

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00430/2017

DATED THIS THE 30TH DAY OF AUGUST, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

Sri D. Yathish Kumar,
S/o late D.N. Boregowda,
Aged about 50 years,
Deputy Conservator of Forests,
Yallapur DCF Quarters,
Yellapur,
U.K. District

.....Applicant

(By Advocate Shri T. Seshagiri Rao)

Vs.

1. Union of India
Rep. By its Secretary,
Ministry of Environment, Forest &

Climate Change,
New Delhi – 110 001.

2. Union Public Service Commission,
Represented by its Secretary,
Dholpur House, Shahjahan Road,
New Delhi – 110 001.

3. The Chief Secretary,
State of Karnataka,
Vidhana Soudha,
Bangalore – 560 001.

4. The Addl. Chief Secretary,
Department of Forests, Environment & Ecology,
MS Building,
Bangalore – 560 001

....Respondents

(By Shri V.N. Holla, Senior Panel Counsel for Respondent No. 1,

Shr M. Madhusudhan, Counsel for Respondent No.2 and

Shri T.S. Mahanthesh, Counsel for Respondent No. 3&4)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. This matter is in a very small compass. In effect the matter is covered by Janakiraman's judgment of the Hon'ble Apex Court. The applicant was being considered for promotion in 2015. While so, he was under the burden of a punishment imposed on him through a process of disciplinary proceeding. Apparently at the same time the Hon'ble Karnataka Administrative Tribunal had stayed the punishment also. So, neither the State Government nor the UPSC was able to come to a decision as to whether a sealed cover process should be adopted or not as is usual. This is a curious circumstance which they

submit now that applicant was neither here nor there. Had the departmental process been pending against him, they could have adopted a sealed cover process but then by that time the applicant had already been punished and punishment order was stayed by judicial authority. Therefore the question would be what would be the consequence.

2. When a judicial intervention proves that a stigma is even though temporarily extinguished, the concerned authority ought to have adopted a view that a temporary stipulation is to be made on the basis of selection and then taken the views of the Tribunal who passed that order of stay so as to get clarification. Since there are degree differences in granting a stay, only the Tribunal could have answered that question at that point of time but then at this point there is no point in looking into it as it is.

3. Therefore to resolve the issue we direct the State Government to reconsider the issue once again and refer the matter to the UPSC for them to convene a review DPC with effect to the promotion which ought or not to have been given in 2015. The relevance of the DPC will be in reference to the year 2015 when the applicant could have been considered. Both authorities to do the needful and pass appropriate order under law within the next two months.

4. The OA is disposed off as above. No order as to costs.

(DINESH SHARMA)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00430/2017

Annexure A1 Copy of the appointment order dated 12.07.1991

Annexure A2 Copy of the promotion order of the applicant

Annexure A3 Copy of the charge memo dated 27.02.2008

Annexure A4 Copy of the order dated 07.02.2015

Annexure A5 Copy of the order dated 10.01.2017

Annexure A6 Copy of the order dated 04.03.2017

Annexure A7 Copy of the notification dated 13.10.2015

Annexure A8 Copy of the IFS (Appointment by Promotion Regulations, 1966)

Annexure A9 Copy of the select list dated 02.12.2015

Annexure A10 Copy of the endorsement dated 02.05.2017

Annexure A11 Copy of the order of the Tribunal dated 25.08.2011 in O.A. No. 474/2007

Annexures with reply statement

Nil

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