

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.547 OF 2024**

**DISTRICT : SINDHUDURG  
SUBJECT : SUSPENSION**

|                                  |   |                      |
|----------------------------------|---|----------------------|
| Rajendra Dattatray Ghunkikar     | ) |                      |
| Range Forest Officer, Kankavli   | ) |                      |
| Dist. Sindhudurg – 416 602 and   | ) |                      |
| R/at RFO Quarters                | ) |                      |
| At and Post Kankavli, Sindhudurg | ) | <b>... Applicant</b> |

**Versus**

|                                    |   |                        |
|------------------------------------|---|------------------------|
| The Dy. Conservator of Forest (T), | ) |                        |
| Forest Division Sawantwadi         | ) |                        |
| Vanbhavan, Salaiwada, Sawantwadi   | ) |                        |
| Sindhudurg – 416 510               | ) | <b>... Respondents</b> |

**Shri Makarand D. Lonkar, learned Advocate for the Applicant.**

**Shri Ashok J. Chougule, learned Presenting Officer for the Respondents.**

**CORAM : DEBASHISH CHAKRABARTY, MEMBER (A)**

**DATE : 29.10.2024.**

**JUDGEMENT**

1. The Applicant has invoked provisions of ‘Section 19’ of ‘The Administrative Tribunal Act, 1985’ to challenge ‘Suspension Order’ dated 16.04.2024 passed by ‘Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg’ under ‘Rule 4(1)(a)’ of ‘MCS (Discipline & Appeal) Rules, 1979’.

2. The learned Advocate for Applicant stated that Applicant had earlier filed O.A. No.1081/2023 to challenge ‘Transfer Order’ dated 21.08.2023 of ‘Principal Chief Conservator of Forest (Head of Forest Force); Maharashtra State Nagpur’ to transfer him from post of ‘R.F.O. Kankavali, Sawantwadi

Forest Division, District Sindhudurg'. The 'Interim Order' passed in 'O.A. No.1081/2023' on 24.08.2023 had directed 'Principal Chief Conservator of Forest, (Head of Forest Force); Maharashtra State Nagpur' to maintain 'Status Quo' and continue with interim arrangement by which 'Additional Charge' of the post of 'R.F.O. Kankavali, Sawantwadi Forest Division, District Sindhudurg' had been given to 'R.F.O. Kadaval, Sawantwadi Forest Division, Sindhudurg'. Thereafter, on account of undue delay in filing of 'Affidavit-in-Reply' by (i) 'Additional Chief Secretary (Services) GAD' and (ii) 'Principal Secretary (Forest) Revenue & Forest Department' about competence of 'Principal Chief Conservator of Forest, (Head of Forest Force), Maharashtra State Nagpur' to exercise 'Statutory Powers' under 'Section 4(4)(ii)' read with 'Section 4(5)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005', the Applicant was granted 'Interim Relief' on 04.12.2023 and permitted to join back on post of 'R.F.O. Kankavali, Sawantwadi Forest Division, District Sindhudurg'.

3. The learned Advocate for Applicant contended that during further course of hearing of 'O.A. No.1081/2023'; on account of malice and prejudice against Applicant the 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' passed 'Suspension Order' dated 16.04.2024 under audacious presumption that 'Statutory Powers' of 'Disciplinary Authority' under 'Rule 4(1)(a)' of 'MCS (Discipline & Appeal) Rules 1979' had been vested upon him by 'Revenue & Forest Department G.R. dated 01.01.2021'.

4. The learned Advocate for Applicant emphasized that 'Revenue & Forest Department G.R. dated 01.01.2021' does not at all relate to 'Statutory Powers' of 'Disciplinary Authority'; though 'Forest Department' may have designated certain sets of 'Senior Officers' as 'Heads of Department' under 'Rule 9(22)' of 'Maharashtra Civil Services (General Conditions of Service), Rules, 1981' or as (a) 'Regional Heads of Department' or as (b) 'Heads of Office' under relevant provisions of

'Bombay Financial Rules 1959'. Therefore; 'Suspension Order' dated 16.04.2024 of Applicant passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' is patently bad in law as it was in contravention of 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'.

5. The learned Advocate for Applicant stressed that 'Suspension Order' dated 16.04.2024 of Applicant passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' therefore should be quashed and set aside and Applicant must be reinstated on post of 'R.F.O. Kadaval, Sawantwadi Forest Division, Sindhudurg' based on 'Interim Relief' granted on 04.12.2023.

