

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 610/2019 (D.B.)**

Rina Gulabrao Patil,  
Aged about 32 years, Occ. Service,  
R/o Range Forest Office,  
Maregaon, Tq. Maregaon,  
District Yavatmal.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Principal Secretary,  
(Forest), Revenue and Forest Department,  
Mantralaya, Mumbai.
- 2) Principle Chief Conservator of Forest (PCCF),  
(Vanbal Pramukh), Maharashtra State,  
having its office at Vanbhavan, Ramgiri Road,  
Civil Lines, Nagpur.
- 3) Additional Principal Chief Conservator of Forest  
(APCCF) Forest (Administrative), Duyyam Savarg,  
having its office at Vanbhavan, Ramgiri Road,  
Civil Lines, Nagpur.

**Respondents.**

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**Shri S.P. Palshikar, Advocate for the applicant.**

**Shri H.K. Pande, P.O. for the respondents.**

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**Coram :- Shri Shree Bhagwan,  
Vice-Chairman and  
Shri Anand Karanjkar, Member (J).**

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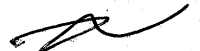
**Date of Reserving for Judgment : 6<sup>th</sup> August, 2020.**

**Date of Pronouncement of Judgment : 24<sup>th</sup> September, 2020.**

**JUDGMENT**

**Per : Vice Chairman**

**(Delivered on this 24<sup>th</sup> day of September, 2020)**



Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

2. It is submitted by the learned counsel for the applicant that the applicant entered into the Government service on 1/4/2006 as a Forester and was posted at Pandharkawada. After that, the applicant was transferred in the various places and later on in the year 2014 the applicant was posted at Pandharkawada. While working at Pandharkawada, an ACB trap was laid on 8/10/2014 and as result of that trap, the applicant was put under suspension on 31/10/2014. Thereafter, the suspension was revoked and the applicant was reinstated in the service on 16/07/2016. A departmental inquiry was initiated against the applicant on 23/05/2016 which is still pending and chargesheet in criminal case was also filed on 09/04/2015, however, the case is also still pending. In the departmental inquiry, the applicant has submitted final defence statement on 01/01/2018 to the respondent no.2, however, the final decision is still pending for more than two and half years.

3. *"The Hon'ble Apex Court in case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano., AIR 2016 SCC,101.** In Civil Appeal No.958/2010 decided on 16/12/2015. It is laid down in para-33 of the Judgment and specific direction was given by the Hon'ble Apex Court that every employer (whether State or Private) shall make sincere endeavour to conclude the departmental proceedings once*



*initiated against the delinquent employee within a reasonable time by giving priority and it should be within a period of six months. It is further laid down that if it is not possible for the employer to conclude the inquiry due to unavoidable reasons then it shall be concluded within a period of not more than one year”.*

4. It seems that by not deciding the departmental inquiry against the applicant after submission of final defence statement on 1/1/2018, it is crystal clear that direction given by the Hon'ble Supreme Court as in above para-3 has not been followed.

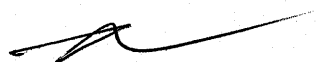
5. The learned counsel for the applicant has relied on the Government of Maharashtra GAD G.R. dated 15/12/2017 and guidelines issued vide this G.R. regarding promotion to be given to the employees who are under pending departmental inquiries / pending court cases (A-3,P-21). In the said G.R., guidelines have been issued in para-1 of the Government decision which are as follows –

*“ राज्य शासकीय अधिकारी/ कर्मचा-यांना पदोन्नती देतांना शिस्तभंगविषयक अथवा न्यायालयीन कार्यवाही सुरु असलेल्या कर्मचा-यासंदर्भात समान कार्यपध्दती अवलंबिली जावी या दृष्टीने व केंद्र शासनाच्या कर्मचा-यांसाठी केंद्र शासनाने विहित केलेल्या कार्यपध्दतीशी सुसंगत अशी कार्यपध्दती ठेवण्याच्या दृष्टीने या विभागाचे दिनांक २/४/१९७६ चे शासन परिपत्रक व दिनांक २२/४/१९९६ चा शासन निर्णय रद्द करून खालील कार्यपध्दती विहित करण्यात येत आहेत.*

१. विभागीय पदोन्नती समितीच्या बैठकीच्या दिनांकाला

अ. जे अधिकारी/कर्मचारी निलंबित आहेत.

ब. ज्या अधिकारी/ कर्मचा-यांविरुद्ध शिस्तभंग विषयक कार्यवाहीच्या अनूषंगाने दोषारोप बजावून शिस्तभंग विषयक कार्यवाही सुरु झालेली आहे.,



क. ज्या अधिकारी/कर्मचा-यांच्या विरुद्ध फौजदारी आरोपाचे न्यायालयीन प्रकरण प्रलंबित आहे.

फौजदारी आरोपाचे न्यायालयीन प्रकरण प्रलंबित असल्याचे केव्हा समजण्यात येईल यासाठी म.ना. से. (निवृत्तीवेतन) नियम, १९८२ मधील नियम २७ (६) (बी) (एक) मध्ये दिलेला खालील अर्थ विचारात घेण्यात येईल -

(बी) न्यायिक कार्यवाही -

(एक) फौजदारी कार्यवाहीच्या बाबतीत, दंडाधिकारी जिची दखल घेतो अशी तक्रार किंवा प्रतिवेदन, पोलीस अधिका-याने ज्या तारखेस दाखल केले असेल त्या तारखेस सुरू केली असल्याचे मानण्यात येईल.

अशा अधिकारी/ कर्मचा-यांच्या पदोन्नतीच्या प्रकरणात विभागीय पदोन्नती समिती त्यांची गोपनीय अभिलेखाच्या व इतर सेवाप्रवेश नियमाच्या तरतूदीच्या अनूषंगाने पात्रता तपासेल. मात्र संबंधीत अधिकारी/ कर्मचा-यांच्या संदर्भात विभागीय पदोन्नती समितीने केलेले मूल्यमापन (Assessment) आणि दिलेली प्रतवारी स्वतंत्र पाकीटात मोहोरबंद करून ठेवण्यात येईल. या पाकीटावर श्री.-----

(सरकारी कर्मचा-यांचे नांव) यांच्याबाबतीत या पदावरून (निम्न पदाचे सध्याच्या पदाचे नांव) या पदावर (पदोन्नतीच्या पदाचे नांव) पदोन्नती देण्याकरिता आवश्यक योग्यतेबाबतचे निष्कर्ष श्री.----- यांच्याविरुद्धच्या शिस्तभंगाच्या प्रकरणाची / फौजदारी खटल्याची समाप्ती होईपर्यंत हे पाकीट उघडण्यात येवू नये असा मायना लिहिण्यात यावा.”

6. The learned counsel for the applicant has also relied on the Judgment in O.A. No. 879/2017 of Division Bench of this Tribunal delivered on 11/3/2020. In para-8 of the Judgment following discussions have been illustrated regarding guidelines of G.R. dated 15/12/2017.

“8. Now we would like to consider the material provisions of the G.R. dated 15/12/2017. After issuing this G.R., the Government of Maharashtra issued fresh guidelines as to what procedure to be followed while considering the case of a Government servant who is facing departmental inquiry or a criminal trial. In para 1 (6) and 1 (9) of the G.R., the following directions are issued -



“१ (६) विभागीय पदोन्नती समितीच्या बैठकीच्या दिनांकाच्या ६ महिन्यांनंतर मोहोरबंद पाकीटात ठेवलेले प्रकरण नियुक्ती प्राधिकारी यांनी पुनर्विलोकित करावे. पुनर्विलोकनाच्यावेळी निलंबित अधिका-यास पुनःस्थापित केले असल्याचे व त्यांचेविरुद्ध कोणतीही शिस्तभंगविषयक कार्यवाही सुरु झालेली नसल्याचे आढळून आल्यास, मोहोरबंद लिफाफा उघडून त्यातील निष्कर्षानुसार तो पदोन्नतीस पात्र असल्यास त्यास पदोन्नती देण्यात यावी. तसेच ज्या अधिकारी/ कर्मचा-याविरुद्धची शिस्तभंगविषयक कार्यवाही संपुष्टात येवून शिक्षा दिली असल्यास, अशा अधिकारी/ कर्मचा-यांचे सीलबंद लिफाफे न उघडता त्यांची पदोन्नतीसाठीची पात्रता पुढील नियमित विभागीय पदोन्नती समितीच्या बैठकीमध्ये तपासण्यात यावी.

