

W.P. No.8803/2012

29.6.2012

Shri Parag S. Chaturvedi, learned counsel for the petitioner.

Shri Rajesh Tiwari, learned Govt. Advocate for the respondents.

Challenging the order of suspension Annexure P/5 dated 24.5.2012 and contending that the petitioner has been suspended only because petitioner made certain complaints against the senior officers, this writ petition has been filed challenging the suspension on the ground of malafide.

It is stated that petitioner has been awarded a gold medal for his excellent work by the Minister of the department concerned on 26.1.2012, he has also been recommended for out of turn promotion. In the meanwhile, as the petitioner has made complaint against respondents No.4 and 5, impugned action has been taken.

Shri Rajesh Tiwari, learned counsel for the respondents refutes the aforesaid and it has been pointed out by him that the charge sheet has been issued by the Chief Conservator of Forest and not by respondents No. 4 and 5 and in the suspension order certain allegations with regard to non performance of duty on 21.5.2012 is alleged and as there is no material to show that the suspension of the petitioner is due to the malafides of the officers concerned, the contention cannot be accepted.

Shri Parag Chaturvedi, learned counsel for the petitioner refutes the aforesaid and points out that the suspension order was passed in view of the communication made by respondent No.4 vide Annexure P/4 and therefore, the same is malafide.

Having heard learned counsel for the parties and on perusal of the record, I am of the considered view that the question of malafide as alleged in this writ petition cannot be decided by this Court in a writ petition under Article 226/227 of the Constitution, the same requires inquiry into questions of fact and can be more appropriately dealt with by the appellate authority. As petitioner has filed an appeal before the appellate authority which is pending, the appellate authority is directed to decide the appeal within a period of one month from the date of receipt of this order. Question of change of head quarter shall also be considered by the appellate authority.

With the aforesaid, this petition stands disposed of.

c.c. as per rules.

(RAJENDRA MENON)
J U D G E