6. The learned P.O. per contra contended that 'Suspension Order' dated 16.04.2024 of Applicant was passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' in exercise of 'Statutory Powers' of 'Disciplinary Authority' under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' based on 'Revenue & Forest Department G.R. dated 01.01.2021'.

7. The learned P.O. thereupon produced copy of 'Affidavit-in-Reply' which had been filed by then 'Principal Secretary (Forest), Revenue and Forest Department' in O.A. No.179/2021 on 05.08.2022 based on 'Revenue & Forest Department G.R. dated 01.01.2021' in order to justify 'Suspension Order' passed in respect of Applicant therein by 'Chief Conservator of Forest (Territorial) Thane' by virtue of having been declared as 'Head of Department' under 'Rule 9(22)' of 'Maharashtra Civil Services (General Conditions of Service), Rules, 1981'.

8. The learned P.O. then referred to two 'Judgments' which had dealt with similar issues viz. (a) O.A. No.820/2022 dated 24.11.2022 and (b) O.A. No.237/2023 dated 03.07.2023 to emphasize that though validity of respective 'Suspension Orders' had been upheld; however they were not

subsequently challenged by concerned Applicants. So, these Judgments are to be considered as apposite to case of Applicant who has filed this O.A. No.547/2024 against 'Suspension Order' dated 16.04.2024 passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg'.

9. The rival contentions of learned Advocate for Applicant and learned P.O. about points of law and applicability of precedence were thus required to be examined in depth; especially from perspective of nature of 'Statutory Powers' which are vested with 'Appointing Authority' and 'Disciplinary Authority' across different provisions of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'. Hence, it is imperative at this stage to refer to phraseology of 'Rule 4(1)(a)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' which reads as follows:-

**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 that behalf by the Governor by general or special order may place a Government servant under suspension-*

10. The plain reading of 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' makes it evident that such 'Statutory Power' which relates exclusively to 'Suspension' of 'Government Servants' has been specifically vested only with 'Appointing Authority' or any authority to which 'Appointing Authority' is subordinate or 'Disciplinary Authority'. However, some 'Other Authority' may also exercise such 'Statutory Power' but only if empowered by 'Hon'ble Governor' in that behalf by way of 'General Order' or 'Special Order'. Hence; only declaration of certain sets of 'Senior Officers' of 'Forest Department' as 'Heads of Department' under 'Rule 9(22)' of 'Maharashtra Civil Services (General Conditions of Service), Rules, 1981' or as (a) 'Regional Heads of Department' and (b) 'Heads of Office' under relevant provisions of 'Bombay Financial Rules 1959' and assignment of some responsibilities by 'Revenue & Forest Department' G.R. dated 01.01.2021 would not have

*'ipso-facto'* vested them with 'Statutory Powers' of 'Disciplinary Authority' under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'.

11. The 'Principal Secretary (Forest), Revenue and Forest Department' during course of hearing of this O.A. No.547/2024 was informed to diligently refer back to provisions of 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' notwithstanding earlier 'Affidavits-in-Reply' filed in (i) O.A. No.820/2022 decided on 24.11.2022 and (b) O.A. No.237/2023 decided on 03.07.2023 to arrive at more informed conclusion; as to whether 'Suspension Order' dated 16.04.2024 passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' against Applicant could be sustained in eyes of law and if not whether they would then choose to adopt remedial course of action under 'Rule 4(5)(a)' read with 'Rule 4(5)(c)' of 'Maharashtra Civil Services (General Conditions of Service), Rules, 1981' to revoke 'Suspension Order' dated 16.04.2024 passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg';

12. The 'Suspension Order' of Applicant passed on 16.04.2024 by 'Deputy Conservator of Forest, Sawantwadi Forest Division, Sindhudurg District' was sought to be justified by making repeatedly references during course of hearing of this O.A. No.547/2024 to 'Revenue & Forest Department' G.R. dated 01.01.2021 by which it was contended that 'Statutory Powers' under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' had been vested upon certain sets of 'Senior Officers' of 'Forest Department' who were designated as 'Heads of Department' under 'Rule 9(22)' of 'Maharashtra Civil Services (General Conditions of Service), Rules, 1981' or as (a); 'Regional Heads of Department'; or as (b) 'Heads of Office' under relevant provisions of 'Bombay Financial Rules, 1959'. The unmissable point nonetheless was that 'Revenue & Forest Department' GR dated 01.01.2021 had been

issued in the context of 'Manual of Financial Powers: 1978' of 'Finance Department'.

