
(2006) 11 GAU CK 0065
In the Gauhati High Court

Case No : Writ Appeal No. 401 of 2003 in Writ Petition (C) No. 257 (AP) of 2002

Oni Dai

APPELLANT

Vs

State of Arunachal Pradesh and Others

RESPONDENT

Date of Decision : 07-11-2006

Acts Referred:

Citation : (2008) GLT 292 Supp

Hon'ble Judges : B. Sudershan Reddy, C.J.;Hrishikesh Roy, J

Bench : Division Bench

Advocate : B. Chakraborty, for the Appellant; C.K. Sarma Baruah and B. Benerjee, for the Respondent

Final Decision : Dismissed

Judgement

Hrishikesh Roy, J.—Misplaced loyalty of a public servant to causes contrary to call of public duty has placed an Arunachal Pradesh forest officer in difficulties by way of Departmental Proceedings and penalty and whether such an officer deserves to be leniently treated is the pivotal issue raised in the present proceedings.

2. This appeal arises out of the judgment and order dated 6.8.2003 in W.P (C) No. 257 (AP) of 2002, whereby the learned Single Judge dismissed the writ petition filed by the present Appellant as one without merit.

3. We have heard Mr. B. Chakraborty, learned Counsel who appears for the Appellant-writ Petitioner and also Mr. C.K. Sarma Baruah, the learned Advocate General for the State of Arunachal Pradesh.

4. Only brief facts are necessary to be incorporated for consideration of the merit of the writ appeal filed before us. The Appellant who was an Assistant Conservator of Forest, Government of Arunachal Pradesh, was at the relevant time holding charge of the office of the Divisional Forest Officer, Kholong Forest Division, Bhalukpong. While so posted, the writ Petitioner allegedly issued permits for felling/removing of trees from the said Division beyond the quota fixed by the Government for issuance of such permits during the year 1995-96.

This led to a disciplinary proceeding drawn up against the Appellant-writ Petitioner, where the Petitioner was served with four articles of charges pertaining to the issuance of excess permit. The explanation in the reply given against the charges was to the effect that while he was the in charge D.F.O., he received recommendations for issuance of permits from his superior officers, student leaders, local inhabitants as also Ministers and on the basis of such recommendations made, he had to issue the permits in excess of quota fixed by the Government. The officer claimed that he had no malafide intention in issuing the permits and accordingly had not committed any misconduct.

5. As two of the four charges were found to have been proved during the departmental enquiry, penalty of reduction to lower stage from Rs. 9500/- to Rs. 8900/- in the time scale of pay of Rs. 6500/--200--Rs. 10,500/- per month for a period of three years w.e.f. 1.5.2000 was imposed on the Appellant-Petitioner with a further direction that he will not earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. The appeal preferred against the said punishment by the Appellant before the Government was not accepted.

6. Thereafter, the Petitioner approached this Court by filing the writ petition No. 257 (AP) of 2002 praying for appropriate writs, seeking quashing of the impugned order of punishment dated 20.4.2000 and also the charge sheet dated 15.1.2000 issued to him. The state respondents filed their counter affidavit in response to the notice issued by this Court and contended that the Petitioner being a senior government servant holding a position of trust and responsibility ought not to have acted at the dictates of Ministers, local MLA, student leaders and others. It was further contended that special instructions was given by the Government not to issue permits in excess of the allotted quota unless recommendations are made either by the Chief Minister or the Minister of Environment of Forest as special case. Accordingly it was contended by the State of Arunachal Pradesh that the officer misused his position and failed to maintain absolute integrity and accordingly he has been appropriately punished after guilt has been established against him through the departmental enquiry conducted.

7. The Petitioner in course of the writ proceeding did not challenge the findings of the disciplinary proceedings initiated against him and confined his submission to the effect that disproportionate punishment has been imposed on him which are not commensurate with the misconduct committed and established.

8. The learned Single Judge on elaborate discussion of the necessary facts and the contention raised by the rival parties held that a Government servant who bends himself under the pressure of any politician or his superior officer or acts at the dictates of such persons, does not deserve to be leniently dealt with and that as a government employee the loyalty of the incumbent shall be to the government and to no one else. The learned Single Judge also found that there were no material to indicate that the Petitioner had acted under any threats compelling him to issue the permits and obviously must shoulder the

responsibility for acting on recommendations made to him. The learned Single Judge also took note of the fact that the writ Petitioner made no effort whatsoever to ascertain the genuineness of the beneficiaries of such permit issued by him and appeared to have mechanically carried out the recommendations made by various persons. The net results of such indiscriminate functioning of the Appellant Petitioner was that permits were admittedly issued even in the names of fictitious persons. Accordingly the learned Single Judge found that the penalty imposed on the Appellant Petitioner is far from being harsh and or disproportionate to the gravity of the misconduct committed.

9. In the writ appeal stage also the counsel for the Appellant has confined his submission not on the merit of the case but on the quantum of punishment inflicted and have claimed that the Appellant-writ Petitioner having acted on the basis of recommendations made by various people to issue permits, should be leniently dealt with. To convince the appellate court about Appellant being deserving of such lenient treatment, Mr. Chakraborty, learned Counsel for the Appellant had submitted that no financial loss has been caused to the government by Appellant by issuing excess timber permits for felling/removing trees from Khollong Forest division.

10. The plea for lenient treatment of the Appellant on the ground of not having caused any financial loss to the government in our considered view has to be straightway rejected considering the fact that the valuable timber wealth, which are diminishing in alarming proportion and are to be preserved for future generation, have been indiscriminately wasted away for the irresponsible act of the Appellant-writ Petitioner. One cannot also be unmindful of the fact that it is the Appellant-writ Petitioner who knew about the exact quota fixed by the government and the persons recommending issuance of permits may not be aware of the stipulated quota and it was for the Appellant to ensure that permits beyond the quota fixed are not issued. It is the Appellant-writ Petitioner who has the responsibility to adhere to the quota fixed by the government, while issuing permits for felling/removing trees and had no business to issue permits for felling/removing trees in excess of the quota fixed by the government. The Appellant-writ Petitioner having issued excess permits for felling/removing trees have caused immense harm to the environment as valuable trees which can be described as natural wealth of like giving proportion to be enjoyed by all man kind, have been destroyed by the irresponsible act of a public servant who knew nothing better. Such public servant who is incapable of comprehending the responsibilities of his position and who acts at the behest of all and sundry, without a care for following the norms of his office can hardly be dealt with leniently. Leniency shown to such officer would send a wrong signal to every one and would definitely be contrary to the public interest. If the conduct of a public servant cast a negative reflection on his reputation, integrity or devotion to duty, such conduct would in our view, would certainly be referable to acts warranting disciplinary proceedings as has happened in the instant case.

11. In view of the above position, we find no merit in the writ appeal presented and accordingly the same is dismissed. The judgment of the learned Single Judge is affirmed.

No costs.