

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT BENCH, RANCHI
OA/051/00868/18**

Date of Order: 24/10/2018

C O R A M
HON'BLE MR. K.N. SHRIVASTAVA, ADMINISTRATIVE MEMBER
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER

Anup Kumar Sinha, son of late Ghanshyam Prasad, resident of Lower Burdwan Compound, PO & PS- Lalpur, District- Ranchi- 834001.

..... Applicant.

- By Advocate: - Mr. Bhanu Kumar

-Versus-

1. The Union of India through the Secretary, Ministry of Forest, Environment and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, Aliganj, New Delhi-110003.
2. Additional Chief Secretary, Department of Forest, Environment and Climate Change, Govt. of Jharkhand, Nepal House, PO & PS- Doranda, District- Ranchi, Pin- 834002.
3. Additional Secretary, Department of Forest, Environment and Climate Change, Govt. of Jharkhand, Nepal House, PO & PS- Doranda, District- Ranchi, Pin- 834002.
4. Accountant General, Jharkhand having office at Doranda, PO & PS- Doranda, District- Ranchi-834002.

..... Respondents.

- By Advocate: - Ms. Bharti Singh, ASC for UOI.
Mr. R.A. Gupta, Id. SC for State of Jharkhand.

O R D E R
[ORAL]

Per Mr. K.N. Shrivastava, A.M.:- The applicant initially joined

State Forest Service and was subsequently promoted to the Indian

Forest Service (IFS) and accorded 1994 batch. He worked as DFO, Garhwa from 12.06.2012 to 07.04.2013. Annexure A/2 charge memo dated 23.03.2018 came to be issued against him for allegedly allowing illegal mining in his jurisdiction during his posting as DFO, Garhwa. The applicant submitted reply to the charge memo vide his Annexure A/7 letter dated 29.06.2018. The grievance of the applicant is that the Annexure A/2 charge memo has been issued to him without any valid reason or ground and is not based on any evidence. It is also contended that certain officers in the Department with prejudiced mind have attempted to harm the applicant. The applicant has contended that for an alleged offence committed in the year 2012-13, the charge memo has been issued after an inexplicable delay of five years. The applicant through the medium of this OA has sought quashment of the charge memo and for release of his withheld gratuity and commutation of regular pension.

2. The learned counsel for the applicant drawing our attention to Annexure A/6 letter dated 29.04.2016 of Principal chief Conservator of Forest, Head of Forest Forces (HoFF) of the State Government, submitted that HoFF himself has recommended to the State Government that he was satisfied with

the explanation furnished by the applicant and the Regional Chief Conservator of Forest had not been able to collect any evidence against the applicant for his alleged complicit in the illegal mining during his tenure as DFO, Garhwa. The learned counsel thus argued that the impugned charge memo is completely illegal as it has no evidence to support it.

3. Heard Shri Bhanu Kumar, learned counsel for the applicant. Issue notice to the respondents. Shri R.A. Gupta, learned counsel accepts notice on behalf of respondents no. 2 and 3 (State Government) and Ms. Bharti Singh accepts notice on behalf of respondent no. 1.

4. We have considered the arguments of Shri Bhanu Kumar, learned counsel for the applicant and have also perused the pleadings.

5. The applicant has approached the Tribunal at the stage of issuance of charge memo. The Hon'ble Apex court in the case of **State of U.P. Vs. Brahm Dutt Sharma** [1987(2) SCC 179] has held as under:-

“When a show cause notice is issued to a Government servant under a statutory provision he must place his case before the authority concerned by showing cause. The courts should be reluctant to interfere with the notice at that stage unless it is shown to have been issued palpably without any authority of law. The purpose of issuing show cause notice is to afford opportunity of

hearing to the Government servant and once cause is shown it is open to the Government to consider the matter in the light of the facts and submissions placed by the Government servant and only thereafter a final decision in the matter could be taken. Interference by the Court before that stage would be premature.”

6. Obviously the applicant has approached the Tribunal even without exhausting departmental remedy. we are, however, of the view that the disciplinary proceedings should be completed within a reasonable period of time as has been held by Hon’ble Apex court in the case **of Prem Nath Bali Vs. Registrar, High Court of Delhi** [(2015) 16 SCC 415]. The same view has been echoed even in the CVC circulars as well as in the order dated 16.01.2014 of Principal Bench of this Tribunal in the case of **U. Das & Ors. Vs. Union of India & Ors** in OA No. 3312/2011 and two other OAs. In both the judgments, the time frame of six months has been considered to be reasonable for the completion of disciplinary proceedings.

7. We noticed that the applicant replied to the charge memo way back on 29.06.2018 itself but the Disciplinary Authority has not passed any order as to whether his reply to the charge memo has been accepted or not. In the other words, the departmental proceedings have not moved forward.

8. Under the circumstances, we direct the Additional Chief Secretary, Department of Forest and Environment and Climate Change, Govt. of Jharkhand- respondent no. 2 to conclude the disciplinary proceedings within a period of four months from the date of receipt of a copy of this order failing which the disciplinary proceedings would abate.

9. With the above direction, this OA is disposed of at the admission stage itself. No order as to costs.

[Jayesh V. Bhairaiva]
Judicial Member
Srk.

[K.N. Shrivastava]
Administrative Member