13. The 'Principal Secretary (Forest), Revenue and Forest Department' made feeble attempts based only on 'Revenue & Forest Department G.R. dated 01.01.2021' to justify that 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' had acted rightly; against the Applicant but in this process side stepped the central issue of how 'Revenue & Forest Department G.R. dated 01.01.2021' could supplant 'Statutory Powers' which were not vested in 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' not being 'Appointing Authority or 'Disciplinary Authority' under provisions of 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'. Further; admittedly 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' had not exercised such 'Statutory Powers' upon being so granted by 'General Order' or 'Special Order' issued with approval of 'Hon'ble Governor' which then would have empowered 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' as competent 'Other Authority' to pass 'Suspension Order' of Applicant on 16.04.2024.

14. The provisions of 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' could not have been allowed to be interpreted in cavalier manner as was repeatedly attempted to be done by 'Principal Secretary (Forest), Revenue and Forest Department' by just relying upon 'Revenue & Forest Department' G.R. dated 01.01.2021. Further, no, 'General Order' or 'Special Order' which has been issued with approval of 'Hon'ble Governor' to empower any 'Other Authority' besides 'Appointing Authority' or 'Disciplinary Authority' to exercise 'Statutory Power' under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 in respect of cadre of 'R.F.O.' came to be produced by 'Principal Secretary (Forest), Revenue and Forest Department' during course of hearing of this O.A. No.547/2024; so as to justify 'Suspension

Order' dated 16.04.2024 of Applicant passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg'.

15. The 'Principal Secretary (Forest), Revenue and Forest Department' therefore has not been able to affirmatively establish as to how 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' who is even not amongst certain sets of 'Senior Officers' of 'Forest Department' who have been designated as 'Heads of Department' under 'Rule 9 (22)' of 'Maharashtra Civil Services (General Conditions of Service) Rules, 1981 could be considered as being competent in eyes of law to pass 'Suspension Order' dated 16.04.2024 against Applicant who belongs to cadre of 'RFO'; especially when no separate 'Notifications' have ever been issued by 'Finance Department' to designate officers of 'Forest Department' as (a) 'Regional Heads of Department' and (b) 'Heads of Office' under relevant provisions of under 'Bombay Financial Rules 1959'. Therefore irrepressible claims by 'Principal Secretary (Forest), Revenue and Forest Department' about competency in eyes of law to exercise 'Statutory Powers' of 'Disciplinary Authority' under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979' only on strength of having been included amongst certain sets of 'Senior Officers' of Forest Department who have been designated as (a) 'Heads of Department' or (b) 'Regional Heads of Department' or (c) 'Heads of Office' cannot be accepted on face value; as certain sets of 'Senior Officers' of 'Forest Department' have simpliciter assumed these roles under 'Manual of Financial Powers 1978' by promulgation of 'Revenue & Forest Department GR dated 01.01.2021'.

16. The 'Principal Secretary (Forest), Revenue and Forest Department' it must be appreciably observed upon being nudged repeatedly during course of hearing of this O.A. No.547/2024 did take concerted efforts to ascertain from other 'Administrative Departments' as to whether they have obtained 'Notification' from 'Finance Department' which designate their (a) 'Regional Heads of Department' (b) 'Heads of Office' as 'Disciplinary

Authority' with reference to provisions of 'Rule 4(1)' read with 'Rule 2(k)' and 'Rule 2(e)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979', However, 'Principal Secretary (Forest), Revenue and Forest Department' had reverted back to convey that even other 'Administrative Departments' followed similar modalities as was observed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg based on 'Revenue and Forest Department 'GR dated 01.01.2021' using identified pathways of 'Delegation of Powers' under 'Manual of Financial Power 1978' of 'Finance Department'.

17. The competency in eyes of law of 'Disciplinary Authority' to pass 'Suspension Order' under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979' can be intensively examined only by enlarging it under the lens to see if definition of 'Disciplinary Authority' under 'Rule 2(c)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979' contemplates any 'Disciplinary Authority' who can be at the levels of (a) 'Heads of Department' or (b) 'Regional Heads of Department' or (c) 'Heads of Office'. Surely; they would also be competent to exercise 'Statutory Powers' of 'Disciplinary Authority' provided they are so declared by separate 'Notifications' which give effect to 'Rule 2(d)' or 'Rule 2(k)' or 'Rule 2(e)' but more importantly if they have been concurrently empowered under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' through 'General Order' or 'Special Order' issued with approval of 'Hon'ble Governor' which would then enable them to also exercise 'Statutory Powers' to impose upon 'Government Servants' of identified cadres any of the penalties specified under 'Rule 5 (1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'.

