

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 871 of 2019

Bhagirathi Sonwani S/o Shri Kartik Ram Sonwani, Aged About 50 Years, R/o Gram Kothari (Pithora), Tahsil Kasdol, District Balodabazar Bhatapara, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Forest, Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh.
2. Principal, Chief Conservator Of Forest, Forest Department, Chhattisgarh Government, Raipur, Chhattisgarh.
3. Chief Conservator Of Forest, Raipur Circle, Raipur, District Raipur, Chhattisgarh.
4. Divisional Forest Officer, Baloda Bazar, Forest Division, District Balodabazar- Bhatapara, Chhattisgarh.

---Respondents

For petitioner	:	Shri Prateek Sharma, Advocate.
For State	:	Shri Rahul Mishra, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/02/2019

1. The challenge in the instant Writ Petition is to the orders Annexures – P/1 and P/2 dated 04/10/2018 and 28/05/2018 respectively.
2. The facts of the case in brief is that, the petitioner was working as “Forester”. That on account of certain alleged misconduct, the petitioner was subjected to a departmental enquiry and vide Annexure-P/2, he was inflicted with a punishment of demotion from the post of “Forester” to the post of “Forest Guard”.

3. It is submitted by the petitioner that, immediately thereafter, the petitioner had preferred a departmental appeal before the Appellate Authority questioning the order dated 28/05/2018 and the said appeal still pending without any decision taken by the Appellate Authority till date. Meanwhile, Annexure-P/1 dated 04/10/2018 has been passed which has led to the filing of the present Writ Petition.

4. Vide Annexure-P/1, the respondents have in the course of implementing the order of punishment have not only demoted the petitioner from the post of "Forester" to "Forest Guard" but while granting fixation has been given the minimum of the pay-scale on the post of "Forest Guard".

5. According to the petitioner, there was no such direction given by the Disciplinary Authority while passing the order dated 28/05/2018 in so far as granting of minimum of the scale on the post of "Forest Guard" and thus the order dated 04/10/2018 is bad in law. He further contended that, the respondents ought to have waited for the outcome of the appeal before passing or implementing the order of Disciplinary Authority as the petitioner had promptly filed the appeal and which till date has not been decided or finalized.

6. The State counsel on the contrary opposing the petition submits that, the impugned order - Annexure-P/1 is nothing but an order of implementation of the Disciplinary Authority's order wherein an order of demotion has been given. According to him, since the order had to be implemented it has been implemented demoting the petitioner to the

minimum of the scale in the post of “Forest Guard”. He further contended that, the impugned order – Annexure-P/1 seems to have been passed on the basis of the some order passed by the Chief Conservator of Forest dated 04/10/2018.

7. In any case, the subsequent order of Chief Conservator dated 04/10/2018 also seems to be an order which was passed without taking the petitioner into confidence and without there being an opportunity of hearing to the petitioner.

8. Moreover, once when an order has been passed by the Chief Conservator and which has already been subjected to challenge in an appeal before the Appellate Authority, pending the appeal, the Disciplinary Authority could not have modified or altered the punishment order without the knowledge of either the Appellate Authority or the delinquent employee in either case.

9. For the aforesaid reasons, this Court is of the opinion that, the impugned order – Annexure-P/1 as of now would not be sustainable and the same deserve to be and is accordingly set-aside/quashed.

10. Reserving the right of the Disciplinary Authority to pass an appropriate order pursuant to the final decision passed in the appeal since the Appellate Authority is seized of the appeal for quite sometime. The instant Writ Petition thus stands disposed off with a further direction to the Appellate Authority i.e. the respondent No.2 to take a decision on the appeal of the petitioner which

is pending before him at the earliest preferably within a period of 60 days from the date of receipt of copy of this order.

11. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit