

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 172/2019(S.B.)

Shri Dinesh Singh S/o Ganesh Singh Bais,
Aged about 48 years,
Occupation-Government Service (Forester),
R/o-Gokul Nagar, Ward No.22,
Behind Shivaji Science Junior College,
Tahsil and District- Gadchiroli.

Applicant.

Versus

1. State of Maharashtra,
through it Secretary,
Department of Revenue and Forest,
Mantralaya, Madam Cama Road,
Hutatma Rajguru Square, Nariman Point,
Mumbai - 400032.
2. Office of the Chief Conservator of the Forest (Territorial)
Gadchiroli, Dr. Ambedkar Samajik Nyaya Bhavan,
Behind Government I.T.I.,
District- Gadchiroli-442605.
3. Office of the Deputy Conservator of the Forest (Territorial)
Wadsa, Armori Road, Wadsa,
District- Gadchiroli.
4. Office of treasurer, Division, Gadchiroli.

Respondents

Shri S.B.Tiwari, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.

Dated: - 01st February, 2024.

JUDGMENT

Heard Shri S.B.Tiwari, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the Respondents.

2. The O.A. is of 2019, respondents have not filed reply though several chances were granted to file reply.

3. Case of the applicant in short is as under-

The applicant was appointed as Forest Guard at Gadchiroli Division and posted to the Gadchiroli forest area on 18.07.1995. On 21.10.2003 petitioner was promoted on the post of Forester (Vanpaal). The applicant was presently working at Central Timber Depot, Gadchiroli. On 01.11.2011 departmental enquiry was proposed against the applicant in the year 2011. The applicant was suspended by order of respondent no.2, dated 01.11.2011. On 26.07.2012, suspension of the applicant is revoked by the respondent no.2 subject to decision on departmental enquiry. The applicant was under suspension from 1.11.2011 to 26.07.2012. The applicant was entitled to receive the suspension allowance as per rules but he was

never paid the same. On 28.09.2012, final order was passed in the enquiry by respondent no.2. As per the order of respondent no.2 one annual increment was withheld without affecting the future pay increase. It is submitted that even after the order, the respondents have not released the increment after 2014. Therefore, the applicant has approached to this Tribunal for the following reliefs-

I) Direct the Respondents to pay his due suspension allowance payable during his suspension from 01/11/11 to 26/07/12 with interest AND

II) Direct the Respondents to restore the annual pay increase withheld from 01/07/13 to 01/07/14 with interest AND

III) Direct the Respondent No.3 to pass appropriate orders on the aspect of presence of the applicant on duty from June, 2011 to September, 2011 in the interest of justice.

IV) The application may be allowed with cost on the respondents.

V) Grant any other relief which this Hon'ble court may find applicant entitled to in the light of facts and circumstance of the present case in the interest of justice.

10) INTERIM RELIEF IF ANY PRAYED FOR:

In the existing circumstances the applicant is not praying for any interim relief at this stage.

4. During the course of submission, learned counsel for the applicant has pointed out the order passed by respondent no.3 dated 25.09.2014 and the order of disciplinary authority dated 28.09.2012.

5. The applicant has not challenged the punishment order only contention of the applicant is that he was not paid suspension allowance from the date of suspension till the revocation of suspension. Therefore, he is entitled to get the suspension allowance as per Rule. As per order dated 25.09.2014, the respondents have decided to grant annual increment on 01.07.2014. As per the submission of learned counsel for the applicant, it was also not given to the applicant. Therefore, prayed to allow the O.A..

6. The respondents have already passed order to pay the annual increment on 01.07.2014 and thereafter, but it is not paid. Therefore, it is the duty of the respondents to pay the annual increment as per order dated 25.09.2014. It is a fundamental rule of departmental enquiry that during the suspension period, the subsistence allowance should be paid to the delinquent employee. Therefore, the following order is passed-

ORDER

1. The O.A. is allowed.

2. The respondents are directed to pay suspension allowance to the applicant as per rules during the suspension period.
3. The respondents are directed to release the increment as per order dated 25.09.2014 which falls due on 01.07.2014.
4. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 01/02/2024
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 01/02/2024.
Uploaded on : 07/02/2024.
