

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No.040/00309/2019

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Misc. Application Nos.040/00171/2019

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Misc. Application Nos.040/00172/2019

**THE HON'BLE SMT. MANJULA DAS, MEMBER (J)**

**THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)**



Dr. Abhijit Rabha  
 Principal Chief Conservator of Forest  
 Karbi Anglong, Diphu  
 Resident of Rajgarh Road, Bye Lane 2  
 House No.21, Guwahati-781003  
 Assam.

**....Applicant**

By Advocates: Sri D.K.Das, H.Betala & I Inchem

-Versus-

1. The Union of India, Represented by the Under Secretary to the Government of India, Ministry of Environment, Forests And Climate Change, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi-110 003.
2. The Joint Cadre Authority of Assam Meghalaya Joint Cadre of the Indian Forest Service, represented by the Chief Secretary to the Government of Assam, Dispur, Guwahati-781 006.



3. The State of Assam Represented by the Chief Secretary to the Government of Assam, Dispur, Guwahati-781006.
4. The Additional Chief Secretary to the Government of Assam Environment & Forest Department, Dispur, Guwahati-781 006.
5. The Secretary to the Government of Assam, Department of environment & Forest, Dispur, Guwahati – 781006.
6. The Chairman and other Members constituting the Selection Committee for selection to the post of Principal Chief Conservator of Forest (HoFF), Assam, office of the Environment and Forest Department, Dispur, Assam – 781006.
7. Sri Alok Kumar, IAS, the Chief Secretary to the Government of Assam, Dispur, Guwahati – 781006.
8. Sri Ravi Kapoor, IAS, the Additional Chief Secretary to the Government of Assam, Environment & Forest Department, Dispur, Guwahati – 781006.
9. Sri Arvind Madhav Singh, IFS  
Aranya Bhawan, Department of Environment & Forest, Panjabari, Guwahati – 781037.
10. The Deputy Secretary to the Govt. of Assam, Department of Environment & Forest, Secretariat, Dispur – 781006.

11. Sri Sanjay Lohia, IAS  
 The Principal Secretary to the Chief Minister of Assam, Secretariat Dispur, Guwahati – 781006.

**...Respondents**

By Advocates: Sri V.K. Bhatra, Sr. C.G.S.C. for Respondent no.1, Sri Kankan Das, Sr. Govt. Advocate, Assam and Sri P.K. Tiwari, Sr. Advocate for private respondent No. 9.

**Date of Hearing: 06.02.2020**      **Date of Order: 05.05.2020**

**ORDER**

**NEKKHOMANG NEIHSIAL, MEMBER (A):-**



On 20.09.2019, this O.A. has been filed by the applicant through Sri D.K. Das, learned counsel, asking for the following reliefs:-

“8(i) direction shall not be issued to the respondent authorities to forthwith stay/recall/forbear from giving effect to the minutes of the Special Selection Committee Meeting held on 26.07.2019 and promotion order dated 11.09.2019 vide No. FRE. 37/2019/75 wherein respondent No. 9 has been promoted to the post of PCCF, HoFF, Assam and any consequential order of taking over charge by the private respondent No. 9 that has been issued pursuant to the Selection of Principal Chief Conservator of Assam, Head of Forest Force, (here-in after referred to as HoFF) and on being satisfied this Hon’ble Tribunal may be pleased to set aside and quash the impugned Special Selection Committee meeting held on 26.07.2019 for Selection and promotion of Respondent No. 9 to the post of Principal Chief Conservator of Assam, Head of Forest Force, (here-in after

referred to as HoFF) issued vide order dated 11.09.2019 vide No. FRE.37/2019/75 and/or

- (ii) to conduct a fresh meeting considering the case of the applicant as the senior most eligible officer in the cadre/rank and/or be pleased to give the officiating-in-charge to the applicant in view of the office memorandum dated 07.05.2001 and/or
- (iii) direction shall not be issued against Respondent No. 7, 8 and 11 to explain their conduct of malice in law in depriving the applicant from selected from the post of PCCF, HoFF, Assam and or from being given the In-charge for the said post of PCCF, HoFF, Assam in terms of office memorandum dated 7.5.2001 and/or
- (iv) Direction shall not be issued to explain their malicious conduct of not assigning reasons against the representation preferred by the applicant from time to time and/or
- (v) Direction shall not be issued to the respondent authorities to consider the case of the applicant for promotion to the post of PCCF, HoFF, Assam from the date when the junior Sri N.K. Vasu was promoted on 23.04.2018 to the post of PCCF, HoFF, Assam owing to the failure on the part of the respondent authorities to adopt the seal cover procedure in terms of O.M. dated 14.09.1992, 24.02.2003 and 02.11.2012 and/or
- (vi) Direction shall not be issued to the respondent authorities, Department of Environment and Forest, Assam, to produce the records pertaining to all communications and notes between respondent no. 3, 5, 10 and 11, prior to the issuance of impugned order dated 11.09.2019 vide No. FRE. 37/2019/75 and/or

After hearing the parties and on being satisfied be pleased to pass such order/orders or directions as Your Lordships' may deem fit and proper.



And for this act of kindness, the applicant as in duty bound shall ever pray."

2. On that date i.e. 20.09.2019, notice was issued upon the respondents with an order that – "Any promotion to the post of Principal Chief Conservator of Assam, Head of Forest Force (HoFF in short) shall be subject to the outcome of this O.A.". Subsequently, additional affidavit was filed by the learned counsel for the applicant on 14.10.2019 to set aside and quash the impugned Special Selection Committee Meeting held on 26.07.2019 and consequential promotion order of respondent No. 9 dated 11.09.2019 to the post of Principal Chief Conservator of Assam, Head of Forest Force and to conduct a fresh meeting considering the case of the applicant as the senior most eligible officer in the cadre/rank with due promotion to the said Apex Scale. He also prays to bring on certain records/documents such as letter dated 25.09.2019 being No. FRE.37/2019/pt/24 from the Secretary to the Government of Assam, Department of Environment & Forests, a copy of which he has claimed to have received in his e-mail. It was also stated that the applicant preferred numerous representations from time



to time requesting the respondent authorities to comply with the orders of this Tribunal and to give him officiating charge as per Central Notification dated 07.05.2001. The applicant also asked the respondents to provide parameters and guidelines which will be adopted in the upcoming selection for the post of PCCF, HoFF, Assam.

The same has not been supplied to him till date.



3. This was followed by another additional affidavit filed by the learned counsel for the applicant on 06.11.2019 to allow him to bring on record certain documents being RTI reply dated 17.09.2019 along with the minutes of the meeting held by the Special Selection Committee for the post of PCCF, HoFF, Assam dated 26.07.2019 which has been furnished by the respondents on 16.10.2019 to the applicant, after filing the instant O.A. No. 040/00309/2019.

4. A written statement was filed on behalf of the respondent Nos. 3, 4, 5 & 10 on 23.12.2019. Along with their written statement, they enclosed copies of certain documents including a copy of letter dated 16.04.2009 under No. 16019/1/2008-IFS-II of the Government of India, Ministry of Environment and Forests containing guidelines

for selection to the post of Principal Chief Conservator of Forests apex scale in each State Cadre, a copy of the Hon'ble Gauhati High Court in WP(C) No. 2681 of 2019 dated 09.05.2019 on the orders of this Tribunal in O.A. No. 040/00338/2018 and a copy of the Minutes of Selection Committee held on 26<sup>th</sup> July 2019 for selection of PCCF & HoFF, Assam.



5. The respondent No. 9 submitted his written statement on 07.01.2020 and enclosing a copy of High Court order in WP(C) No. 2681 of 2019 and Case No. I.A. (Civil) 1692/2019.
6. Against the written statement filed on behalf of respondent Nos. 3, 4, 5 & 10 and also against respondent No. 9, the applicant has filed his two rejoinders on 10.01.2020.
7. After giving reasonable and adequate opportunities to all the parties, the case was heard and concluded on 06.02.2020 and reserved the O.A. for orders. Liberty was granted to the parties to submit their written arguments. Accordingly, written argument on behalf of

the respondent No. 9 was submitted on 11.02.2020 and on behalf of the applicant, it was submitted on 13.02.2020.

8. Facts of the case are that the applicant belongs to Indian Forest Service of 1984 batch. He has been promoted to the rank of Additional Principal Chief Conservator of Forests. He is currently working as Principal Chief Conservator of Forests at Forest Circle of Karbi Anglong Autonomous Council. In the previous O.A. No. 040/00338/2018 in connection with promotion to the post of PCCF, HoFF, Assam, he was left out and superseded by one of his juniors Sri S. K. Srivastava, IFS. In that O.A., this Tribunal vide order dated 12.04.2019, directed as under:-

“35. In view of the entire conspectus of the case, and as submitted by learned counsel for the applicant that applicant has no grievance against the respondent no.7, now, since he had already retired on 30.12.2018, in the interest of justice, we deem fit and proper to direct the respondents to reconsider the case of the applicant for promotion to the post of PCCF & HoFF, Assam in apex scale in the next DPC (Special Selection Committee herein) along with the officers who were in the zone of consideration (excluding the respondent no.7) and their available records as on 26.09.2018. Ordered accordingly.”

9. The above order was directed to be complied with expeditiously but not later than four months from the date of receipt of the order. Against the aforesaid order of this Tribunal dated 12.04.2019, the respondent authorities



approached the Hon'ble Gauhati High Court vide WP(C) No. 2681/2019. The Hon'ble Gauhati High Court in its order dated 09.05.2019 held as follows:-

 "Heard on the interim prayer. It is brought to our notice that consequent upon superannuation of the respondent No. 8 herein, the petitioner was allowed to hold charge of PCCF & HoFF, Assam temporarily w.e.f. 01.01.2019 until further orders vide Notification dated 31.12.2018. It is stated that as on this date the petitioner is functioning and discharging duties in the said post. Let status-quo, as obtaining today, with regard to holding of charge of PCCF & HoFF, Assam be maintained. We also make an interim direction that while making fresh selection to the post of PCCF & HoFF, Assam, as directed to be done by the Tribunal within a time bound period, the Special Selection Committee shall only be guided by the guidelines and parameters outlined in the Notification dated 16.04.2009 of the Government of India in the Ministry of Environment & Forests. The norms for making selection to the post of PCCF & HoFF, Assam, in respect of the respondent no. 1, as directed to be done by the judgment and order of the Tribunal under challenge, shall not be given effect to."

10. As could be made out from the submissions of the learned counsel for the applicant as well as respondents and also from the hearing, Special Selection Committee Meeting was held again on 26.07.2019 for selection of PCCF & HoFF, Assam. A copy of the Minute has also been made available to this Tribunal as stated above by the respondent authorities. We perused the said Minutes. It is observed from the Minutes that the applicant Sri Abhijit Rabha has been duly considered by the Special Selection Committee as indicated at para 1 of their Minute.

However, the findings of the Special Selection Committee has been kept in sealed cover as disciplinary proceeding is pending against him as indicated at para 4 of Minutes. The Committee also has examined the suitability of other officers in the list in order of seniority. It was informed to the Committee that Sri O.A. Y.S. Shullai, IFS (RR:1985), PCCF (Territorial), Meghalaya and Sri B.K. Lyngwa, IFS (RR: 1985), PCCF (Administration), Meghalaya are not willing to join the Assam Segment at the Apex Scale. The Committee further examined the suitability of Sri A.M. Singh, IFS, Dr. (Smti) Ranjana Gupta, IFS and Shri A.K. Johari, IFS, in terms of their seniority and number of years served and other service related aspects. After careful consideration of all the relevant information, records and other related antecedents available for assessing “outstanding merit”, competence, absolute integrity and having specific suitability for the post, the Special Selection Committee has recommended the name of Shri A.M. Singh, IFS for promotion to the post of Principal Chief Conservator of Forests and Head of Forests Force, Assam in the Apex Scale of pay Level 17 in the pay matrix. The findings of the Special Selection Committee has been kept under sealed



cover in respect of the applicant with remark that – “Findings regarding suitability for promotion to the post of Principal Chief Conservator of Forest and Head of Forest Force, Assam in respect of Shri Abhijit Rabha, IFS (AM:84) in the Special Selection Committee Meeting held on 26<sup>th</sup> July, 2019 at 3:00 PM in the conference hall of the Chief Secretary, Assam. [Not to be opened till the termination of the Disciplinary Proceedings/Vigilance case against Shri Abhijit Rabha, IFS, (AM:84)].”



11. It is seen from the Minutes of Special Selection Committee that the Committee have taken into account all aspects in assessing the eligible officers for promotion to the post of PCCF, HoF as per guideline given by the Govt. of India vide No. 16019/I/2008-IFS-II dated 16<sup>th</sup> April 2009 read with No. 20029/01/2000-IFS dated 18<sup>th</sup> November, 2002. They also used the word ‘antecedent’ in their Minutes as well. This point has already been touched by this Tribunal in earlier its order dated 12.04.2019 in O.A. No. 040/00338/2018 wherein without defined parameters of antecedents, it may not be entirely fair to include this expression for assessing the suitability of the eligible officers. However, this point has been stayed by the

Hon'ble Gauhati High Court in WP(C) No. 2681/2019 dated 09.05.2019, while allowing for holding of further Special Selection Committee for the post of PCCF, HoF. It is also observed that in the Case No. I.A. (Civil) 1692/2019, wherein the learned counsel for the applicant has filed to seek modification/alteration and vacating of the interim order passed by the Hon'ble Gauhati High Court in WP(C) No. 2681/2019 on 09.05.2019, while dismissing the said I.A. (Civil) No. 1692/2019, the Hon'ble High Court has stated as under:-



"In our interim order dated 09.05.2019 we expressed our *prima facie* view that the observation of the Tribunal that antecedent materials cannot be assessed is not a correct rendering and appreciation of the guidelines for making selection. We reiterate our *prima facie* view in the present order."

12. The above being legal position, this Tribunal is not in a position to examine further the point of submission made by the learned counsel for the applicant in regard to the method adopted by the Special Selection Committee in assessing and making recommendation for the post of PCCF & HoFF. During the hearing on 06.02.2020, Sri P.K. Tiwari, learned counsel appearing on behalf of the respondent No. 9 brought to our notice that the applicant cannot have any point against the selection method



adopted by the Special Selection Committee and promotion of Respondent No. 9. Since the applicant is having pending disciplinary proceeding, the Special Selection Committee has rightly kept their findings in the sealed cover as per laid down procedure. Since the findings of the Special Selection Committee is in sealed cover, there cannot be any order under which the respondent authorities can be legally force to open the sealed cover till the disciplinary proceeding initiated against the applicant comes to finality. He, of course also submitted that the appointment of respondent No. 9 as PCCF, HoFF is subject to the opening of the sealed cover, which at this moment cannot be done due to disciplinary proceeding pending against him.

13. The learned counsel for the applicant also brought in implied allegations against certain Members of the Special Selection Committee Meeting in promoting the respondent No. 9 in his additional affidavit filed on 14.10.2019. Since they are no basis for this implied allegations and the Members of the Special Selection Committee Meeting are guided by laid down norms and

procedure, we do not see any reason to examine in detail and make any observation.

14. As brought out above, we have carefully considered the plea of the applicant. There could not be any reason to interfere in the Minutes of the Special Selection Committee Meeting held on 26.07.2019 particularly when the Hon'ble Gauhati High Court is sitting on one aspect which have been observed by this Tribunal in the earlier O.A. No.040/00338/2018. We also have considered the plea of the applicant that promotion of the respondent No. 9 should be set aside. We found that this plea is not tenable. If the promotion of respondent No. 9 is set aside, then the entire Minutes of the Special Selection Committee Meeting have to be set aside for which we do not have any reason to do so. This is also not logically sustainable for the simple fact that if the Minutes of the Special Selection Committee are set aside which we are not in a position to do as stated above, the entire promotion including that of the applicant, which is under sealed cover right now shall go. As such, we found that the O.A. filed by the applicant is premature and not maintainable in the present context and devoid of merit.



15. Accordingly, O.A. is hereby dismissed.

16. Consequently, M.A. No. 040/00171/2019 and M.A. No. 040/00172/2019 filed by the respondent No. 9 as well as the State Govt. of Assam, challenging the maintainability of the O.A. No. 040/00309/2019, are hereby allowed and disposed of.

17. There shall be no order as to costs.



**(NEKKHOMANG NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**

**PB**