18. The word 'Disciplinary Authority' as used in 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' is not expansive enough to mean that there can be more than one 'Disciplinary Authority' who can concurrently exercise such 'Statutory Powers' in respect of particular cadre of 'Government Servants'. Specifically; to



elaborate even though 'Suspension Orders' passed by certain sets of Senior Officers of 'Forest Department' have been upheld by (i) 'Judgment' in O.A. No.820/2022 dated 24.11.2022 and (ii) 'Judgment' in O.A. No.237/2021 dated 03.07.2023; yet there can be no room to envisage that 'Statutory Powers' under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' in respect of any particular cadre of 'Government Servants' can be exercised simultaneously by any 'Disciplinary Authority' who may be serving at very different hierarchical levels within any 'Administrative Department' ranging from (a) 'Heads of Department' or (b) 'Regional Heads of Department' or (c) 'Heads of Offices'. The pick and choose approach in vogue amongst certain sets of 'Senior Officers' of 'Forest Department' as also evident from case of Applicant; to casually pass 'Suspension Orders' under 'Rule 4(1)(a)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' irrespective of the cadres of concerned 'Government Servants' had not been examined in (i) 'Judgment' dated 24.11.2022 in O.A. No. 820/2022 and (ii) 'Judgment' dated 03.07.2023 in O.A. No.237/2021 which otherwise have elaborately dealt with merits of those 'Suspension Orders' passed in different geographical locations by viz. (a) 'Deputy Conservator Forest, Satara Forest Division' and (b) 'Deputy Conservator Forest Sangli Division, District Sangli' although it must be observed that even therein Applicants belonged to different cadres of 'Forest Department' viz (a) 'Forestor' & (b) 'RFO'. The 'Disciplinary Authority' is not expected to have unbridled discretion or liberty to pick and choose any 'Government Servant' belonging to vastly different cadres when 'Statutory Powers' are required to be judiciously exercised under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'.

19. The diction of 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' indicates that the word 'Disciplinary Authority' has intently been used in 'Singular' and not in 'Plural'. More importantly 'Disciplinary Authority' under 'Rule 2(c)' means the authority who is competent under 'Maharashtra Civil Services (Discipline & Appeal) Rules,

1979' to impose upon concerned Government Servant any of the penalties specified in 'Rule 5 (1)' which includes both (i) 'Major Penalties' (ii) 'Minor Penalties' which are also separately defined in 'Rule 2(i)' and 'Rule (j)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979'. Hence; in context of present O.A. No. 547/2024 filed by Applicant; the salient question which arises is if 'Deputy Conservator of Forest Sawantwadi, Forest Division, District Sindhudurg' is to be considered as 'Disciplinary Authority' under 'Rule 2(c)' not only having competency in law under 'Rule 4(1)' to pass order of 'Suspension'; then is he to be considered to have been bestowed with competency in law to impose upon Applicant who belongs to cadre of 'R.F.O.' any 'Major Penalty' as defined under 'Rule 2(i)' which includes (a) 'Compulsory Retirement' or (b) 'Removal from Service' or (c) 'Dismissal from Service'. If so, has 'Forest Department' ever delegated such restrictive 'Statutory Powers' which would permit 'Deputy Conservator of Forest Sawantwadi, Forest Division, District Sindhudurg' to even impose any 'Major Penalty' under 'Rule 2(i)' upon those who are in cadre of 'R.F.O.'.

20. The 'Deputy Conservator of Forest Sawantwadi, Forest Division, District Sindhudurg' cannot transgress beyond provisions of 'Rule 6 (2)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' to even impose any 'Major Penalties' on those who belong to cadre of 'RFO'. Thus it does appears (i) Judgments dated 24.11.2022 passed in OA No.820/2022 and (ii) Judgments dated 03.07.2023 passed in OA No.237/2021 do not assist 'Principal Secretary (Forest) Revenue & Forest Department' in convincingly putting to rest the much larger issues relating to 'Suspension' of 'Government Servants' which have coincidentally emerged during course of hearing of this O.A. No. 547/2024 regarding competency in eyes of law to legitimately exercise 'Statutory Powers' vested under 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979'.

