

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 95 of 2017

State Of Chhattisgarh Through Its Secretary, Government Of Chhattisgarh,
Department Of Forests, Mantralaya, Mahanadi Bhawan, Naya Raipur, District
Raipur, Chhattisgarh(Defendant No.3)

---- Petitioner

Versus

1. A. P. Dubey Deputy Ranger, 323, Ganjpara Ward, Bemetara, District Durg (Now District Bemetara) Chhattisgarh(Petitioner)
2. State Of Madhya Pradesh Through Its Secretary, Government Of Madhya Pradesh, Department Of Forests, Mantralaya, Vallabh Bhawan, Bhopal (M.P.)(Respondent No.1)
3. The Principal Chief Conservator Of Forest, Satpuda Bhawan, Bhopal (M.P.)(Respondent No.2)

---- Respondents

For Petitioner/State	:	Shri Manish Nigam, Panel Lawyer
For Respondent No.1	:	Shri A.P. Dubey, in person

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

Order On Board

21/11/2017

Heard.

1. Review of order passed by this Court on 9.9.2016 in WPS No.4765 of 2005 is sought by the State on the ground that the relief was granted to the petitioner on the basis of order dated 22.7.2000 passed by the Government of Madhya Pradesh in compliance of order passed by the State Administrative Tribunal and at the time of hearing of the writ petition, this fact was not within the knowledge of the State of Chhattisgarh that in the State of Madhya Pradesh, an order has been passed by the Division Bench of High Court of Madhya Pradesh on 7.11.2003 in WP No.4717 of 2001 wherein the order of the Tribunal has been set aside. Learned counsel for

the State would submit that the said order was passed in the High Court of Madhya Pradesh in the petition filed by the State of Madhya Pradesh to which the State of Chhattisgarh was not a party. With all reasonable diligence, the said order could not be brought to the notice of this Court. Therefore, it is a case of review of order passed by this Court. It is also submitted that even order dated 22.7.2000 was withdrawn by the Govt.

2. Respondent in person submits that the State of Chhattisgarh failed to exercise due diligence. The order passed by the High Court of Madhya Pradesh was within its notice and ought to be placed before this Court. But that was not done, therefore, no ground is made out. He further submits that in any case, the Division Bench of High Court of Madhya Pradesh in the aforesaid case has clearly observed that cases which are pending shall be decided on their own merits as the order of the Tribunal cannot be cited as precedent and parties, in all the cases, would be at liberty to raise all contentions. He submits that even if there is no order of the Tribunal, he has a case that preparation of circle wise seniority and consequent promotion was not proper and arbitrary.
3. A perusal of the order passed by this Court on 9.9.2016 in WPS No.4765 of 2005 would show that the relief was granted to the respondent/writ petitioner based mainly on the order of the Tribunal and subsequent order passed by the State Government on 22.7.2000. However, the date on which this order was passed, none of the parties in the writ petition brought to the notice of this Court that in the meantime, in the petition filed by State of Madhya Pradesh before the High Court of Madhya Pradesh, the Division Bench passed an order on 7.11.2003 by which order of Tribunal was declared illegal and set aside. Later on, order dated 22.7.2000 passed by the State Govt. was withdrawn on 29th December 2008 (Annexure A-3). The State of Chhattisgarh was not party to the aforesaid proceedings. However, the decision of the said case has a direct bearing on the present case. Therefore, in that view of the matter, case of review and recall of earlier order passed by this Court on 9.9.2016 is made out. Accordingly, the review petition is allowed. Order dated 9.9.2016 passed in Writ Petition (S)

No.4765 of 2005 is hereby recalled and the Writ Petition (S) No.4765 of 2005 is restored to its original number for hearing afresh on merits.

4. Respondent in person would submit that he is a retired employee, aged 71 years, and, therefore, writ petition may be directed to be heard early.
5. The respondent may make prayer for urgent hearing before the appropriate Bench.

Sd/-
(Manindra Mohan Shrivastava)
Judge