

**BEFORE THE UTTARAKHAND PUBLIC SERVICES  
TRIBUNAL AT DEHRADUN**

Present: Sri V.K. Maheshwari

----- Vice Chairman (J)

&

Sri D.K. Kotia

----- Vice Chairman (A)

**CLAIM PETITION NO. 63/2011**

Ram Avtar Jatav, S/o Sri Amar Chandra, Presently Assistant  
Conservator forests, IT Cell, Headquarters, Dehradun

.....Petitioner

**VERSUS**

1. State of Uttarakhand through Principal Secretary, Forest,  
Secretariat, Subhash Road, Dehradun
2. Principal Chief Conservator of Forest, Uttarakhand, Dehradun

.....Respondents

Present: Sri Rajeshwar Singh, Counsel  
for the petitioner

Sri Umesh Dhaundiyal, A.P.O.  
for the respondents

**JUDGMENT**

**DATE: FEBRUARY 24, 2014**

**DELIVERED BY SRI V.K. MAHESHWARI, VICE CHAIRMAN (J)**

1. The petitioner has filed the present claim petition for  
challenging the order dated 18.04.2011 passed by Secretary,  
Forest & Environment, Anubhag-1, Govt. of Uttarakhand by

which penalized the petitioner by censure entry and stopping permanently one increment in pay.

2. The facts giving rise to this petition are that the petitioner while posted as Assistant Conservator of Forest, Bijnor Division in the year 2001-02, Chief Conservator of Forest, Western Zone inspected Bijnor division on 7.12.2001 and noticed some illegalities in the work thereafter a show cause notice was served upon the petitioner for showing cause on the following points:

- i. That the petitioner without any approval from the higher authority has got the clearing of the area in Zafrabad compartment 6 and compartment and block 13,
- ii. That the petitioner had allowed the villagers to remove and take the roots etc which were extracted during this clearing instead of auctioning the same,
- iii. That the petitioner by allowing the villagers to take the roots etc instead of auctioning the same has caused a loss of about Four Lacks Sixty Nine Thousand to the State Government.

3. The petitioner had submitted his reply, but instead of exonerating the petitioner, the charges were framed against the petitioner and a copy of the charge sheet was served upon the petitioner. The petitioner submitted a detailed reply of the charge sheet on 5.3.2004. After conducting the enquiry, the petitioner was found guilty and the impugned punishment was awarded to the petitioner, which is not legal, valid and is established on the basis of facts.

4. The petitioner has challenged the impugned order on the following grounds:

- i. That the order dated 18.4.2011 has been passed against the petitioner against facts on record and without application of mind,
- ii. That the order dated 18.4.2011 has been passed despite the fact that enquiry officer had held the petitioner not guilty on all three charges,
- iii. That there is no basis or grounds given in the impugned order for differing from the enquiry report,
- iv. That the order dated 18.4.2011 is against the facts and settled legal position and is also in violation of the service rules,
- v. That the order dated 18.4.2011 is liable to be set aside being against both fact and law,

6. The petition has been challenged on behalf of respondents no. 1 and 2 and by way of an affidavit filed by Dr. R.B.S. Rawat, it has been stated that the petitioner had conducted the work in utter disregard to the established rules and procedure. The impugned order has been passed after conducting the proper and detailed enquiry. There is no irregularity or illegality in the impugned order. The punishment is also not excessive; therefore, the petition does not have any force and is liable to be dismissed.

7. We have heard both the parties and perused the evidence and material available on record carefully.

8. First of all, it has been contended that the first charge against the petitioner is that the petitioner has himself selected

the forest land for clearing and reforestation, but this is not correct. In fact, the petitioner had not himself selected the site for clearing and reforestation. Actually, these lots of lands were selected by the department itself for clearing and reforestation in the year 1990-91 to 1999-2000. Due to paucity of budget, this work could not be completed and again the Conservator of Forests, Moradabad had directed to clear this land and to do reforestation vide his letter no. 2913/33-3 dated 3.2.2001. Therefore, the work has been conducted in pursuance of the order of the Conservator of Forests, Moradabad and not by the petitioner himself. Copy of this letter has been filed on behalf of the petitioner. There is no denial of the fact of this letter. By this letter, it can be inferred that the petitioner had not selected the site rather the site was selected by the Conservator Forest and its' not proper to level the charge against the petitioner on this ground.

9. The second and third charge against the petitioner are that the petitioner had allowed the villagers to remove the roots of the trees extracted from the site instead of auctioning these roots, which caused a loss of Rs. 4,69000/- to the State Govt., but it has been contended on behalf of the petitioner that these charges are not tenable. As these roots were auctioned and the amount was deposited in Govt. Account. From the reply of the petitioner, it has been mentioned that an amount of Rs. 5,74048/- was received from auctioned of the roots which was deposited in the govt. account which is more than the amount of loss assessed at Rs. 4,69000. There is no reliable and justified reply on behalf of the respondents. Thus, it is revealed from the record that the roots extracted from the site were auctioned and it is not proper to

allege that these roots were permitted to be taken by the villagers as their remuneration which caused a loss to the Govt. Moreover, there is no other proof of the fact that there was any financial loss to the Government or the petitioner had acted in violation of the rules or permitted the villagers to take the roots.

10. From the above discussion, it becomes clear that the charges levelled against the petitioner are not tenable from the facts and material available on record, therefore, the impugned order of punishment cannot be upheld.

11. On the basis of the above discussion, the petition deserves to be allowed and the impugned order of punishment is liable to be set aside.

### **ORDER**

The petition is allowed. The impugned order of punishment is hereby set aside. The petitioner will be entitled for consequential relief, if any, including the arrears of increment, which were stopped. No order as to costs.

Sd/-

**D.K.KOTIA**  
VICE CHAIRMAN (A)

Sd/-

**V.K.MAHESHWARI**  
VICE CHAIRMAN (J)

DATE: FEBRUARY 24, 2014  
DEHRADUN

KNP