

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA**

Reserved on: 24.09.2019  
Date of Order: 26.09.2019

**C O R A M**

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER  
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

**I. OA/050/00549/2016**

Rakesh Kumar, S/o Late Rup Narayan Singh, resident of Mohalla- Bajitpur Digha Ghat, District- Patna.

.... Applicant.

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Secretary, Ministry of Environment & Forests, New Delhi.
2. The Secretary, Department of Environment & Forests, Government of Bihar, Patna.
3. The Joint Secretary, Department of Environment & Forests, Government of Bihar, Patna.
4. The Deputy Secretary, Department of Environment & Forests, Government of Bihar, Patna.
5. The Principal Chief Conservator of Forest, Bihar, Patna.
6. The Accountant General (A&E), Bihar, Patna.

.... Respondents.

By Advocate(s): - Mr. Rabindra Kumar Choubey, for UOI  
Mr. Ram Kinker Choubey for Accountant General  
Mr. Shekhar Singh for State of Bihar.

**II. OA/050/00278/2017**

Rakesh Kumar, S/o Late Rup Narayan Singh, resident of Mohalla- Bajitpur Digha Ghat, District- Patna.

.... Applicant.

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Secretary, Ministry of Environment & Forests, New Delhi.
2. The Under Secretary to the Government of India, Ministry of Environment & Forests, New Delhi.
3. The Addl. Secretary to Government of Bihar, Environment and Forest Department, Patna.
4. The Principal Chief Conservator of Forest, Bihar, Patna.

.... Respondents.

By Advocate(s): - Mr. Deepak Kumar for UOI  
Mr. Shekhar Singh for State of Bihar.

### **ORDER**

**Per Dinesh Sharma, A.M:-** In OA/050/00549/2016 the applicant has prayed for issuance of necessary order regarding promotion of applicant in pursuance of recommendations of DPC held on 04.05.2007 with all consequential benefits "since the disciplinary proceeding against the applicant stood quashed and set aside".

2. In OA/050/00278/2017 the applicant has prayed for quashing the order of Disciplinary Authority issued vide memo no. 4077 dated 29.11.2013 by which the punishment of withholding of one increment with non-cumulative effect for two years has been imposed upon him and also the order of Appellate Authority dated 31.03.2017 by which that punishment has been sustained.

3. Since the cause of action in both these OAs is the same and the reliefs sought in OA/050/00549/2016 is consequential to the disposal of OA/050/00278/2017, both these OAs are disposed of with this common order.

4. The basic issue in both these OAs is the punishment imposed on the applicant following issuance of charge memo dated 10.01.2007. Under this charge memo the applicant was charged with misconduct on account of issuance of licences for three new saw mills despite there being a direction from his superior authorities with regard to not issuing of any

new licenses till further orders. The Inquiry Officer found these charges partially proved and the Disciplinary Authority while agreeing with the finding of the Inquiry Officer imposed the punishment of stoppage for one increment for two years. The applicant has been approaching this Tribunal at various stages. OA 598/2010 was disposed of by directing the Department to finalize the inquiry within a specified period. This was followed by OA/050/00375/2014 in which the Tribunal directed the Appellate Authority to dispose of the appeal within two months failing which the disciplinary proceedings would be deemed to be quashed. Though the Department did not finalize the decision within the specified time, in a writ petition filed before the Hon'ble Patna High Court by the Department, on the same matter, (CWJC No. 13134 of 2016 decided on 20.04.2017), the Hon'ble High Court decided that since the Appellate Authority had already taken a decision in this matter the only thing which was left to be tested in a judicial forum was the validity of this decision.

5. In OA/050/00278/2017, the applicant has challenged the validity of this order of the Appellate Authority mainly on the ground that his appeal has been rejected in a mechanical manner. Instead of deciding the appeal in the light of spirit of observation made by this Tribunal in OA/050/00375/2014 the Appellate Authority has first time come to a conclusion of their own about the charges levelled against the applicant.

6. Written statements have been filed in both the OAs denying the claims of the applicant. In OA/050/00549/2016 the respondents have mentioned about the order of Hon'ble High Court (referred to above) and

the final order of the Appellate Authority. Since his claim for promotion was based on deemed quashing of the disciplinary proceedings by this Tribunal this claim could not stand after the passing of the order of the Hon'ble High Court in in CWJC No. 13134 of 2016. In the written statement filed in OA/050/00278/2017 the respondents have justified the action taken by the Department by stating that the decision taken by the Disciplinary Authority and the Appellate Authority are both after following the correct procedure. They have also taken a plea of res-judicata since this matter has already been, more than once, taken up by the applicant before this Tribunal.

7. We have gone through the pleadings and heard the arguments of learned counsels of both the parties. As the Hon'ble High Court of Patna has clearly directed in C.W.J.C. No 13134 of 2016, the only issue which needs to be seen by this Tribunal at this stage is the validity of the decision taken by the Appellate Authority. We find that this decision, at Annexure A/17 of OA/050/00278/2017, gives details of the history of action taken against the applicant. Besides detailing the charges, the defence taken by the charged officer, the findings of the Disciplinary Authority and the UPSC's recommendation, the Appellate Authority has come to the conclusion that the applicant was guilty of the charges levelled against him which constitute a grave misconduct on his part. Though the order of Appellate Authority (President of India) may appear mechanical in the format, it does not, on account of that, suffer from any fatal infirmity. Not mentioning anything about the earlier decision of this Tribunal does not make the order illegal. An order passed by an Appellate Authority at the highest level (President of

India) which contains all the relevant details and the inputs, on the basis of which the Appellate Authority has arrived at the decision, cannot be found fault with only because the language appears to be mechanical. A mentioning of “grave misconduct” also does not make the order of Appellate Authority invalid. We have also gone through the records of the inquiry and the order of the Disciplinary Authority and have found them correct in procedure and with proper application of mind. Ample opportunity has been provided to the applicant to defend himself at all the stages and it does not appear that there has been any bias or malafides in the imposition of punishment.

8. In the light of the above, both the OAs are dismissed. No order as to costs.

**[ Dinesh Sharma ]**  
**Administrative Member**  
**Srk.**

**[Jayesh V. Bhairavia]**  
**Judicial Member**