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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1205 OF 1999

New Delhi this the 21st day of August, 2000

Hon'ble Mrs. Lakshmi Swaminathan, M (J).  
Hon'ble Mr. S.A.T.Rizvi, M (A)

Sher Singh Sikriwal ....Applicant  
(By Advocate: Sh. S.N.Shukla)

VERSUS

Union of India & Ors. ....Respondents  
(By Advocate: Sh. V.S.R.Krishna for Respondent-1  
Sh. B.T.Kaul for Private Respondents  
5, 6, 7, 12, 15 & 16.  
Respondent No.14 in person  
None for other respondents)

1. To be referred to the Reporter or not? Yes
2. To be circulated to other Benches of the Tribunal? No

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(S.A.T. RIZVI)  
MEMBER (A)

Central Administrative Tribunal  
Principal Bench, New Delhi

O.A. No. 1205/99

New Delhi, this the 9<sup>th</sup> day of August, 2000.

Hon'ble Mrs. Lakshmi Swaminathan, M(J)  
Hon'ble Sh. S.A.T. Rizvi, M. (A)

**SHER SINGH SIKRIWAL**  
S/O Sh. Harlal Singh,  
Divisional Forest Officer,  
Production Division,  
Karnal (Haryana)

(By Advocate: Sh. S.N. Shukla).....Applicant

**Versus**

1. Union of India,  
Through the Secretary,  
Ministry of Environment and Forests,  
Department of Forests and wild-life.  
Parivarjan Bhavan,  
C.G.O. Complex, Lodi Road,  
New Delhi.
2. The Chairman,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi,
3. State of Haryana.  
Through the Secretary to Haryana Govt.,  
Forest Department,  
Chandigarh.
4. Sh. Chholu Ram Jairiwal, I.F.S.,  
Conservator of Forests, South Circle,  
Gurgaon (Haryana)

5. Sh. Sarabjeet Singh Jattan, I.F.S.,  
Conservator of Forests, West Circle,  
Hisar (Haryana)
6. Sh. Jeet Ram I.F.S.,  
Conservator of Forests, Monitoring & Evaluation,  
Aravalli Project,  
Gurgaon (Haryana)
7. Shri Raj Kumar Sapra I.F.S.,  
Conservator of Forests, Social Forestry,  
Company Bagh, Ambala City (Haryana)
8. Mrs. Amrinder Kaur I.F.S.,  
Conservator of Forests, North Circle,  
Van Bhawan, Sector 6, Panchkula (Haryana)
9. Sh. Gulshan Kumar Ahuja I.F.S.,  
General Manager,  
Haryana Forest Development Corporation,  
Van Bhawan, Sector-6, Panchkula (Haryana)
10. Sh. Padam Prakash Bhoj Vaid I.F.S.,  
O/o Principal Chief Conservator of Forests, Haryana,  
Van Bhawan Sector-6 Panchkula (Haryana)
11. Sh. S.M Somashekra I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
12. Sh. Kulbir Singh Chauhan I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
13. Sh. Rupinder Singh I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)

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14. Sh. Rajendra Prashad Balwan I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
15. Sh. Mukul Mohan Joshi I.F.S.,  
Divisional Forest Officer, Mohindergarh (Haryana)
16. Sh. Ram Kumar Singh I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
17. Sh. Anil Kumar Hooda I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
18. Sh. Ashok Kumar Kumawat I.F.S.,  
Divisional Forest Officer, Working Plan Division,  
Company Bagh, Ambala City, (Haryana)
19. Mrs. Neeta Moolri Hooda I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
20. Sh. Satya Bhan I.F.S.,  
Divisional Forest Officer, Aravalli Project,  
Sohna, Distt. Gurgaon (Haryana)
21. Sh. Ajay Kumar Kadian I.F.S.,  
O/o Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
22. Sh. P.V Subhash Babu I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
23. Sh. Deepak Kumar Sinha I.F.S.,  
Divisional Forest Officer, Social Forestry Division,  
Panipat (Haryana)

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24. Sh. Virbhan Singh Tanwar I.F.S.,  
Divisional Forest Officer, Hisar (Haryana)
25. Sh. V.K. Verma I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
26. Sh. Sushil Kumar I.F.S.,  
Through the Principal Chief Conservator of Forests, Haryana,  
Van Bhawan, Sector-6, Panchkula, (Haryana)
27. Sh. Jagdish Chander I.F.S.,  
Deputy Chief Wild-Life Warden, Haryana,  
Van Bhawan, Sector-6, Panchkula (Haryana)
28. Sh. M.D. Sinha I.F.S.,  
Divisional Forest Officer, Publicity & Extension,  
Aravalli Project, Gurgaon (Haryana)
29. Sh. Alok Verma I.F.S.,  
Divisional Forest Officer (Territorial)  
Yamuna-Nagar (Haryana)
30. Sh. Pankaj Goel I.F.S.,  
Divisional Forest Officer (Territorial)  
Faridabad (Haryana).
31. Sh. Vineet Garg, I.F.S.,  
Divisional Forest Officer (Territorial)  
Kurukshetra (Haryana)
32. Sh. G. Ramana, I.F.S.,  
Divisional Forest Officer, Kandi Project,  
Panchkula (Haryana)

(By Advocate: Sh. V.S.R. Krishna for Respondent-1.  
Sh. B.T. Kaul for respondent 5, 6, 7  
12, 15 & 16.)

