(Justice K.S.Rathore)
Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 31st day of July, 2012

Original Application No.88/2011

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Ambarish Chandra Chaubey,
s/o late Shri Panna Lal Chaubey,
aged about 58 years,
r/o 29, Nemi Sagar Extension,
Shree Path, Vaishali Nagar,
Jaipur, presently working as
Additional Chief Conservator
Of Forest, Aravali Planatation Scheme,
Rajasthan, Jaipur.

.. Applicant

By Advocate: Shri S.S.Shekhawat for Shri Gaurav Sharma

Versus

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

.. Respondents

By Advocate: Shri D.C.Sharma for resp. No.1
Shri V.D.Sharma for resp. No. 2

ORDER (ORAL)

During pendency of this Original Application, the applicant moved Misc. Application No.200/2012 seeking modification of the interim order dated 24th January, 2012 and while hearing the said Misc. Application on 12.7.2012 the applicant submitted that the State Government is going to create a new post and bent upon to appoint a junior person to him on the newly created post. Shri H.R.Purohit, Head Legal Assistant/Officer-in-charge, Department of Personnel, State of Rajasthan, who was present in person, submitted that no such proposal has been received so far to create the post and it was only an apprehension of the applicant. Thus, this Tribunal deemed it proper to direct Shri H.R.Purohit, Officer-in-Charge to verify this fact and apprise this Bench about the factual aspect of the matter on 13.7.2012. Again on 13.7.2012, the Misc. Application seeking modification of interim order dated 24.1.2012 was heard. The main ground for seeking modification was that the respondents are going to create new post of Principal Chief Conservator of Forest (PCCF) and the learned counsel appearing for the State placed a note sheet for perusal of this Tribunal showing that no post of PCCF is created. This Tribunal expressed the view that the Government has every right to create the post and the applicant

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being senior most is having every right to be considered for newly created post, if any. It is further observed that, in such circumstances, the respondents are expected to consider the case of the applicant against such post, if he is otherwise found eligible for the same.

2. During the course of arguments of this OA, the learned counsel appearing for the respondents submitted that they have sought clarification from the Government of India, Ministry of Environment and Forest, New Delhi and in response to the clarification sought by the State Government, the Ministry of Environment and Forests vide letter dated 25th July, 2012 has given clarification. In para 3 of the said letter it is made clear that while effecting promotions of IFS officers, the State Governments are not required to consult the Central Government, but they are required to follow the guidelines issued by the Ministry of Environment and Forests vide letter dated 18.11.2002, as cadre controlling authority of IFS officers. Paras "11,18 and 21" of the guidelines are very clear in the case of officers who have been exonerated or awarded penalty on conclusion of the disciplinary proceedings. It is further made clear that the applicant has been awarded the penalty of "reduction to a lower stage in the time scale of pay for a period upto 31.12.2012, the date of retirement on superannuation, with further directions that the MOS will not earn increments during the period of reduction and on the expiry of such period the reduction will have the effect of postponing future increments of pay." The



penalty imposed in the departmental proceedings case is effective from prospective date. The Government of Rajasthan, is therefore, advised to decide the cases of promotions of IFS officers keeping in view the Ministry's guidelines and the criteria. The norms and procedure need also to be followed uniformly in order to avoid possibility of legal challenge to the decisions taken by the competent authority.

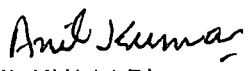
3. In this OA, the relief regarding quashing the Memorandum has become infructuous since the applicant has challenged the penalty order dated 27th February, 2012 by way of filing another OA No.210/2012 before this Tribunal and the same is pending consideration. In view of this fact, the other consequential reliefs claimed by the applicant also become infructuous. So far as relief with regard to right of consideration is concerned, the learned counsel appearing for the respondents submitted that they have decided to consider the case of the applicant against the newly created post, in view of the clarification given by the Government of India, Ministry of Environment and Forest vide letter dated 25th July, 2012 and undertake to consider the applicant.

4. Thus, the present OA is disposed of with a direction that as and when respondent hold DPC for promotion to the newly created post of PCCF, they shall consider case of the applicant in accordance with provisions of law.



5. With these observations, the OA stands disposed of with no order as to costs.

6. In view of the order passed in the OA, no order is required to be passed in MA No.206/2012 and 65/2012, which stand disposed of accordingly.


(ANIL KUMAR)
Admy. Member


(JUSTICE K.S.RATHORE)
Judl. Member

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