

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.831/2014.

Ghanshyam Dadaji Thombre,
Aged about 33 yrs.,
Occ-Forester,
R/o Umred, Distt. Nagpur.
Permanent R/o In front of P.H.C., Bhisri,
Tehsil-Chimur, Distt. Chandrapur.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Revenue & Forests,
Mantralaya, Mumbai-440 032.
- 2) The Principal Chief Conservator of Forests,
(Van Bal Pramukh), (M.S.)
%an Bhavan+, Ramgiri Road,
Civil Lines, Nagpur-1.
- 3) The Chief Conservator of Forests (Regional),
Near Govt. Press, Zero Mile, Nagpur-1.
- 4) The Dy. Director of Social Forestry,
Nagpur Division, Nagpur.
Administrative Building No.2, 7th floor,
Wing-B, Civil Lines, Nagpur-1.

Respondents

Shri P.V. Thakre, Ld. Counsel for the applicant.
Shri A.M. Ghogre, learned P.O. for the respondents.

Coram:- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

JUDGMENT

(Delivered on this 11th July 2017.)

Heard Shri P.V. Thakre, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

2. The applicant is a Field Assistant and has challenged the impugned order in the departmental enquiry dated 7.2.2014 passed by respondent No.2 whereby penalty was imposed on the applicant of stoppage of one increment for two years permanently. He has also challenged the order passed by respondent No.3 i.e. the Chief Conservator of Forests (Regional), Nagpur dated 14.3.2012.

3. In fact in the departmental enquiry, the applicant was punished by the Chief Conservator of Forests (Regional), Nagpur vide order dated 14.3.2012 and he was pleased to stop annual increment of the applicant for five years with permanent effect. Against this order, the applicant has preferred an appeal to the Government. The Additional Principal Chief Conservator of Forests (APCCF), Nagpur reduced the punishment and was pleased to modify the order of punishment in departmental enquiry and one increment of the applicant was stopped with permanent effect for a period of two years. Being aggrieved by both these orders, the present O.A. is filed.

4. The learned counsel for the applicant submits that the charges levelled against the applicant were not proper and the conclusions drawn by the Enquiry Officer are not sustainable. Both

these orders i.e. the order passed respondent Nos. 2 and 3 are nothing but colourable exercise of power and they have been passed mechanically without application of mind. Respondent No.2 himself observed the doubtful nature of the instances alleged against the applicant and wrongfully came to the conclusion of imposing punishment on the applicant. Major penalty imposed against the applicant is totally disproportionate and unwarranted and findings were based on ~~no~~ evidence against the applicant.

5. The respondents filed affidavit-in-reply and tried to defend the action taken against the applicant. It is stated that the punishment awarded to the applicant is correct and proper.

6. The learned counsel for the applicant submits that the appellate authority seems to have been confused. At one stage, the appellate authority came to the conclusion that the applicant was newly appointed and was having no experience and, therefore, action has been taken for want of sufficient experience. It is stated that every time the opinion of the Deputy Conservator of Forests has been taken and the Deputy Conservator of Forests was interested. The appellate authority did not consider the fact that the applicant was not at all competent to give permission for cutting trees and in fact it was the Range Forest Officer who was competent and that only with intention

to save the Range Forest Officer, the applicant has been made scapegoat.

7. I have perused the order of the appellate authority dated 7.2.2014. In the first instance, the history of the case has been narrated and thereafter the charges and the order passed by respondent No.3 has been mentioned. The learned counsel for the applicant submits that the appellate authority has not applied its mind properly to that effect and evidence on record and none of the grounds taken by the applicant in the appeal memo were considered with a proper perspective.

8. Perusal of the Enquiry Report as well as the impugned order passed by respondent No.3 shows that following charges were framed against the applicant. Out of which, charge No.3 has been held not proved. The said charges are as under:-

आरोप १:- आदिवासी कातकारांचे शेतातील साग झाडे गैर आदिवासी कातकारांचे शेतात दखून जयमबाय कायकरायाचा यजन करणे व अधिकाराचा दुपयोग करणे.

आरोप २:- अधिकाराचा दुपयोग करून सरकार पाधनमधील साग झाडे शेत सह ३.२९ मौजा करोला मये दाखून तु तोडीस शफारस करणे.