21. The definition of 'Appointing Authority' and 'Disciplinary Authority' as well as those of (i) 'Heads of Department' (ii) 'Regional Heads of Departments' and (iii) 'Heads of Offices' under 'Rule 2(a)', 'Rule 2(c)', 'Rule 2(d)', 'Rule 2(e)' and 'Rule 2(k)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979' are reproduced below to bring contextual clarity with regard to imperativeness for judicious exercise of 'Statutory Powers' under Rule 4(1) to order 'Suspension':-

2 (a) "**Appointing authority**", in relation to a Government servant, means.-

(i) The authority competent to make appointments to the Service of which the Government servant is for the time being a member or to the grade of the Service in which the Government servant is for the time being included, or

(ii) the authority competent to make appointments to the post which the Government servant for the time being holds, or

(iii) the authority which appointed the Government servant to such Service, grade or post, as the case may be, or

(iv) where a Government Servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that Service or to any grade in that Service or to that post, whichever authority is the highest authority;

2 (c) "**Disciplinary authority**" means the authority competent under these rules to impose on a Government servant any of the penalties specified in rule 5;

2 (d) "**Head of Department**" shall have the meaning assigned to it in clause (22) of rule 9 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981;

2 (e) "**Head of Office**" means the authority declared to be such under Clause (x-a) of Rule 2 of the Bombay Financial Rules, 1959;

2 (k) "**Regional Head of Department**" means the authority declared as Regional Head for the purposes of the Bombay Financial Rules, 1959 and other financial rules of Government;

22. The 'Statutory Powers' of 'Disciplinary Authority' to impose any of the 'Major Penalties' defined in 'Rule 2(i)' or 'Minor Penalties' 'Rule 2(j)' have been well distinguished under 'Rule 6' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' which is reproduced below:-

**“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 of the penalties specified in Rule 5 upon members of [Group C] and [Group D] 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 [Group C] and [Group D] Government servant under their respective administrative controls.

Provided further that Heads of Departments and Regional Heads of Departments shall exercise the powers of imposing minor penalties only in relation to Government servants of State Service [Group B] under their respective administrative 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 (Group ‘A’) under their administrative control who draw Grade pay Rs.6600 or less, excluding those who were sanctioned a pay-scale of Rs.10,650-15,850 in the unrevised pay-scales.]”

23. The ‘Principal Secretary (Forest) Revenue & Forest Department’ during course of further hearing of this O.A. No.547/2024 was yet again provided another opportunity to re-examine afresh with an ‘Open Mind’ whether decision taken by ‘Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg’ under ‘Rule 4(1)’ of ‘MCS (Discipline & Appeal) Rules, 1979’ to issue of ‘Suspension Order’ dated 16.04.2024 of Applicant who belongs to cadre of ‘RFO’ could still be upheld in eyes of law; given the fact that there does exists noticeable fine distinction between ‘Statutory Powers’ vested with ‘Appointing Authority’ or ‘Disciplinary Authority’ when they choose to initially act under ‘Rule 4(1)’ and subsequently act under ‘Rule 6 (2)’ of ‘Maharashtra Civil Services (Discipline & Appeal) Rules, 1979’. The ‘Statutory Powers’ of ‘Appointing Authority’ and ‘Disciplinary Authority’ under ‘Rule 4(1)’ relate only to ‘Suspension’ which is not considered as punishment for ‘Government Servants’; but on the other hand ‘Statutory Powers’ of ‘Appointing Authorities’ and Disciplinary Authorities’ under ‘Rule 6 (2)’ relate specifically to imposition of any of the ‘Major Penalties’ defined in ‘Rule

