

(1982) 03 KAR CK 0027
In the Karnataka High Court
Case No : WP. 8738/82

Inayathulla S.

APPELLANT

Vs

Deputy Conservator of Forests Chickmagalur and Another

RESPONDENT

Date of Decision : 15-03-1982

Acts Referred:

Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 — Rule 10(1)

Citation : (1982) 2 KarLJ 432

Hon'ble Judges : K. A. Swami, J

Judgement

1. In this petition under Art. 226 of the Constitution the petitioner has challenged the validity of the order dated 21-2-1982 bearing O.O. No. 50/81-82 passed by the 2nd respondent placing the petitioner under suspension.

2. Sri Narasimhan, learned High Court Government Pleader was directed to take notice on behalf of respondents Accordingly he has taken notice on their behalf and has argued the matter.

3. It is contended on behalf of the petitioner that the 2nd respondent, the Conservator of Forests, is neither an authority empowered to appoint Range Forest Officer, which is the post which is held by the petitioner, nor he is empowered by the State Government to exercise the power under Rule 10 (1) of the Karnataka Civil Service (Classification Control and Appeal) Rules, 1957 (hereinafter referred to as "the Rules"), therefore the order is ab initio void and is liable to be quashed.

4. On the contrary, it is submitted by the learned High Court Government Pleader, that though the Conservator of Forests is not empowered by the State Government to exercise power under Rule 10 (1) of the Rules, the action taken by the Conservator of Forests has been ratified by the appointing authority viz., Chief Conservator of Forests (General); therefore the order placing the petitioner under suspension gets validated. In support of this contention, the learned High Court Government Pleader has produced a copy of the order dated 8th March 1982 bearing No. A.A. ENQ. CR. 8/81-82 passed by the Chief Conservator of

Forests (General). The said order reads as follows:

"The action of the Conservator of Forests, Shimoga Circle in suspending Sri S. Inayathulla Range Forest Officer, 1st Grade of Kadur Range, vide his O.O. No. 50/81-82 dated 21-2-1982 for the irregularities committed by him as indicated in the said office order is hereby ratified.

The Conservator of Forests will please propose the name of the Enquiry Officer and the case presenting officer for issue of necessary orders besides submitting the draft articles of charges with connected records".

5. Now, the question that arises for consideration in the petition is as to whether an action taken by the authority in the purported exercise of statutory power which is not possessed by the authority exercising it, can such action be ratified by the authority entitled to exercise such a power. The power to place an official under suspension is traceable to Rule 10 of the Rules, which in categorical terms provides that it is only an appointing authority or an authority to which the appointing authority is subordinate or any other authority specially empowered by the State Government alone can exercise the power to place an official under suspension under the circumstances mentioned in sub-clauses (a) and (b) of sub-rule (1) of Rule 10 of the Rules.

6. The power of suspension is a very powerful weapon and it is required to be exercised with all care and caution, and it is because of this, it is made to vest only with the three authorities mentioned above. No other authority other than the authorities mentioned above, can exercise power of suspension. The Conservator of Forests could not have passed an order placing the petitioner under suspension, as such the impugned order, in the eye of law, has no efficacy whatsoever. Therefore the Chief Conservator of Forests could not have ratified such an order. Of course, it was open for the Chief Conservator of Forests (General) to take that order into account and to pass an order independent of the impugned order, to place the petitioner under suspension, but what had been done by the Chief Conservator of Forests was to simply ratify the order. The order of suspension requires application of mind and to arrive at a decision that a disciplinary enquiry is required to be held against the official who is going to be placed under suspension. That being so, the order of ratification which does not satisfy any of the aforesaid requirements cannot even be treated as an independent order of suspension, and as such, it cannot be held to be a valid order so as to place the official under suspension at least from the date of its passing. In the instant case, except passing the aforesaid order of ratification, there is no other material placed before the Court that the Chief Conservator of Forests on the basis of the materials placed before him is of the view that there is a case for holding a departmental enquiry. Under these circumstances, the order passed by the 2nd respondent is liable to be quashed.

7. Accordingly, the order passed by the 2nd respondent placing the petitioner under suspension is hereby quashed. It is also further held that the order dated

8th March 1982 passed by the Chief Conservator of Forests cannot have the effect of placing the petitioner under suspension even from its date. However, it is made clear that it is open for the Chief Conservator of Forests of the authority to which he is subordinate to take action in the matter in accordance with law.

8. Sri Narasimhan, learned High Court Government Pleader, is permitted to file his memo of appearance on behalf of respondents, in six weeks.