

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00703/2017

Jabalpur, this Monday, the 02nd day of July, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

G. Phanindra Kumar Rao, S/o Shri G.V.Rammohan Rao,
Aged about 48 years, IFS, the then Conservator of Forest (C),
Regional Office, Bhopal (M.P.), Presently working as Chief
Conservator of Forest (working Plan & Research),
Thiruvananthapuram, Kerala 9424756360 **-Applicant**

(By Advocate –**Shri Manoj Sharma**)

V e r s u s

1. Union of India, Ministry of Environment,
Forests & Climate Change,
Prithvi Wing, 6th Floor,
Indira Paryavaran Bhawan,
Jorbag Road, New Delhi-110001
Through its Secretary,

2. Central Forestry Establishment Board,
Government of India,
Ministry of Environment,
Forests & Climate Change,
Prithvi Wing, 6th Floor,
Indira Paryavaran Bhawan,
Jorbag Road, New Delhi-110001
Through its Director General

3. Director General of Forest & Special Secretary,
Ministry of Environment Forests & Climate Change,
Prithvi Wing, 6th Floor,
Indira Paryavaran Bhawan,
Jorbag Road, New Delhi-110001

4. Additional Principal Chief Conservator of Forest,
Ministry of Environment,
Forests and Climate Change,
Regional Office, E-5, Ravishnagar Nagar,
Link Road 3, Bhopal (M.P.)482001

5. Shri Lakhwinder Singh, IFS,
Retd. Principal Chief
Conservator of Forest (Social Forestry),
Forest Head Quarter, Vazhuthacaud,
Thiruvanthapuram, Kerala. (The then Additional
Principal Chief Conservator of Forest,
Regional Office, Bhopal), through Head of Forest Force,
Kerala, Vazhuthacaud, PO, Thiruvananthapuram **-Respondents**

(By Advocate –**Shri D.S.Baghel for respondents Nos. 1 to 4
& Shri Rohit Sohgaure for respondent No.5**)

(Date of reserving the order:-07.02.2018)

ORDER

By Ramesh Singh Thakur, JM:-

This Original Application has been filed against the premature termination of tenure deputation under Central Staffing Scheme as Conservator of Forest in the Western Regional Office of Ministry of Environment, Forests and Climate Change, Bhopal.

2. Briefly the facts of the case is that the applicant is a member of Indian Forest Service and holding the post of Chief Conservator of Forest, Kerala cadre and presently under orders of pre-mature termination of tenure deputation.

3. The case of the applicant is the applicant had outstanding service career and the applicant was sent on deputation on the post of conservator of forest on tenure deputation of 5 years from the

date of joining on the said post. A copy of order dated 02.11.2015 is annexed as Annexure A-4. Copy of central staffing scheme is annexed as Annexure A-5.

4. The applicant joined the Regional Office at Bhopal on 01.02.2016 on a tenure deputation of 5 years as stipulated in the scheme. The case of the applicant is that while working as conservator of forest at Bhopal on deputation the basic requirements such as proper office etc. were not provided to him. The applicant was constrained to highlight the chaos and disorder prevailing in the office to the notice of the higher authorities.

5. The respondent No.5 in order to get rid of the applicant put some false complaint to the higher authorities which led to one Shri Anil Kumar (IFS), calling upon the applicant on 11.11.2016 without any prior notice and intimation and simply handed over a written note to him on which immediate response was sought. Applicant submitted a response thereto and when applicant requested Shri Anil Kumar to provide a copy thereof, it was declined and on 09.12.2016 the impugned order was passed by the respondent authorities and his statutory cadre deputation was abruptly cut short.

6. The main ground for challenging the impugned order is that the impugned orders are bad in law, against the condition stipulated

in the annexure A-5 and furthermore, the complaint against the applicant is false and no opportunity of hearing has been provided. So there is violation of principal of natural justice and deserves to be quashed and set aside.

7. The respondent No. 1 has filed the reply to the Original Application. It has been submitted by the replying respondents that the applicant/petitioner has earlier approached the Hon'ble High Court, which was dismissed stating that the present Original Application is not maintainable. It is further submitted by the replying respondents that the applicant was appointed to the post of Conservator of Forest on tenure deputation basis and several complaints were received against the applicant regarding his conduct namely by APCCF (C) and other sources from Regional Office, Bhopal. Resultantly, Dr. Anil Kumar, AGDF(FC) was appointed to enquire about the matter. Dr. Anil Kumar visited the Regional Office, Bhopal on 11.11.2016 to examine the various issues. Dr. Anil Kumar conducted thorough enquiry and interacted with all the officers and staff. He recorded the statement of almost all the staff members including female staff and also from the applicant. On the basis of the enquiry, Dr. Anil Kumar recommended that in the interest and prestige of Regional Office, Bhopal, following action to be taken.