Respondent No. 14 in person.  
None for other respondents)

ORDER

Hon'ble Mr. S.A.T. Rizvi, Member (A):

This application has been filed against the denial of promotion to the IFS (Haryana Cadre) with retrospective effect and for consequential benefits in terms of the Indian Forest Service (Recruitment) Rules, 1966 (for short Recruitment Rules, 1966) read with sub-regulation (1) of regulation 9 of the Indian Forest Service (Appointment by Promotion) Regulations, 1966 (for short "Promotion Regulations"). Apart from three official respondents, namely, the Union of India, UPSC & the State of Haryana, as many as 29 private respondents have also been impleaded in this OA.

2. The facts of this case in brief are, more or less, the same as those stated by the applicant in his other OA, namely, OA No. 2195/94, seeking a different set of reliefs against a specific order of the Union of India passed in that case. That other OA has been taken up and heard alongwith the present OA and the preliminary facts of the case could be gleaned from the order passed in respect of OA-2195/94.

3. The relevant facts additionally brought out in the present OA are that the Haryana Cadre of the IFS was revised by the Govt. of India vide Notification dated 10.12.81 (Annexure A-1) whereby two posts in the promotion quota had become available in 1982 and the applicant had become eligible for appointment to the IFS w.e.f. 1.1.82. The applicant has also admitted that the select list was duly prepared in December, 1982 which

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included four Officers and in this list, the applicant figured at S1.No.3. The UPSC had approved this list in Feb. 1983 but no one was promoted from this list and in the select list drawn up in the meeting held in 1983, he again occupied the third place. In accordance with this list, two Officers of the HFS placed above him, were promoted w.e.f. 7.6.84 leaving no vacancy to be filled by promotion at that point of time. Finally, he was promoted to the IFS on 17.3.94 on the basis of the select list prepared in March, 1993.

4. The applicant has referred to the judgement of Jabalpur Bench of this Tribunal dated 9.6.87 in TA-81/85 and has filed this OA in the light thereof claiming benefit that had accrued to the members of the State Forest Service of the Madhya Pradesh Cadre as a result of the aforesaid decision of the Jabalpur Bench. The applicant's case is that he became aware of the aforesaid decision of the Jabalpur Bench only in September, 1997 and soon thereafter on 16.9.97, he filed a representation praying the respondent No.1 (Union of India) that he be promoted to the IFS w.e.f. 7.6.84 on the basis of the select list of 1983. Accordingly, one of the reliefs sought by the applicant is that he should be promoted to the IFS w.e.f. 7.6.84 with consequential benefits and, in order to achieve this objective, he has pleaded for a direction to the respondent No.1 to issue a notification increasing the promotion quota for the year in question by one post.

5. As a background to the aforesaid decision of the Jabalpur Bench of this Tribunal, the applicant has also referred to IFS (Regulations of Seniority) Rules, 1966 (for short Seniority Rules, 1966) and the instructions of the Govt. of India dated 24.3.66 in order to show that three posts, included under Item No.5, namely, Deputation Reserve, of the IFS (Haryana Cadre) revised w.e.f. 10.12.81 ought to be treated as senior posts for the purpose of working out the promotion quota. The revised cadre strength of Haryana which became effective from 10.12.81, reflects the following position item-wise:-

1.	Senior posts under the State Govt.	23
2.	Senior posts under the Central Govt.	5
3.	Posts to be filled by promotion in accordance with rule 8 of the Indian Forest Service (Recruitment) Rules, 1966	9
4.	Posts to be filled by direct recruitment	19
5.	Deputation Reserve	3
6.	Leave Reserve	2
7.	Junior Posts	4
8.	Training Reserve	2
	Direct Recruitment Posts	30
	Promotion posts	9
	Total authorised strength	39

Thus, according to the applicant, the total number of posts on the basis of which the promotion quota was to be determined stood at 23+5+3, i.e. at 31. The promotion quota being  $33\frac{1}{3}\%$  of the above, therefore, stood at 10 and not 9. The applicant's case is that, therefore, for the purpose of promotion to the IFS w.e.f. 7.6.84, three

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posts in the promotion quota were available against two actually filled with effect from the same date and since the applicant himself was placed at S1.No.3 in the relevant select list, he should have been promoted from that very date, i.e., 7.6.84. The applicant has stated that working in accordance with the same principle and understanding of the rules, duly supported by the decision of the Jabalpur Bench aforesaid, the cadre strength of Madhya Pradesh Forest Service has already been revised and the promotion quota increased accordingly w.e.f. 22.2.89. He wants the same benefit to be extended to him. In other words, what the applicant wants is that the decision of the Jabalpur Bench of this Tribunal, which is in respect of the Madhya Pradesh Cadre of the IFS, should be applied to the Haryana Cadre of the IFS and the consequential benefit should be allowed to accrue to him by enabling the respondents to appoint him to the IFS w.e.f. 7.6.84. The issue of limitation is sought to be tackled by the applicant simply by stating that he became aware of the decision of the Jabalpur Bench only in September, 1997 and he did not lose any time thereafter in coming up with the present OA. He has admitted that the earlier OA No.2195/94 was pending in this Tribunal but sees no problem on account of this having regard to the fact that the subject matter of the said earlier application together with the reliefs sought therein were substantially different.

6. In the reply filed by the respondent No.1 (Union of India), it has been stated that on the crucial

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date in question, namely, 22.2.89, the Central Govt. had issued two different Notifications and not just one, as stated by the applicant in his OA. While one of the Notifications of the said date sought to honour the verdict of the Jabalpur Bench, the other Notification amended the IFS (Recruitment) Rules, 1966, according to which, only two items, namely, Item No.1 and Item No.5 of the Schedule to the Cadre Regulations were to be taken into account while computing the promotion quota in a particular cadre of the IFS. These two items relate to senior duty posts under the State Govt. and the Central Deputation Quota, respectively. According to them, the right course of action for the applicant would have been to seek the remedy in the manner stated in the OA prior to the said crucial date, namely, 22.2.89, in that after this particular date, the formula for calculating the promotion quota in respect of different State Cadres stood substantially revised and with this revision having come into force the question of inclusion of deputation reserve in the overall calculation for determining the promotion quota would not arise in any case. They have also pointed out that the Jabalpur Bench of this Tribunal had taken the decision in question on the basis of the following Rule (Rule 9 of the Recruitment Rules) in existence prior to the crucial date of 22.2.89.

"The number of persons recruited under rule-8 in any State or group of States shall not, at any time, exceed 33 1/3 per cent of the number of Senior duty posts borne on the cadre of that State, or group of States."

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It is the same rule which has since been amended by the Union of India with effect from the crucial date, i.e., 22.2.89 and the revised rule in force since then is as follows:-

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"The number of persons recruited under Rule-8 in any State or group of States shall not, at any time, exceed 33 1/3 per cent of the number posts as are shown against items 1 & 2 of the Cadre in relation that State or the group of States, in the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966."

7. Based on this plea, the respondent No.1 has also stated that the present application is grossly time barred and is liable to be dismissed on the ground of latches and delay. They have also brought to notice the decision of the Chandigarh Bench of this Tribunal in the case of Vinod Kumar Jhanjhria Vs. Union of India & Ors. (OA-1122/HR/96), decided on 14th October, 1997, in which the same issues have been raised. While deciding this OA, the Chandigarh Bench had held that the matter was time barred. The relevant portion of the said judgement is extracted below:-

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".....While the first notification amended the cadre strength regulations in respect of Madhya Pradesh cadre in order to increase the number of vacancies in promotion quota in the IFS of the said cadre after taking into account the State Deputation Reserve alongwith the senior duty posts as also Central Deputation Reserved i.e. item Nos. 1, 2 and 5 of the Cadre Strength Regulations. However, by the second notification issued on the same date, the recruitment rules were also amended according to which the number of persons recruited under Rule-8 in any State would not at any time exceed 33 1/3 per cent of the number of posts shown against items No. 1 and 2 of the

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Cadre Strength in relation to that State in the Schedule to the Cadre Strength Regulations.

15. With the issuance of the aforesaid notification, it was made known to all the State Forest Officers serving in different States that the notification of the Govt. of India was explicit not to provide promotion quota more than 33 1/3 per cent of the number of posts shown against items No.1 and 2 of the Cadre Strength in the Schedule. Thus, if any member of the State Forest Service had any grievance, he ought to have challenged the legality of the above stated provisions within the prescribed period of limitation."

They have also stated that the applicant should have more appropriately filed the present OA before the Chandigarh Bench of this Tribunal rather than in Delhi.

