

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.188 of 2010**

G.L. Mishra, son of Shri Gajanand Prasad Mishra, aged about 59 years, Forester Now Deputy Ranger, Pali Range (North Bilaspur Division), at present Katghora Division, District Korba, Head Quarter at Korba (CG).

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Forest Department, DKS Bhawan, Raipur.
2. Conservator of Forest, Bilaspur Circle, Bilaspur (CG).
3. Divisional Forest Officer North Bilaspur Division, Bilaspur at present Marwahi Division at Post Pendra Road, District Bilaspur (CG).

--- Respondents

For Petitioner	: Mr. Vipin Tiwari, Advocate
For State	: Mr. Dilman Rati Minj, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

09/01/2018

(1) Learned counsel appearing for the petitioner would submit that several grounds were raised by the petitioner before the Conservator of Forest, Bilaspur- Appellate Authority questioning the order passed by disciplinary authority on 31.12.1991, but neither grounds were considered by the appellate authority nor Rule 27 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short, 'the Rules, 1966') has been followed by the appellate authority and impugned order has been passed on 15.04.1993 dismissing the appeal holding that charges have been proved against the petitioner,

against which this petition has been filed.

(2) Learned counsel appearing for the State/respondents would support the impugned order.

(3) I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the impugned order with utmost circumspection.

(4) Rule 27 of the Rules, 1966 states as under:-

“27. Consideration of appeal:(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 9 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 10 or enhancing any penalty imposed under the said rules, the appellate authority shall consider-

(a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) whether the finding of the disciplinary authority are warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or sever:

(5) A careful perusal of the record would show that Rule 27 of the

Rules, 1966 has not been followed by the Appellate Authority while passing the impugned order and no finding with respect to Rule 27(2) (a)(b)(c) of the Rules, 1966 has been recorded by the appellate authority. The appeal has been dismissed only on the ground that there is no merit in the appeal and appellant has rightly been punished by the disciplinary authority.

(6) After hearing learned counsel for the parties and after going through the record, I deem it appropriate to set aside the impugned order. Accordingly, the impugned order is hereby set aside and matter is remitted back to the Conservator of Forest, Bilaspur-Appellate Authority to hear the petitioner and pass order afresh in accordance with law expeditiously within a period of three months from the date of receipt of certified copy of this order.

(7) Accordingly, the writ petition is allowed to the extent indicated hereinabove. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-