(a) He may be transferred to Tropical Research Institute,
Jabalpur, ICFRE Madhya Pradesh

Or

(b) He may be repatriated to his parent cadre.

8. On the basis of aforesaid recommendations submitted by Dr. Anil Kumar and with the approval of the competent authority, the applicant was pre-maturely repatriated to his parent cadre i.e. Kerela with immediate effect vide order dated 09.12.2016, which is consistent with Para 7.1 of Ministry of Environment, Forest and Climate Change Resolution dated 14.12.2000. In the said resolution it is indicated that the tenure of deputation of officers may be curtailed in the public interest at the discretion of the competent authority, a copy of resolution dated 14.12.2000 is annexed as Annexure R-1.

9. It is further submitted that the applicant made his representation on 13.12.2016 (Annexure A-9) to review the order dated 9.12.2016. It has been specifically submitted by the replying respondents that Shri G.P.K.Rao, the officer against whom the applicant had made allegation is already retired. Further the issue raised in the representation submitted after the issuance of repatriation order dated 09.12.2016 have no bearing on the repatriation order. It has been further submitted that the applicant

has already joined his parent cadre at Kerala in compliance of repatriation dated 09.12.2016 and this Original Application is without merit.

10. We have heard the learned counsel for the parties and also gone through the documents annexed with the Original Application.

11. The case of the applicant is that the replying respondents cannot repatriate the applicant before completion of the deputation tenure. Further, the respondents had submitted that the impugned order passed by the replying respondents is as per conditions and the guidelines given by the government and there is no illegality.

12. It is admitted fact that the applicant has joined the respondent department on deputation on the said post on 01.02.2016. It is also admitted fact that the applicant was on deputation period for five years from the date of joining. The replying respondents has specifically submitted that there were complaints against the applicant regarding his working and the replying respondents appointed Dr. Anil Kumar ADGF (C) to enquire of the matter. It is also admitted fact that Dr. Anil Kumar, visited the Regional Office, Bhopal on 11.11.2016 to examine various issues and the statements of almost all the staff members including female staff were recorded. It is also admitted fact that

the applicant was also interrogated and his statement was also recorded.

13. The specific stand of the replying respondents is that on the basis of the enquiry report submitted by Dr. Anil Kumar, who has recommended that in the interest and prestige of the institution, either to transfer the applicant to Tropical and Research Institute Jabalpur or repatriate the applicant to his parent cadre.

14. The guidelines laid down by the Hon'ble Apex Court in the matters of **Union of India through Govt. of Pondicherry and Another vs. V. Ramakrishnan and others**, 2005 (8) SCC, 394, whereby the Hon'ble Apex Court has dealt with the issue of deputation period. The relevant portion of the judgment (Supra) is as under:-

“32. Ordinarily, a deputationist has no legal right to continue in the post. A deputationist indisputably has no right to be absorbed in the post to which he is deputed. However, there is no bar thereto as well. It may be true that when deputation does not result in absorption in the service to which an officer is deputed, no recruitment in its true import and significance takes place as he is continued to be a member of the parent service. When the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post, ordinarily the term of deputation should not be curtailed except on such just grounds as, for example, unsuitability or unsatisfactory performance. But, even where the tenure is not specified, an order of reversion can be questioned when the same is mala fide. An action taken in a post-haste manner also indicates malice.”

15. In the present case, as per Annexure R/1 the period of tenure has been prescribed as under:

“7. Period of Tenure:

7.1 The tenure of deputation of an officer appointed to a post covered under this Scheme would be as follows:

- (a) Dy. Conservator of Forests or equivalent: 4 years
- (b) Conservator of Forests or equivalent: 5 years

The tenure of the officer (s) may, however, be cur-tailed in public interest at the discretion of the Competent Authority.”

16. Annexure R-1 also states that the tenure of an officers can be curtailed in the public interest at the discretion of the competent authority. In the instant case, the replying respondents has appointed Dr. Anil Kumar to investigate the matter, who has submitted the detailed report and also suggested recommendations. The replying respondents has considered the recommendation and accepted the same and resultantly the applicant was repatriated to the original department. The said option was one of the recommendations made by the enquiry officer. As per judgment of the Hon’ble Supreme Court in the matters of V. Ramakrishnan (**Supra**) it is also clear that a deputationist has no legal right to continue in the post. Once tenure of the deputation is specified, ordinarily the term of deputation should not be curtailed except on such just grounds as, for example, unsuitability or unsatisfactory performance.

17. In the present case the replying respondents has submitted that the working of the applicant is not satisfactory and regarding which the enquiry was conducted and on acceptance of the recommendation of the enquiry officer, the competent authority has passed the impugned order. So we do not see any reason to interfere with the impugned order.

18. In view of the above, the Original Application is dismissed being devoid of any merit. No order on costs.

(Ramesh Singh Thakur)
Judicial Member

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(Navin Tandon)
Administrative Member