आरोप ३:- जप्त बैल तायात घेयाचे आदेश देवूनह याकडे दुल करणे व आरोपीस बैलाची वहेवाट लावयास संधी देणे.

आरोप ४:- मौका थळी न जाता शासकय कामे केयाचे दशावणे व शासकय दताएवजात खोया नद्व घेणे.”

9. The appellate authority has recorded its findings from para 8 to para 13 which are as under:-

% वरुल आदेशाचे अवलोकन केले असता ँतुत ँकरणामये ँी. जी.डी. ठळरे, तळकालळ ँे सहायक, आटळ यांचेवर लादलेले आरोप ँसध झालेले आहेत. ँहणून वातळक पाहता ँतुत चौकशीत जे आरोप लादले गेले आहेत ँया ँकरणाचे संदभलल चौकशी अहवालाचे अवलोकन केले असता वनपळरे ँ अधिकलर ँयांनी या ँकरणामये ँवलळसकळया चौकशी केलेल ँदसत नलह ँतुत ँकरणातील चौकशी अहवालातील पृठ . २६ चे अवलोकन केले असता ँी बी.डी. खडतकर, तळकालळ वनपळरे ँ अधिकलर ँयांनी दनलंक २२.ॡ.२००ॢ ला खलतेदलरलल २ॡ सलग झलडे तलडळयाची परवलनगी दलल व यल आदेशलत १२ सलग झलडे तलडळयलस परवलनगी नलकलरळयलचे कलरण नडूद नलह

१. ँी. खडतकर, तळकालळ वनपळरे ँ अधिकलर ँयलंयल डलहे डे २००ॢ ँयल दैनंदनीडये दनलंक ११.ॡ.२००ॢ ला सरकलर सुटळ ँपडुगलळ आहे अशी नदु आहे. परंतु ँतुत चौकशीतील पुरलवल . १२ अळवये यल तलरखेला शेतसवल ँडलंक १ ठेकलकुळलहे ँनळण कळन ँळयल झलडलंची तपलसणी केळ अशी नदु केलेल ँनलह तसेच ँे सहायक, आटळ ँयांनी दनलंक ६.ॡ.२००ॢ ला ँपळ ३ डळये पंचनलळयलसह ँयलंल अहवल ँी. खडतकर ँयांनी वनपळरे ँ अधिकलर ँयलंनल सलदर केळल. ँी. खडतकर, वनपळरे ँ अधिकलर ँयलंची दनलंक ६.ॡ.२००ॢ ते २२.ॡ.२००ॢ यल कललवलधीचल दैनंदलळ अडलेख चौकशी अधिकलर ँयांनी तपलसणी केळ असतल ँळयल झलडलचे तलडीस परवलनगी देणे अगुदर ँयल कललवलधीडये शेतसवल . १ ठेकलकुळल येथे ँनळण केळयलचे दसून येत नलह

१०. डुजे ठेकलकुळल हे गलव डलळकवलडल सळरेत सडलळट आहे. यल ँकरणलडये ँे सहायक, डलळकवलडल ँयलंल अहवल न डलगळतल ँे सहायक, आटळ ँयलंचेकडून अहवल डलगळळयलचे सडथळ तळकालळ वनपळरे ँ अधिकलर ँयलंचे सडजळयलसलरखे नलह अशी नदु चौकशी अधिकलर ँयांनी केळ आहे. ँळयल झलडलची तलड झलळयलनंतर ँपलदत वनलपजलंचे सळयडलपन तपलसणी डलळ ँे सहायक, डलळकवलडल ँयलंचेकडून करळयलत आलेले आहे. ँे सहायक, डलळकवलडल यल पदलचल

आप्तारत कायधार ढी. जी.डी. ठडरे, तडकालड ढेड सहाडयक, आडड यांचेकडे नडहता.

११. एडंदर ड वनडरडेड अधडकारड यांनी सुडधा डुड तोडीडी डरवानगी देत असतांना शेताचे चतुःसडेबाडत चोकशी केड आडे ड्रवा नाहड या डनकषाडत हे डधकरण आले आहे व याडडदल साशंकता डडत करते.

