

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.237 OF 2023

DISTRICT : SANGLI

Shri Sachin Shankar Jadhav,)
Range Forest Officer, Shiral Forest Range,)
Sangli Forest Division, Sangli,)
R/at E-9, Ankur Park No.1,)
Near Shivshankar Sabhagruh, Maharshi Nagar,)
Pune 411 037)..Applicant

Versus

The Deputy Conservator of Forest (Territorial),)
Sangli Forest Division, Tal. Miraj, District Sangli)..Respondent

Shri M.D. Lonkar – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 22nd June, 2023

PRONOUNCED ON: 3rd July, 2023

J U D G M E N T

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. The applicant has filed his OA challenging the order dated 27.2.2023 issued by the respondent – The Deputy Conservator of Forest suspending the applicant by exercising the powers under Rule 4(1) of MCS (Discipline & Appeal) Rules, 1979. He challenges the legality of the suspension order on the ground of competency of Dy. Conservator of Forest.

3. The applicant who was working as Range Forest Officer (RFO), Shiral Forest Range, Sangli Forest Division, Sangli was suspended by the Dy. Conservator of Forest, Sangli by impugned order dated 27.2.2023 as disciplinary proceedings are proposed against him. He, therefore, filed the present OA challenging his suspension on the ground that Dy. Conservator of Forest is not empowered under the law to act as a Head of Department or as disciplinary authority in relation to the post held by the applicant as Range Forest Officer.

4. Ld. Advocate for the applicant states that the order of suspension has been passed by the Dy. Conservator of Forest who is lower than the appointing authority which is Government in this case. Hence he states that the impugned order of suspension is illegal and void ab initio. He further points out that the respondent has no authority to impose even a minor punishment against the applicant, who is holding the post of RFO.

5. Per contra, Ld. PO relies on the affidavit in reply dated 21.3.2023 filed by Ajit Mahavir Sajane, Assistant Conservator of Forest (Afforestation), Miraj, Sangli. She refers to second proviso to Rule 6 of MSC (Discipline & Appeal) Rules, 1979 in which Chief Conservator of Forest (Territorial) is the Head of Department as far as Kolhapur Forest Circle is concerned, but the respondent is the Regional Head of Department/Territorial Head of Department as far as Sangli Forest Division is concerned in view of GR dated 1.1.2021 and the subsequent

GR dated 8.11.2021 and as such the impugned suspension order in respect of the applicant is not without competence. She pointed out that both the GRs dated 1.1.2021 and 8.11.2021 have been issued in view of powers conferred by the Financial Power Manual 1978 Part-I. As the applicant is working under the respondent, the impugned suspension order dated 27.2.2023 is legal and valid. She further pointed out that the impugned suspension order is supported by the circumstances/reasons leading to the suspension of the applicant. The reasons are that the applicant without taking technical sanction of the Executive Engineer, Warana Canal, Islampur used false seals, signed the estimates and submitted the same to the office of the respondent for sanction. The Executive Engineer, Warana Canal informed by office dated 22.2.2023 that no such technical sanction was awarded by that office.

6. Ld. PO relies on the order dated 29.8.2022 passed by this Tribunal in OA No.179/2021 (Rahul Ashok Marathe Vs. CCF). Para 9 of the affidavit in reply dated 21.3.2023 reads as under:

“9. With reference to contents of paragraph No. 6.6, I admit the contents therein. I say that the judgment and order dated 29/08/2022 passed by this Hon’ble Tribunal in OA No. 179/2021 (Shri. Rahul Ashok Marathe Vs. CCF) is applicable to the present OA. I say that this Hon’ble Tribunal in OA No. 179/2021 (Shri. Rahul Ashok Marathe Vs. Chief Conservator of Forests) decided on 29/08/2022 has held with reference to the relevant provisions of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and the concerned relevant Government Resolutions dated 01/01/2021 that the Chief Conservator of Forests (स्वतंत्र कार्यालय असलेल) as the Head of the Department for the purpose of Rule 9 (22) of the Maharashtra Civil Services (General Condition of Service) Rules,

1981. Moreover this Hon'ble Tribunal has held that on 01/01/2021 the Government of Maharashtra, Revenue and Forest Department issued one more Government Resolution declaring "मुख्य वनसंरक्षक (सर्व)" as the Head of the Department in reference to Financial Powers Manual, 1978.

7. As per second proviso to Rule 6 the respondent is the Regional Head of Department/Territorial Head of Department as far as Sangli Division is concerned.

8. The issue of competency of the respondent to suspend the applicant needs to be considered in the light of the relevant provisions of MCS (Discipline & Appeal) Rules, 1979. It is an undisputed fact that the appointing authority of the applicant is the Government but the respondent has passed impugned suspension order on the basis of Rule 4(1) of MCS (Discipline & Appeal) Rules, 1979. It is thus clear that a suspension order has to be passed by an appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in this behalf by the Government. The proviso to Rule 4(1) also provides that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority, the circumstances in which the order was made.

9. In this case the matter revolves around technical issue whether respondent was competent to suspend the applicant, who is RFO and respondent is Dy. Conservator of Forest. In this case it is important to refer to Rule 4 & 6 of the MCS (Discipline & Appeal) Rules, 1979, which reads as under:

“4. Suspension.- (1) The appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in the behalf by the Governor by general or special order may place a Government servant under suspension –

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) where in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State, or

(c) where a case against him in respect of any criminal offence is under investigation, inquiry or trial;

Provided that, where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority, the circumstances in which the order was made.”)

6. Disciplinary authorities.- (1) The Governor may impose any of the penalties specified in rule 5 on any Government servant.

(2) Without prejudice to the provisions of sub-rule (1), Appointing Authorities may impose any on the penalties specified in rule 5 upon members of Class III and Class IV Services serving under them, whom they have power to appoint:

Provided that the Heads of Offices shall exercise the powers of imposing minor penalties on the Class III and Class IV Government servants under their respective administrative control:

Provided further that Heads of Departments and Regional Head of Departments shall exercise the powers of imposing minor penalties only in relation to Government servants of State Service (Class II) under their respective control:

Provided also that, the Heads of Departments shall exercise the powers of imposing minor penalties only in relation to Government servants of State service (Class-I) under their respective administrative control who draw pay in a scale, the minimum of which does not exceed + (Rs. 10650)."

10. It is clearly seen that respondent is Regional Head of Sangli Forest Division in view of the second proviso to sub rule (2) of Rule 6 of the MCS (Discipline & Appeal) Rules, 1979 read with GR dated 8.11.2021. The respondents being the Regional Head of Sangli Forest Division, in view of GR dated 8.11.2021 issued by Revenue & Forest Department can exercise power of imposing minor penalties in relation to Group-B Government servant under her administrative control. Taking into account Rule 4(1) and 6(2) of MCS (Discipline & Appeal) Rules, 1979 in the light of GRs dated 1.1.2021 and 8.11.2021, it is clear that the respondent is the disciplinary authority and is competent to suspend the applicant.

11. In view of the above findings, I hold that the respondent is competent to issue the suspension order of the applicant. Hence, there is no merit in the OA and the same is dismissed with no order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
3.7.2023

Dictation taken by: S.G. Jawalkar.

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