

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.6980 of 2010**

Abdul Sattar S/o Shri Abdul Kadar Aged About 66 Years Occupation: Retired Forester R/o Rounak Palace, Bairan Bazar, Raipur, District Raipur, C.G.

---- **Petitioner****Versus**

1. State Of C.G. Through Secretary Forest Department, D.K.S. Bhawan Raipur, C.G.
2. The Conservator Of Forest Raipur Circle, District Raipur, C.G.
3. The Divisional Forest Officer Mahasamund Forest Division, District Mahasamund, C.G.
4. The Under Secretary, Forest Department, Government Of Madhya Pradesh, Bhopal (M.P.)
5. Additional Chief Conservator Of Forests (Administration And Gazetted), Government Of Madhya Pradesh, Bhopal (M.P.)
6. The Chief Conservator Of Forest (Administration) Government Of Madhya Pradesh, Bhopal (M.P.)

--- **Respondent**

For Petitioner	:	Shri B. P. Rao, Advocate
For Respondent/State	:	Shri Satish Gupta, G.A.

Order On Board**13/08/2015**

By this petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction for grant of promotion to the post of Forester with effect from 24-12-1991 with all consequential benefits of revised pay scale. Rejection of his representation vide impugned order dated 22-07-2009 has also been challenged.

2. Brief facts relevant for adjudication of controversy involved in the petition are that the petitioner was initially appointed as Forest Guard in the year 1978 in the pay scale of Rs.125-2-145-2 ½ -150. He had completed his training in Forest Guard Training School on 28-02-1989. His pay scale was also fixed as trained forest guard.

In the year 1991, while the case of the petitioner was under consideration for out of turn promotion, because of certain alleged enquiry on allegations of misconduct, he was not considered nor promoted in the year 1991, whereas some other Forest Guards were considered for promotion and promoted on out of turn basis in the year 1991. Later on, in the year 1996, the petitioner was promoted as Forster vide order dated 21-07-1996, on which, he continued till his retirement with effect from 31-08-2004 and four years thereafter, the petitioner filed writ petition (W.P. (S)No.6554/2008) before this Court claiming that he was entitled to promotion on out of turn basis in the year 1991 itself as no charges were found proved against him neither there is any enquiry and therefore, on that basis, he was entitled to grant of other consequential benefits of scale promotion (Krammonati) upon completion of 12 years to be reckoned from the year 1991. According to the petitioner, he was entitled to grant of out of turn promotion in the year 1991 with all consequential benefits.

3. It is not in dispute that in the year 1991, the petitioner's case was taken up for consideration for promotion on out of turn basis. However, the stand of the respondents is that as there were enquiries pending against the petitioner, he was not found fit for such promotion. Memo dated 13-12-1991 (Annexure R-1) filed by the respondents states that there were two complaints against the petitioner. In one case, there were allegations of committing misconduct of taking contract while in service and making false complaint against higher authorities, in respect of which, enquiry was stated to be pending. The other set of allegations related to misbehaviour with one Yashoda Bai, Daily Wages Majdoor, in connection with which, the petitioner was suspended on 08-08-1991. The order further shows that later on, suspension of petitioner was revoked and finally he has been exonerated by giving him benefit of doubt. In the return, the respondents have not stated that thereafter, on these complaints, another charge sheet was issued much less any penalty imposed on the petitioner.

4. It was for these two allegations, the petitioner was not granted benefit of out of turn promotion in the year 1991. It is also not in dispute that in the year 1991, certain

employees were considered for promotion on out of turn basis and promoted also.

5. The petitioner was finally granted promotion out of turn basis in the year 1996, which fact is also not in dispute.

6. The only issue requiring consideration is whether the respondents are obliged to consider petitioner's case for promotion with effect from the date other persons were considered and promoted in the year 1991.

7. In view of the return of the respondents, the only operative reason being the allegation of misconduct which did not result in penalty on the petitioner, the respondents while granting promotion to the petitioner in the year 1996, ought to have considered whether he was entitled to promotion with effect from 1991, when his case was originally taken up for consideration on out of turn basis.

8. In view of above, the respondents are directed to consider petitioner's case for promotion on the post of Forester as on the date when other officers were considered for promotion in the year 1991. The consideration would be based on criteria which was applicable and taken into consideration in the year 1991. If ultimately, the petitioner is found fit, he will be entitled to notional promotion as Forester with effect from appropriate date. As far as actual pay of that period is concerned, I am not inclined to grant that benefit to the petitioner except notional fixation of pay at different stages. Except this relief, no other relief can be granted to the petitioner.

9. The petition is accordingly partly allowed. The petitioner will be entitled to consequential benefits in the event he is granted promotion as forester with effect from 1991 except the actual pay on the post of Forester between the period from 1991 to 1996.

**Sd/-
Manindra Mohan Shrivastava
Judge**