

(1976) 07 SHI CK 0006

In the High Court Of Himachal Pradesh

Case No : Letters Patent Appeal No. 51 of 1975

The State of Himachal Pradesh and Another

APPELLANT

Vs

Sohan Lal

RESPONDENT

Date of Decision : 07-07-1976

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1976) 5 ILR HP 605

Hon'ble Judges : R.S. Pathak, C.J.; T.U. Mehta, J

Bench : Division Bench

Advocate : B. Sita Ram, General, for the Appellant; H.S. Thakur, for the Respondent

Final Decision : Allowed

Judgement

R.S. Pathak, C.J.—This Letters Patent Appeal is directed against an order of a learned single Judge of this Court allowing a writ petition filed by the Respondent and quashing the order removing him from service.

2. The Respondent was employed as a Forest Guard and was placed incharge of the Mandhol Beat of Gangtoli Block of Tikkar Range in the Rohru Forest Division at the relevant time. It was noticed that heavy illicit felling of trees had taken place during the period January to May 1972, and an enquiry was instituted against the Respondent on the charge of negligence and dereliction of duty. The Respondent submitted his explanation and after considering the material before him the Enquiry Officer drew up a report holding the Respondent not guilty of the charge. The enquiry report was thereafter considered by the Conservator of Forests, and taking a view different from that of the Enquiry Officer the Conservator of Forests came to the conclusion that the Respondent was guilty of the charge framed against him. He issued notice to the Respondent to show cause against his removal from service. After examining the statement submitted by the Respondent he held that the Respondent was liable to removal from service, and made an order accordingly on October 7, 1974. Against that order

the Respondent filed a petition under Article 226 of the Constitution in this Court.

3. The writ petition came up for hearing before our brother Thakur, and on June 16, 1975, he made an order quashing the impugned order of removal on the finding that there was no evidence in support of it. And now this Letters Patent Appeal.

4. Our learned brother has observed in his judgment that during the period in which the illicit felling can be said to have taken place the Respondent was either on leave or he had been put in charge of some other work without a substitute being provided to take care of his duties in the area where the felling had taken place. Our learned brother has noted that the Respondent had drawn up a damage report and submitted it to his superiors. In his opinion, the Respondent had done all that was possible of a diligent officer. In that view of the matter, he has held that the removal of the Respondent was not justified.

5. We have perused the material on the record, and in particular the detailed order made by the Conservator of Forests leading to the removal of the Respondent. The Conservator of Forests has referred to the circumstance that there were several occasions on which the illicit felling took place and although the Respondent had drawn up damage reports he had not been able to apprehend the persons who could be said to be responsible for the illicit felling nor had he succeeded in seizing any material which could be said to have been employed in the felling. In the opinion of the Conservator of Forests the circumstances showed that the Respondent had not acted with diligence. It seems to us that the several circumstances on which the Conservator of Forests has relied could reasonably lead to the conclusion to which he has come. It is not possible to lay down any hard and fast rule within the confines of which it can be determined whether a Forest Guard has acted diligently in the discharge of his duties. In every case the question will fall to be determined on its own facts. The judgment must primarily be that of the disciplinary authority, and in the present case we are unable to hold that the Conservator of Forests acted on irrelevant material and without reason. So long as there is relevant material reasonably supporting the finding on which the removal order is based, it cannot be said that there is a manifest error of law. With respect, we are unable to agree with the view taken by our learned brother and hold that the judgment and order passed by him are liable to be reversed.

The appeal is allowed, the judgment and order dated June 16, 1975 of the learned single Judge are set aside and the writ petition is dismissed. In the circumstances, there is no order as to costs.