

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.3725 of 2015

S.N.R. Netam, aged about 53 years, S/o Shri Keshwar Ram Netam, Occupation Service, working as Sub Divisional Officer (Forest), Pratappur, Forest Division Surajpur, Civil and Revenue District Surajpur (C.G.)

---- Petitioner

Versus

1. The State of Chhattisgarh, through the Secretary, Department of Forest, New Mantralaya, Mahanadi Bhawan, New Raipur (C.G.)
2. The Chief Conservator of Forest, Surguja Circle, Ambikapur, Distt. Surguja (C.G.)
3. Smt. Prabhakar Xalxo, Up-Prabandh Sanchalak, Zila Union Marwahi, Van Mandal Pendra, Civil and Revenue District Bilaspur (C.G.)

---- Respondents

For Petitioner: Mr. Malay Kumar Bhaduri, Advocate.

For State/respondents No.1 and 2: -
Mr. Suvigya Awasthi, Panel Lawyer.

For respondent No.3: Mr. Rajendra Mishra with Mr. Varunendra Mishra, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

13/04/2016

1. The petitioner is substantially holding the post of Deputy Managing Director, District Union, Surajpur. By order dated 3-7-2015, he was also given the additional charge of Sub Divisional Officer (Forest), Pratappur on account of suspension of Shri R.B. Singh, the then Sub Divisional Officer

(Forest), to which the petitioner joined on 3-7-2015. The order dated 3-7-2015 was passed by the Chief Conservator of Forests as a stopgap arrangement and since the appointing authority of Sub Divisional Officer (Forest) is the State Government, the State Government by its order dated 7-8-2015 posted the petitioner on the post of SDO (Forest) also in addition to the post of Deputy Managing Director which he was already holding, with the approval of the Hon'ble Minister.

2. By order dated 8-10-2015, respondent No.3 herein was posted as SDO (Forest), Pratappur with the approval of the Hon'ble Chief Minister.
3. Present petitioner has filed this writ petition stating inter alia that he is holding the post of SDO (Forest), Pratappur on substantive basis by order dated 7-8-2015 therefore, respondent No.3 could not have been appointed by the State Government without giving any posting to him.
4. Learned counsel for the petitioner would submit that without issuing any posting order of the petitioner within a short span of time as he was posted only by order dated 7-8-2015, passing of the order by the State Government posting respondent No.3 on the post of the petitioner i.e. SDO (Forest), Pratappur is unsustainable and bad in law.
5. Learned State counsel appearing for respondents No.1 and 2 and learned counsel appearing for respondent No.3 would

submit that the petitioner's substantive post is Deputy Managing Director, District Union, Surajpur and he was additionally given the charge of SDO (Forest), Forest Division Surajpur which is apparent from the fact that the petitioner is still drawing his salary and allowances from the District Forest Produce Co-operative Federation Limited, Surajpur up to the month of December, 2015 which is also apparent from Annexure R-3/1 and, therefore, the petitioner cannot hold two posts at a time. Thus, the order of the State Government posting respondent No.3 on the post of SDO (Forest), Pratappur is in accordance with law.

6. I have heard learned counsel for the parties, perused the material available on record and given thoughtful consideration to the submissions made by respective parties.
7. It is not in dispute that the petitioner is originally posted as Deputy Managing Director, District Union, Surajpur and on account of suspension of the then SDO (Forest), Pratappur, he was given the additional charge of the post of SDO (Forest) by order of the Chief Conservator of Forests, Forest Circle Surguja, Ambikapur by order dated 3-7-2015. Since the appointing authority of SDO (Forest) is the State Government, by order dated 7-8-2015, on administrative exigency, the petitioner was posted on the post of SDO (Forest) for the time being with the approval of the Hon'ble Minister. However, since the petitioner was holding dual charge of Deputy

Managing Director, District Union, Surajpur as well as SDO (Forest), there was a need to post a regular SDO (Forest), Forest Division Surajpur and as such, by order dated 8-10-2015, respondent No.3 was posted as regular incumbent on the post of SDO (Forest), Pratappur, Forest Division Surajpur, and approval of the Hon'ble Chief Minister in coordination has been obtained as per the transfer policy 2015-16, whereas as far as the order dated 7-8-2015, it was an order for the time being as a stopgap arrangement/till the regular incumbent is sent by the State Government. The fact that the petitioner was holding additional charge is also apparent from the fact that even after transfer, for the months of August, September, October, November and December, 2015, the petitioner has drawn his salary and allowances from the District Forest Produce Co-operative Federation Limited, Surajpur and has not drawn salary as SDO (Forest), Pratappur, which indicates that the petitioner is holding the substantive post of Deputy Managing Director, District Union, Surajpur and he was additionally posted as SDO (Forest) by order dated 7-8-2015. Therefore, once a regular incumbent is brought by the Government by a duly passed administrative order Annexure P-3 dated 8-10-2015, the petitioner has to vacate the additional post which he is holding i.e. the post of SDO (Forest), Pratappur. Thus, it is established beyond shadow of doubt that the petitioner is holding the additional post of SDO

(Forest) which is apparent from the salary slips available and it is not the case of the petitioner that he has been discharged/ transferred from the post of Deputy Managing Director, District Union, Surajpur, which he is holding at present, as such, the petitioner cannot hold two substantive posts at a time.

8. It is well settled law that an employee cannot hold two substantive posts at the same time. In the matter of **Balkrishna Pandey v. State of Bihar**¹, Their Lordships of the Supreme Court have held as under: -

“It is settled law that an employee on temporary promotion would continue to hold the lien in his substantive post until it is terminated. He cannot hold two substantive posts at the same time.”

9. In light of the law laid down by the Supreme Court, it is held that the petitioner has no vested right to continue on the additional charge of SDO (Forest), as the said post is no longer vacant by virtue of the posting of respondent No.3 on the said post, as he is already holding and working on the post of Deputy Managing Director, District Union, Surajpur.
10. For the foregoing reasons, I do not find any illegality in the impugned order dated 8-10-2015 (Annexure P-3). The writ petition deserves to be dismissed and it is accordingly dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

1 (1996) 2 SCC 282

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S.N.R. Netam

Versus

The State of Chhattisgarh and others

HEAD NOTE

A Government servant cannot hold two substantive posts at the same time.

एक शासकीय सेवक एक ही समय पर दो मूल पद धारण नहीं कर सकता है।