

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.148 of 1999

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Krishna Mohan Prasad son of late Akhileshwari Prasad, resident of village Subhanpur, P.S. Kasichak, District-Nawadah

.... Petitioner/s

Versus

1. The State of Bihar
2. Chief Conservator-Cum-Managing Director, Bihar State Forest Development Corporation, Patna.
3. General Manager, Bihar State Forest Development Corporation, Patna Circle, Patna
4. Deputy Director, Bihar State Forest Development Corporation, Bihar, Patna

.... Respondent/s

Appearance :

For the Petitioner/s :	Mr. R.Griyaghey & Ms. Kumari Jyoti
For the Respondent/s :	Mr. Sunil Kumar Ravi, AC to AAG-3
For Corporation :	Mr. Bhagya Narain Jha, AC to Mr.J.P. Shukla

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 24-03-2015

1. Heard learned counsel for the petitioner, learned counsel appearing on behalf of the State of Bihar as well as learned counsel appearing on behalf of the Bihar State Forest Development corporation, Patna.

2. Office orders No. 68, 69 and 70 all issued on 21.4.1998 under the signature of Chief Conservator of Forests-cum-Managing Director, Bihar State Forest Development Corporation Limited, Patna are under challenge in the present writ application.



3. Punishment of stoppage of four annual increments permanently has been imposed upon the petitioner vide Office order No. 68 dated 21.4.1998, whereas by Office order No. 69 dated 21.4.1998 punishment of "censure" has been imposed upon him. Vide Office order No. 70 dated 21.4.1998, again punishment of stoppage of two annual increments with cumulative effect has been imposed upon the petitioner.

4. The petitioner was a Forester and at the relevant point of time was posted under the Corporation. The three orders imposing punishment upon him were passed in three departmental proceedings initiated against him separately. The orders under challenge have been brought on record by way of Annexure-4 to the writ application. The impugned orders dated 21.4.1998 are apparently non-speaking, cryptic and appear to have been passed in most casual manner which is at least not expected of an officer of the rank of Chief Conservator of Forests, exercising quasi-judicial function. The orders have been passed in three separate headings i.e. "charge", "defence" and "order" but the contents have nothing to do with the headings. The defence has not been considered in the orders.



What were the charges against the petitioner are also not clear from the impugned orders. It is a different matter that report of the Inquiry Officer has been brought on record. This is one aspect which makes me to interfere with the orders under challenge. There is another aspect which can be deciphered from the counter affidavit filed on behalf of the Corporation. It has been stated in the counter affidavit that vide Office Orders No. 43 and 44 both dated 25.11.1989 and Office order No. 29 dated 21.4.1990, departmental proceedings were ordered to be initiated against this petitioner. The charges against the petitioner related to failure on the part of the petitioner in preventing illicit felling of 663 old Sal trees in the forest where the petitioner was posted.

5. It has been stated in the counter affidavit that the Inquiry Officer had submitted his report on 19.9.1991 in the Head Office of the Corporation but on perusal of the said report of the Inquiry Officer, it transpired that he had not visited the spot. It further appears that comment was sought from the Project Director, Champaran Forest Project Circle, Bettiah vide Office letter no. 5809 dated 15.10.1991. The present



Director thereafter, sent his comments through letter No. 2488 dated 31.10.1991. Thereafter, it has been stated in the counter affidavit, that in course of disposal of the departmental proceeding it was felt necessary by the Chief Conservator of Forests-cum-Managing Director, to know as to what action has been taken against the staff who had worked under the petitioner and accordingly, a letter was issued bearing No. 1398 dated 2.4.1992 seeking comments of the Project Director, Champaran Forest Circle, Bettiah, on the point. It took more than five years and after several reminders, it is stated, the Divisional Manager, Project Division, Bettiah vide its letter no. 728 dated 17.6.1997 sent the required comments. Thereafter, the petitioner's comment was sought on the comments already submitted by the Project Director. From the impugned orders, it appears that the disciplinary authority considered the report and the report submitted by the Project Director, upon an enquiry which was certainly held beyond the departmental enquiry upon which the Inquiry Officer had submitted his report. This procedure is unknown in a departmental proceeding. The disciplinary authority could not have taken

into account any material which was not part of the report of departmental enquiry. It was open to the disciplinary authority to have asked for fresh enquiry or de novo enquiry depending upon the facts and circumstances of the case but he could not have placed reliance upon report submitted by the Project Director, after submission of the report by the Inquiry Officer.

6. The orders impugned are, therefore, not sustainable. Accordingly, the Office order No. 68 dated 21.4.1998, Office order No. 69 dated 21.4.1998 and Office order No. 70 dated 21.4.1998 passed by the Chief Conservator of Forests-Cum Managing director, Bihar State Forest Development Corporation, Patna are set aside. The petitioner shall be entitled to all consequential benefits.

7. The writ application is allowed accordingly.

(Chakradhari Sharan Singh, J)

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