2(i)' or 'Minor Penalties' defined in 'Rule 2(j)' upon 'Government Servants' after completion of 'Departmental Proceedings' under 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'. Hence, same 'Appointing Authority' or 'Disciplinary Authority' become different persona in eyes of law when they exercise completely diverse set of 'Statutory Powers' ranging from 'Suspension' as circumscribed by 'Rule 2(a)' and 'Rule 2(c)' read with 'Rule 4(1)' and impose 'Major Penalties' defined in 'Rule 2(i)' or 'Minor Penalties' defined in 'Rule 2(j)' read with Rule 6' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' in respect of the same 'Government Servant'. The provisions of 'Rule 4(1)' which relates only to 'Suspension' of 'Government servants' are rather conservative in character as it is limited to stand alone decision by 'Appointing Authority' or 'Disciplinary Authority' & 'Other Authority' so empowered by 'Hon'ble Governor' by 'General Order' or 'Special Order' which is quite unlike diverse connotation of roles of 'Appointing Authority' or 'Disciplinary Authority' when acting under provisions of 'Rule 2(a)' and 'Rule 2(c)' read with 'Rule 6 (2)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' to impose any of (i) 'Major Penalties' defined in 'Rule 2(i)' or (ii) 'Minor Penalties' defined in 'Rule 2(j)' upon 'Government Servants' based on sharp differentiation amongst all classes of 'Disciplinary Authority' ranging from (a) 'Heads of Department' or (b) 'Regional Heads of Department' or (c) 'Heads of Offices' who are only empowered to impose only 'Minor Penalties' as defined under 'Rule 2(j)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'. Therefore, 'Statutory Powers' of 'Suspension' of 'Government Servant' can be bonafidely exercised only by those who are 'Appointing Authority' or 'Disciplinary Authority' as distinctly defined by 'Rule 2(a)', or 'Rule 2(c)' read with 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979'.

24. The 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' it does appear may have been under the belief that 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' had vested him with 'Statutory Powers' of 'Disciplinary Authority'

who was thus competent in eyes of law to order 'Suspension' of Applicant who belongs to cadre of 'R.F.O.'; but this decision of 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' does not pass the stringent 'Scrutiny of Law'. The 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' was certainly not 'Disciplinary Authority' as defined under 'Rule 2(c)' read with 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules, 1979' who was vested with 'Statutory Powers' to impose both (i) 'Major Penalties' defined in 'Rule 2(i)' or (ii) 'Minor Penalties' defined in 'Rule 2(j)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979'. The (i) 'Major Penalties' defined in 'Rule 2(i)' or (ii) 'Minor Penalties' defined in 'Rule 2(j)' have been placed together only for comparative appreciation under 'Rule 5(1)'; but stand sharply dispersed only in respect of 'Minor Penalties' amongst classes of 'Disciplinary Authorities' who are bunched together under 'Rule 6(2)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979'.

25. The 'Suspension Order' dated 16.04.2024 of Applicant passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg' under the 'Rule 4(1)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979' is therefore declared to be 'non-est' on account of lack of competency in law resulting from direct infraction of 'Rule 4(1)' when read with 'Rule 6(1)' and 'Rule 6(2)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979'.

26. The 'Interim Relief' granted on 24.08.2023 in O.A. No.1081/2023 to Applicant was in respect of challenge to 'Transfer Order' dated 21.08.2023 of 'Principal Chief Conservator of Forest, (Head of Forest Force), Maharashtra State Nagpur' by which Applicant was transferred from post of 'R.F.O. Kankavali, Sawantwadi Forest Division, District Sindhudurg'. Hence; in peculiar facts and circumstances of the case of Applicant who was subsequently served with 'Suspension Order' dated 16.04.2024 passed by 'Deputy Conservator of Forest, Sawantwadi Forest Division, District Sindhudurg'; it is hereby directed that 'Forest Department' should

now implement order of 'Interim Relief' granted on 04.12.2023 by reinstatement of Applicant on post of 'RFO Kankavali, Sindhudurg District' within 'Two Weeks' and thereupon await final decision in O.A. No.1081/2023.

27. The decision in present O.A. No.547/2024 however will not act as 'Shield of Protection' for Applicant with respect to exercise of any 'Statutory Powers' by 'Appointing Authority' or 'Disciplinary Authority' in relation to 'Departmental Proceedings' which has since been initiated under 'Rule 8' of the 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979'.

28. The detailed observations recorded above in this O.A. No.547/2024 relates to interpretation of provisions of 'Rule 4(1)' read with 'Rule 6(1)' and 'Rule 6(2)' of 'Maharashtra Civil Services (Discipline & Appeal) Rules 1979'. Hence copies of the judgement be forwarded for information to (a) 'Additional Chief Secretary (Services) GAD' & (b) 'Principal Secretary (Forest) Revenue & Forest'.

### **ORDER**

- 1) The Original Application No.547/2024 is Allowed.
- 2) No Order as to Costs.

**Sd/-**  
**(Debashish Chakrabarty)**  
**Member (A)**

Place: Mumbai  
Date: 29.10.2024  
Dictation taken by: N.M. Naik.

Uploaded on: \_\_\_\_\_