

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 215 of 2009

Date of Order: This, the 20th day of December 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE N. NEHSIAL, ADMINISTRATIVE MEMBER



Shri Samarendra Das, IFS
Son of Late Surendra Chandra Das
Resident of Dhaleswar Road No. 14
Post Office – Dhaleswar
Police Station – East Agartala
District – West Tripura, Tripura
Pin – 799007.

...Applicant

By Advocates: Mr. Adil Ahmed, Ms. R.R. Rajkumari
and Mrs. D. Goswami

-Versus-

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Environment & Forests
Paryabharan Bhawan, CGO Complex
New Delhi, Pin – 110003.
2. The Union Public Service Commission
Represented by the Secretary
Dholpur House, Shahjahan Road
New Delhi, Pin – 110003.
3. The State of Tripura
Represented by the Chief Secretary
(In-Charge, Forest Department)
Government of Tripura, Agartala
Pin – 799001.

4. The Secretary-cum-Commissioner
Department of General Administration
(P&T), Civil Secretariat, Government of Tripura
Agartala, Pin – 799001.
5. The State of Manipur
Represented by the Chief Secretary
Government of Manipur, Imphal
Pin – 795001.
6. The Principal Chief Conservator of Forests
Department of Forests
Government of Tripura, Aranya Bhawan
Post Office – Kunjaban, Agartala
Pin – 799006.
7. Shri Prasenjit Biswas, I.F.S.
Presently working in the JICA Project
Office of the Principal Chief
Conservator of Forests (T)
Post Office – Kunjaban, Agartala
Pin – 799006.
8. Shri Subhendu Kumar Paul, I.F.S.
Divisional Forest Officer
Forest Training Division, Hatipara
P.O. – Gandhigram, Agartala
Pin – 799012.



...Respondents

By Advocate: Sri S.K. Ghosh, Addl. CGSC for res. No. 1

ORDER

N. NEIHSIAL, MEMBER (A):

The applicant initially approached the Hon'ble High Court of Tripura vide W.P.(C) No. 35/2003 for seeking redressal of his grievance. The Hon'ble High



Court vide its order dated 08.06.2009 allowed the withdrawal of the W.P.(C) No. 35/2003 with liberty to approach the competent authority/forum for redressing the petitioner's grievance. Accordingly, O.A. No. 215 of 2009 along with M.A. No. 138 of 2009 was filed by the applicant in this Tribunal. After examining the issue, this Tribunal dismissed the said O.A. along with the M.A. vide its order dated 22.03.2012 on the ground of limitation. The applicant filed another W.P.(C)(CAT) 2 of 2012 in the Hon'ble High Court of Tripura. After examining the said Writ Petition, the Hon'ble High Court in its order dated 21.03.2016, had remanded the case to this Tribunal to consider the grievance of the applicant raised in the O.A. While examining the petition of the applicant, the Hon'ble High Court had consciously decided the issue of delay that the grievance of the applicant is against the promotion of two other officials namely Sri Prasenjit Biswas, IFS (Respondent No. 7) and Sri Subhendu Kumar Paul, IFS (Respondent No. 8) respectively. The respondent No. 7 was promoted in 1997 and respondent No. 8 was promoted in 2002. After examining the issue of condonation of delay, the Hon'ble High Court of Tripura vide its order dated

21.03.2016 in para 7, specifically indicated that the applicant should have challenged the promotion of Sri Prasenjit Biswas i.e. respondent No. 7, within a reasonable time and having failed to do so, they did not find any ground to condone the delay as far as the challenge to the induction of Sri Prasenjit Biswas i.e. respondent No. 7. Accordingly, as per the order of the Hon'ble Tripura High Court dated 21.03.2016, the grievance of the applicant has to be examined and adjudicate with reference to Sri Subhendu Kumar Paul only who got promotion to IFS in 2002.



2. After repeated adjournments over a period of time, the case was last heard at Circuit Court, Agartala on 08.11.2019. Hearing was concluded and kept reserved for orders. Two officers namely Sri Tapas Bhowmik, Section Officer and Sri Chandan Sarkar, Nodal Assistant, GA (P&T) Deptt., Govt. of Tripura were present as directed. They only sought further adjournment. This was not agreed to as the matter relates to remanded case of 2009. Written argument, if any from both sides, however, was allowed to be filed within seven days. Accordingly, learned counsel for the applicant, Sri Adil

Ahmed, filed written argument on 16.12.2019, though belatedly. The respondents have chosen not to file written argument till date.



