

BEFORE THE MADHYA PRADESH STATE ADMINISTRATIVE  
TRIBUNAL PRINCIPAL BENCH AT JABALPUR (MP)

WPG/1204/05      OA No 2760/1995

APPLICANT:.....Suresh Prasad Kaushal,  
S/o Shri Mahadeo Prasad Kaushal,  
Aged about 47 years,  
Forest Ranger,  
Forest Extension Officer,  
DURG Social Forestry Division  
DURG (MP)

Versus

RESPONDENTS:.1

State of Madhya Pradesh  
Through Secretary  
Forest Department  
Vallabh Bhawan  
Bhopal (MP)

2 The Chief Conservator of Forests  
Administration (Non Gazetted)  
Office of the Principal Chief  
Conservator of Forests  
Madhya Pradesh  
Satpura Bhawan  
BHOPAL (MP)

3 The Divisional Forest Officer,  
Social Forestry Division  
Durg (MP)

4 Shri R B Upadhyaya,  
Sub Divisional Officer  
(Territorial) Gadarwara  
(Distt Narsinghpur) MP

5 Shri Mithlesh Kumar Sharma,  
Sub Divisional Officer  
(Territorial)  
Central Bastar  
Jagdalpur (MP)

6 Shri R K Sood,  
Deputy Manager  
Minor Forest Produce Federation  
North Raipur  
Raipur (MP)

7 Shri R P Soni,  
Sub Divisional Officer  
(Territorial) Shahpur  
South Betul Territorial Division  
Betul (MP)

8 Shri K D Vyas,  
Deputy Manager,  
Minor Forest Produce Federation  
Kondagaon (Distt Bastar) MP

*Released as per  
court order dt 30/7/12  
Jkr  
6/8/12  
(A.M.G.)  
for per*

*Shahpur*

*6/8/12  
A.M.G.*

RESPONDENTS:.

9 Shri M A Ali  
Deputy Manager  
Minor Forest Produce Federation  
Satna (MP)

DETAILS OF APPLICATION

21/2/13

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**S.B.: Hon'ble Mr. Justice N.K. Agarwal**

**W.P.(S) No.1204/2005**

**PETITIONER**

Suresh Prasad Kaushal

***Versus***

**RESPONDENTS**

State of Madhya Pradesh and others

**Appearance :**

Mr. Anup Majumdar, Counsel for the petitioner.  
Mr. S.P. Kale, Dy. Advocate General for the State.

**ORAL ORDER**  
**(29.11.2013)**

Heard.

(2) The petitioner, filed an original application before the State Administrative Tribunal, Principal Bench at Jabalpur, registered as Original Application No.2760/1995. During pendency of the petition, the State Administrative Tribunal was abolished and under statutory enactment provided for transfer of cases, this petition has been transferred to this Court.

(3) The petitioner was a Forest Extension Officer in the Social Forestry Division and was posted at Durg. Vide Annexure A-3, a minor penalty of stopping of one increment for a period of 2 years with non cumulative effect was imposed upon the petitioner vide order dated 23.12.91.

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Thereafter, the DPC meeting was held on 27.07.1995, in which, the petitioner's name for promotion was not considered on account of the aforesaid minor penalty imposed upon him. Subsequently, the petitioner was promoted on the post of Assistant Conservator of Forest vide order 06.03.1998 (Annexure P/1) having found fit in the DPC meeting held on 11/12.11.97. During the pendency of the petition, the petitioner has already retired from service.

(4) By referring to Circular No.F-3/2/75/3/1 dated 27.02.1975 issued by the State of Madhya Pradesh, General Administration Department, Mr. Anup Majumdar, learned counsel appearing for the petitioner, would submit that in the DPC meeting held on 27.07.1995, the respondents did not consider the petitioner's name for promotion on account of imposition of above minor penalty in the year 1991, whereas, the period of penalty has already lapsed in the year 1993 and in view of the above circular, non-consideration of petitioner's name for promotion in the year 1995 on the ground of imposition of penalty in the year 1991 is *per se* illegal and the petitioner is entitled for consideration of his name for promotion w.e.f. 27.07.1995 and if he is found fit, then, he would be entitled for notional promotion and all consequential benefits.

(5) Learned counsel for the State does not dispute the above Circular issued by the State of M.P.

(6) By way of the above Circular, the State of Madhya Pradesh has directed its officials that right of consideration for promotion should not be denied to a delinquent employee only on the basis of imposition of minor penalty or withholding of increment.

(6) On bare perusal of the DPC proceedings, produced by Mr. Kale during the course of arguments, which are also taken on record, it is crystal clear that the petitioner's name was not considered for promotion in the year 1995 on account of imposition of minor penalty of stopping of one increment for a period of 2 years with non cumulative effect in the year 1991, which on the face is arbitrary and illegal and not sustainable in law.

(7) In view of the above, the writ petition is disposed of with a direction to the competent authority that if the petitioner files a fresh representation before the competent authority claiming notional promotion w.e.f. 27.07.1995 within a period of one month from today, the competent authority shall consider the same in light of the observations made herein above by this Court and if he is otherwise found suitable, then, to grant him notional

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promotion and consequential benefits, as early as possible, preferably within a period of 6 months from the date of filing of the representation. No order as to costs.

Sd/-  
N.K. Agrawal  
Judge

Shyna