

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5798 of 2008

Tara Prasad Kashyap, S/o Late Shri Ramnath Kashyap, aged about 49 years,
Working as a Forest Guard, Ambikapur Range, South Surguja Division Ambikapur,
District- Surguja (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary, Department of Forest, DKS Bhawan, Raipur (CG)
2. The Chief Conservator of Forest, Raipur, C.G.
3. The Conservator of Forest, Surguja Circle, Ambikapur, Distt. Surguja, C.G.
4. The Divisional Forest Officer, South Surguja Division , Ambikapur, Distt. Surguja, C.G.
5. Mata Charan Mishra, Retd. Forester, Present Resident At Mayapur, Near Chandni Chowk, Ambikapur, Distt. Surguja, C.G.

---- Respondents

For Petitioner	:	Ms. Neha Verma, Advocate
For Respondent/State	:	Shri Vinod Tekam, Panel Lawyer

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

12/10/2015

Heard.

1. This petition under Article 226 of the Constitution of India is preferred against order dated 24th May, 2007 passed by respondent No.2 dismissing petitioner's appeal and thereby affirming the order of penalty dated 10.2.1999 passed by the Divisional Forest Officer/respondent No.4.
2. Short submission of learned counsel for the petitioner is that the petitioner had preferred an appeal against order passed by the Disciplinary Authority. The

petitioner's stand throughout has been that because of thunderstorm, the trees had fallen and some of those trees were removed from the Beat by the villagers. This fact was informed by the petitioner, but no action was taken by the Forester or by the Range Officer. Relying upon circular dated 14.7.2000 (Annexure P-10), it has been submitted that even if any loss is found, the petitioner alone cannot be held responsible and liable for loss. Argument is that earlier the DFO had passed order dated 10.2.1999 by which liability was imposed only on the petitioner but later on another order was passed on 25.3.2000 modifying the earlier order, confining petitioner's liability only to Rs.10,000/- from Rs.25,011/-. All these aspects have not been taken into consideration by the Appellate Authority and the appeal has been dismissed without due application on all these material.

3. On the other hand, learned State counsel submitted that the Appellate Court has duly considered the appeal of the petitioner and no ground is made out for interference because the Disciplinary Authority clearly found that for loss in the year in which the petitioner was the Guard, the petitioner alone was responsible as number of trees were found having been removed.
4. The impugned order passed by the Appellate Authority shows that there is no serious consideration of the appeal of the petitioner and in a perfunctory manner, appeal has been dismissed. The petitioner is a low-paid employee. It cannot be lost sight of that the initial order dated 10.2.1999 sought to impose penalty only on the petitioner, but later on, the Disciplinary Authority itself found that the loss are required to be apportioned between the petitioner and the then Forester. However, as the DFO had no power to review his own order, order dated 10.2.1999 alone was treated as valid and existing order. However, this aspect required consideration by the Appellate Authority. Appellate order goes to show that the Appellate Authority did not consider the petitioner's appeal in proper perspective. The order passed by the Appellate Authority does not stand on the test laid down by this Court in the case of **Soniram Dhruv Vs. State of M.P. & Ors.**¹
5. Therefore, on the limited aspect, I am inclined to interfere with the order passed in appeal. The order passed in appeal is set aside and the matter is remanded to the Appellate Authority for due and proper consideration of petitioner's appeal after giving opportunity of hearing in respect of all the grounds urged by the petitioner to assail the order passed by the Disciplinary Authority. The Appellate Authority shall decide the appeal within a period of 4 months from the date of first

1 WP(S)No.1367 of 2005 decided on 5.2.2010

appearance of the petitioner before him. In case there is any change in the order of penalty, appropriate benefit may be accorded to the petitioner from due date.

6. The petition is accordingly partly allowed in the manner and to the extent indicated above.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge

Praveen