१२. वरडड डरडथिती लडत घेता ढी. खडतकर, तडकालड वनडरडेड अधडकारड यांनी चोकशी अहवालातील डुरावा ड. २ चे अवलोकन केले असता डुड तोड ड्नाडनंतर या डकरणातील सवडनडड डालकड डरडण केडनंतर घेडयात आलेडया आहेत असे डडणत केले आहे. डरंतु वाडतडक तडकालड वनडरडेड अधडकारड यांनी सडड जागेवर जाऊन डोडयावर तडसणी केडयाडडदल साशंकता उडडन होते.

१३. ढी. जी.डी. ठडरे, तडकालड ढेड सहाडयक, आडड यांचेकडे अनुडवडसडधता नाहड कारण डयांची ढेड सहाडयक या डदाडी डडुडती ड्नाडनंतर डहलाच डदडार डवीकारलेला डसत आहे. एडंदर ड वनडरडेड अधडकारड ढी. खडतकर व ढी. जी.डी. ठडरे, तडकालड ढेड सहाडयक, आडड यांचेडधील सडडवयाचा अडव सुडधा डसून येत आहे. कारण ड्र नवीन डडुडती ड्नाडनंतर वनडरडेड अधडकारड यांनी कडड्यांना डुलडूत डरडण, डशण व डडहती कडन देणे सुडधा अनुडवी वनडरडेड अधडकारड डहणून डबाडदारड येते. या डोन कडड्याडया सडडवयांचे अडवामुळे सुडधा ढी. जी.डी. ठडरे, तडकालड ढेड सहाडयक, आडड यांचेवर लादलेडया आरोडडया डुराडयावडन डसडध होत आहे.”

and after recording such findings, final order was passed

which is as under:-

“१. डुडय वनसरड क (डर.) नागडूर यांनी डरत केलेले आदेश ड. कड - १/आडथा/अ/डचौ/ठडरे/व/ड.ड. १३४/०ॢ-०९/७९७४ डनंक १४.३.२०१२ याडवारे रडद करडयात येत आहे.

२. ढी. जी.डी. ठडरे, तडकालड ढेड सहाडयक, आडड यांची १ वेतनवाड २ वषाकुरता डुडल वेतन वाडडर डरणडड होईल अशा रडिने कायडडवी रोखडयात येत आहे.”

10. Perusal of the findings given by the appellate authority shows that the appellate authority has attributed negligence on the part of Shri Khadatkar who was then R.F.O.. As against this, it is stated that the applicant was newly appointed and there was lack of communication between the applicant and Shri Khadatkar. It is not specifically mentioned as to how the applicant was responsible for whatever illegalities or misconduct alleged to be committed by him. He also came to the conclusion that the charge of Field Assistant, Manikwada was not with the applicant. Perusal of the said appellate order clearly shows that whatever points raised by the applicant in his appeal memo dated 30.4.2012 have not been considered with a proper perspective. It is also not known as to whether the applicant was given an opportunity to appear before the appellate authority. On the contrary, it seems that all the time the opinion of the Chief Conservator of Forests (Regional), Nagpur was called. Possibility that the appellate authority might have been influenced by the said report, cannot be ruled out. The order passed by the appellate authority does not state in clear words as to how the applicant was responsible and for what alleged misconduct. None of the grounds taken by the applicant have been considered, though on the basis of presumption that the applicant

was having no experience, some leniency has been shown by the appellate authority. It was incumbent upon the appellate authority to consider the defence taken by the applicant as well as the grounds taken in the appeal memo. I am, therefore, satisfied that the order passed by the appellate authority dated 7.2.2014 is without application of mind and as such, deserves to be quashed and set aside. Hence, the following order:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The order passed by the appellate authority (R.2) dated 7.2.2014 imposing penalty on the applicant for stoppage of one increment for two years with cumulative effect is quashed and set aside
- (iii) Matter is remanded back to the Additional Principal Chief Conservator of Forests, Nagpur for reconsidering the appeal. He is directed to give an opportunity to the applicant to appear before him personally and to submit his case in appeal.
- (iv) The respondent No.2 shall consider all the points raised by the applicant in appeal memo and after giving an opportunity of hearing to the applicant, shall pass necessary order giving clear findings as to whether the order passed by

respondent No.3 on 14.3.2012 is legal and proper.

- (v) Decision on the appeal shall be taken within a period of three months from the date of this order and same shall be communicated to the applicant in writing.
- (vi) No order as to costs.

(J.D.Kulkarni)
Vice-Chairman(J)

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