१ (९) विभागीय पदोन्नती समितीच्या मूळ बैठकीच्या दिनांकापासून दोन वर्षे झाल्यानंतरही मोहोरबंद पाकीटात निष्कर्ष ठेवलेल्या अधिकारी/ कर्मचा-यांच्या, शिस्तभंगविषयक / न्यायालयीन कार्यवाही प्रकरणी अंतिम निर्णय झालेला नसल्यास, अशा प्रकरणी नियुक्ती प्राधिकारी स्वविवेकानुसार संबंधित अधिकारी/ कर्मचा-याला तदर्थ पदोन्नती देण्याबाबत जाणीवपूर्वक निर्णय घेईल. असा निर्णय घेताना नियुक्ती प्राधिकारी, खालील मुद्दे विचारात घेईल.

(अ) संबंधितांविरुद्धची शिस्तभंगविषयक / न्यायालयीन कार्यवाही बराच काळ प्रलंबित राहण्याची शक्यता,

(ब) दोषारोपांचे गांभीर्य,

(क) द्यावयाची पदोन्नती जनहिताच्या विरुद्ध जाईल का,

(ड) शिस्तभंगविषयक / न्यायालयीन कार्यवाही लांबण्यास संबंधित अधिकारी / कर्मचारी जबाबदार आहे कां ?

(इ) संबंधित अधिकारी/ कर्मचा-यास तदर्थ पदोन्नती दिल्यानंतर, पदोन्नतीच्या पदावर काम केल्यामुळे, संबंधित अधिकारी/कर्मचा-याच्या शिस्तभंगविषयक/ न्यायालयीन कार्यवाहीच्या प्रकरणांवर परिणाम होण्याची शक्यता आहे कां ? किंवा संबंधित अधिकारी/ कर्मचारी पदोन्नतीच्या पदाचा त्यासाठी दुरुपयोग करण्याची शक्यता आहे कां ?

(फ) न्यायालयीन कार्यवाही याबाबतची सद्यस्थिती / अभियोगाबाबतचे किती टप्पे पार पडले याबाबतची माहिती करून घ्यावी.”

7. The respondents in their reply in the para-6 have mentioned following facts -

“ After considering the above situation, the departmental promotion committee in its meeting dated 9/8/2019 recommended the name of the applicant for promotion on ad-hoc basis to the Government. As the Government is the appointing authority in case of Range Forest Officer, Group-B. However, the Competent Authority did not accept the

*recommendation of the DPC and communicated its decision vide letter dated 26/8/2019.”*

8. The learned counsel for the applicant has also relied on letter dated 14/07/2020 (P-159) written by the Additional PCCF (Admn.) to all the Chief Conservator of Forests (CCFs) and Conservator of Forests (CFs). Along with this letter, the list of Foresters who are to be promoted is enclosed. The applicant is at Sr.No.8 , seniority no.452. In view of the above discussion in above paras and particularly in para-8 of the Judgment in O.A.No. 879/2017, direction is required to be given to the respondents to take decision as per the G.R. dated 15/12/2017. Hence, the following order –

### **ORDER**

The respondents are directed to take decision as per the G.R. dated 15/12/2017 and para-8 of the Judgment in O.A. 879/2017 within three months from the date of this order. No order as to costs.

**(Anand Karanjkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Vice-Chairman.**

**Dated :- 24/09/2020.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 24/09/2020.

Uploaded on : 25/09/2020.

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