GOVERNMENT OF KERALA

Abstract

ALL INDIA SERVICE (D&A) RULES, 1969 - DISCIPLINARY ACTION AGAINST SHRI.K.A.MOHAMMED NOUSHAD IFS(KL:1987), CHIEF CONSERVATOR OF FORESTS (SOCIAL FORESTRY), KOLLAM - FINALISED - ORDERS ISSUED.

GENERAL ADMINISTRATION (SPECIAL C) DEPARTMENT

G.O.(Rt.)No. 4484/2015/GAD Dated, Thiruvananthapuram, 16.06.2015.

Read:- 1. Articles of Charges and Statement of Imputations dated 18.05.2011.
       2. Written Statement of Defence dated 27.08.2011 from Shri.K.A. Mohammed Noushad IFS.
          Conservator of Forests & Head of Forest Force.
          addressed to the Union Public Service Commission.
      10. Letter dated 08.01.2015 from Shri. K.A.Mohammed Noushad IFS.

ORDER

Disciplinary action was initiated against Shri.K.A. Mohammed Noushad IFS. (KL:1987), Chief Conservator of Forests (Social Forestry) (former Divisional Forest Officer, Munnar) for short realization of sales tax in sandalwood auction dated 30.08.1995 and 28.02.1996 in Marayoor Sandal Depot and illegal release of bank guarantee during his tenure as Divisional Forest Officer, Munnar. Accordingly, Articles of Charges and Statement of Imputations were served to him vide reference read as 1st paper above.

2. The following are the charges levelled against the officer.
   i. That he took wrong decisions that are contrary to laws on Sales Tax in the cases of sandal auctions dated 30.08.1995 and 28.02.1996 and failed to realize Sales Tax at 12% as fixed by relevant rules and order.
   ii. Illegally ordered to release the bank guarantee for Rs.1,30,871/- which was furnished by M/s. Shah Enterprises, Jyothirmani, 14/24, 1st Floor, M.G.Marg, Kanpoor, while the subject matter was pending adjudication in the Hon’ble High Court in W.P.(C) No. 3364/96.
   iii. That in respect of sandalwood auction dated 28.02.1996 he caused a short collection of Rs.10,43,385/- by applying low rate of Sales Tax, incorrectly and illegally.
   iv. That his illegal action as aforesaid caused a total loss of Rs. 11,74,256/- (Rs. 10,43,385/- + Rs. 1,30,871/-) out of which Rs. 80,457/- was adjusted from a buyer firm there by making the net loss to Government as Rs. 10,93,799/-. 
3. The officer submitted Written Statement of Defence and denied the charges levelled against him. As the Written Statement of Defence submitted by the officer was not satisfactory, Government ordered an inquiry under Rule 8 of AIS(D&A) Rules, 1969, vide Government Order read as 3rd paper above.

4. The Inquiry officer forwarded the Inquiry report as per the letter read as 4th paper above. Government have examined the inquiry report of the officer and tentatively decided to impose on Shri. K.A. Mohammed Noushad IFS the minor penalty of recovery from pay as provided in Rule 6(1)(iii) of AIS (D&A) Rules, 1969. The Principal Chief Conservator of Forests & Head of Forest Force was consulted to assess the quantum of liability to be fixed to the alleged officers. The short collection of sales tax has occurred because of not duly interpreting the Sales Tax Act provision with which Forest Department officers are not particularly conversant and therefore the PCCF&HoFF recommended to recover 50% of loss from all found responsible and the amount to be recovered from Shri.K.A.Mohammed Noushad IFS was calculated as Rs. 1,93,333/-.

5. For imposing the penalty as per Rule 10 (1)(e) the Union Public Service Commission was consulted. Vide letter read as 5th paper above UPSC pointed out some procedural deficiencies. Since the misdemeanor of Shri. K.A. Mohammed Noushad IFS took place several years ago, there is no scope to rectify the procedural lapse occurred in the Inquiry and Government took a tentative decision to recover the liability amount of Rs. 1,93,333/- from the officer. Show cause Notice read as 6th paper above was issued to the officer and the officer agreed to remit the amount proposed by Government subject to the condition that recovery of liability will not be considered as penalty.

6. UPSC vide letter dated 17.11.2014 read as 8th paper above informed that the proposal of State Government to recover the amount of Rs. 1,93,333/- from the Member of Service and not to consider it as penalty is not in conformity with the extant rules.

7. On the basis of advice of UPSC, the amount of penalty can be recovered from the Member of Service only as penalty as provided in and accordingly Show cause Notice read as 9th paper above was issued to the officer.

8. The officer agreed to the recovery of Rs. 1,93,333/- vide letter read as 10th paper above.

9. Government have examined the matter in detail and in consultation with the Law Department, finalise the disciplinary action initiated against Shri.K.A. Mohammed Noushad by recovering the liability amount of Rs. 1,93,333/- by imposing minor penalty of recovery of pay as provided in Rule 6 (1) (iii) of AIS (D&A) Rules, 1969.

10. The PCCF & HoFF will take steps to recover the aforesaid amount from Shri.K.A. Mohammed Noushad IFS and report to Government.

(By Order of the Governor),

JLT THOMSON
Chief Secretary to Government.

To

Shri. K.A. Mohammed Noushad IFS (through the Principal Chief Conservator of Forests and Head of Forest Force, Forest Head Quarter, Thiruvananthapuram).

The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.
The Accountant General (A & E), Kerala, Thiruvananthapuram.
The Principal Chief Conservator of Forests and Head of Forest Force, Forest Head Quarters, Vazhuthacaud, Thiruvananthapuram.
The Secretary, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhawan, 6th Floor, Prithvi Block, Jor Bagh Road, Ali Ganj. New Delhi – 110 003.
The General Administration (SC) Department.
The Forest & Wildlife (F) Department.
The Law Department (vide U.O.(O) No. 10434/opinion E 3/15/Law dated 29.05.2015).
The Web & New Media Division, Information & Public Relations Department. (for uploading the G.O in the website of (Special A&C) Department. www.gadsplais.kerala.gov.in)

Copy to:-
The Principal Secretary to Chief Minister
The Private Secretary to Chief Minister.
The Private Secretary to Minister (Forest, Environment, Transport, Sports & Cinema)
The PA to Principal Secretary (Forests and Wildlife Department)
The Additional Secretary to Chief Secretary
The CA to Additional Secretary, General Administration (Special A&C) Department.
Stock File/Office Copy.

Forwarded/By Order,

[Signature]

Section Officer.