3. The basic grievance of the applicant is that being a member of reserved category i.e. Scheduled Caste, he should have been promoted along with Sri Prasenjit Biswas (Respondent No. 7) in 1997 as the roster point No. 4 was meant for the 'Scheduled Caste'. The respondent authorities have consistently maintained that there was no such provision for reservation in promotion at that point of time. The extant order for reservation at that time was only for the 'Direct Recruitment'. As such, applicant's demand for promotion under reserved category from Tripura Forest Service Grade II to Grade I is not maintainable. However, keeping in view of the order of the Hon'ble High Court of Tripura (supra), the issue relating to demanded promotion along with Sri Prasenjit Biswas, respondent No. 7, is not required to be examined and adjudicate now as highlighted above. Before his grievance against Sri Subhendu Kumar Paul, respondent No. 8 is examined, the issue of reservation for promotion

has to be examined and settled first. It is indeed consistent stand of the respondent authorities that there is no provision for reservation in promotion. The Rule 21 of the Tripura Forest service Rules 1988 specifically indicates that special representation in the Service for Scheduled Caste and Scheduled Tribes shall be applicable in respect of only direct recruitment. But they have not produced a copy of the service Rules in support of their claim for perusal. The applicant on the contrary produced a copy of the order under No. 29(1)-GA/77(i) dated 19.02.1977 wherein it has been indicated as under:-



"It has now been decided by the Government that the percentage of reservations against promotion quota for Sch. Tribes and Sch. Castes candidates should be equivalent to the percentage of reservation in the matter of direct recruitment with immediate effect in respect of all categories of posts under this Government."

The applicant also produced a copy of the 'Extraordinary Issue of Tripura Gazette' under No. 10(5)-Law/Leg/90 dated 14.08.1991 wherein at para 5, there is a clear provision of reservation for members of the Scheduled Castes and Scheduled Tribes in services or posts to be filled up by promotion. The Gazette is also

with attached schedule wherein 100 percentage rosters have been indicated. Against these two copies of orders, the respondent authorities have not submitted any specific reply or order that these two orders are not applicable to the applicant. Having failed to contest these two orders of the Govt. of Tripura, we are constrained to take a view that there is a provision for reservation of promotion in services or posts under the Govt. of Tripura w.e.f. 1977 or w.e.f. 1991, as the case may be.



4. Coming to the specific of the case of the applicant against the private respondent No. 8 i.e. Sri Subhendu Kumar Paul, it is observed from the order under No. 2(14)-GA(P&T)/97 dated 05.12.2001 that the applicant has been promoted to Selection Grade-I (Deputy Conservator of Forest) of Tripura Forest Service along with private respondent No. 8 on the same date and with another officer namely Sri Barindra Paul, TFS, Sl. No. 2. However, subsequent to this, Sri Subhendu Kumar Paul, respondent No. 8, has been promoted by the IFS by the Govt. of India vide order No. 17013/12/2001-IFS-II dated 12.11.2002 with immediate effect. The applicant,

however, has been promoted to IFS by the Govt. of India vide order No. 17013/29/2006-IFS.II dated 24.07.2007.



5. From the fair reading of the above orders, we are not able to make out as to how the private respondent No. 8 namely Sri Subhendu Kumar Paul had been promoted to IFS in 2002 whereas the applicant was promoted only in 2007. Neither the applicant nor the respondent authorities have fully elaborated in their submissions the reasons for this gap of nearly five years in promotion of the applicant to IFS.

6. Keeping in view of the above, having come to the conclusion that there is a provision for reservation in promotion under Govt. of Tripura since 1977 or 1991 and also there is a considerable time gap of promotion of the applicant to the IFS with reference to the respondent No. 8 namely Sri Subhendu Kumar Paul, we hereby direct the respondent authorities to review the case of the applicant with reference to the respondent No. 8 namely Sri Subhendu Kumar Paul, keeping in mind the fact that there is a specific Govt. order for reservation in promotion. They shall also review the case

of the applicant in regard to his delay promotion to IFS, if necessary, in consultation with the Ministry of Environment and Forests, Govt. of India and Union Public Service Commission. If the applicant is found eligible for promotion to IFS along with the respondent No. 8 namely Sri Subhendu Kumar Paul in 2002, he shall be promoted by holding review DPC and give him notional benefit of pay fixation and other terminal benefits as admissible under the rules.



7. The above exercise shall be completed by the respondent authorities within a period of four months' from the date of receipt of this order.

8. With the above observations and directions, the O.A. stands disposed of. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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