8. In his rejoinder, the applicant has, in respect of the question of limitation, stated that the limitation prescribed in Section 20 of the Administrative Tribunals Act, 1985, would operate only in respect of cases where a final order has been passed and where the provision for a statutory appeal existed, and further that Section 21 of the said Act would find no application in cases like the present case. According to the applicant, the judgement of the Chandigarh Bench of this Tribunal, referred to, has not covered all the aspects of Section 21 of the Administrative Tribunals Act, 1985. As regards the filing of the present OA in the Principal Bench at New Delhi rather than in the Chandigarh Bench in Haryana, the applicant has stated that since the respondent No.1 (Union of India) had not acted in accordance with law, the cause of action had in fact arisen in Delhi and, that is why, the present OA has been

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filed in the Principal Bench. According to the applicant, the fact that Rule 9 of the Recruitment Rules, 1966 has been amended w.e.f. 22.2.89, is not relevant in the present case.

9. The respondent No.3 (State of Haryana) has also stated that the present application is barred by limitation in consequences of the amended notification dated 22.2.89 by which the above-mentioned rule has been amended by the Union of India. They have also stated that if the applicant's claims were to be accepted at this late stage, the consequential increase in the promotion quota with retrospective effect in the Haryana Cadre of the IFS, was bound to affect adversely the seniority of the directly recruited IFS Officers appointed during the last over 10 years. They have also referred to the other OA-2195/94, filed by the same applicant, in which he has sought the relief of his appointment to the IFS w.e.f. 1.1.88 alongwith consequential benefits, and have added that at the time the applicant filed that other OA, he was very much aware of the Notification dated 22.2.89 issued by the Govt. of India amending the rule in question. The decision of the Chandigarh Bench of this Tribunal in the case of Vinod Kumar Jhanjhria (Supra), has also referred to by the respondent No.3 to emphasise that the earlier application was time barred. This respondent has also pleaded that there is lack of territorial jurisdiction in this case in view of the Notification dated 1.9.88, issued by the Govt. of India in accordance with Section 18 of the Administrative Tribunals Act, 1985. They have also

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clarified that the applicant could not be promoted to the IFS from 1982 to 1985 due to non-availability of vacancies in the promotion quota and that thereafter from April, 1986 till 8.3.91, the applicant remained departmentally involved in the disciplinary proceedings undertaken against him, and since selection committee meetings were not held in the years 1990, 91 and 92, he could be considered for promotion to the IFS only as a result of the inclusion of his name in the select list prepared by the selection committee in March, 1993, and that finally he could be appointed to the IFS only on 17.3.94. The pleas taken by the applicant, touching on some other issues, have been denied by this respondent on various grounds and it is not necessary to re-count these in detail for the purpose of deciding this OA. They have denied that 10 (and not 9) posts existed in the promotion quota by virtue of the Notification dated 10.12.81 issued by the Govt. of India revising the cadre strength of Haryana State; Accordingly 10 posts could not be said to exist in the promotion quota as on 7.6.84. According to them, as per the relevant rules, it is for the Govt. of India to fix the cadre strength of a State. They have also referred to the facts and circumstances in which the cadre strength of Madhya Pradesh was revised in consequence of the order of the Jabalpur Bench of this Tribunal and also to the issuance by the Govt. of India of another Notification dated 22.2.89 - simultaneously amending the Recruitment Rules. They have also mentioned that the representation dated 16.9.97 filed by the applicant, was forwarded by them to the Govt. of India vide letter dated 29.1.98 and a decision thereon was still awaited.

10. In the counter, filed by respondent Nos. 5, 6, 7, 12, 15 and 16 and the one filed by respondent No. 14, much the same grounds have been covered as have already been covered by the respondent Nos. 1 & 3 and merely recounting what they all have to say will not necessarily add to the merits of the case, one way or the other.

11. We have heard the learned counsel for both the parties at length and have perused the records.

12. We find that, not being happy with his promotion to the IFS belatedly in March, 1994, the applicant has sought to confront this Bench with alternative sets of reliefs by preferring two different OAs, including the present OA. The other OA was filed in 1994 and was numbered OA-2195/94. We have already declined the plea of the applicant in that OA wherein the main reliefs sought were, (i) allocation of 1978 as the year of allotment, and (ii) appointment to the IFS w.e.f. 1.1.88. According to us, the present application also deserves to meet the same fate and the reasons for this are simple. Firstly, it is abundantly clear to us that following the amendment of the relevant rule w.e.f. 22.2.89, any attempt to reopen the issue so as to accommodate the applicant and the others similarly placed, will have a great unsettlement effect not only in relation to the IFS but also in relation to the other All India Service, namely, the IAS and the IPS, inasmuch as the principles governing the determination of promotion

quota are by about the same across the services. We are also left with a feeling that the applicant has grossly delayed filing of this application and there can be no possible justification for the abnormal delay of over ten years that has taken place since the issuance of the Govt. of India's Notification dated 22.2.89. We also feel that, had he been a lucky fellow, he would also have approached this Tribunal prior to 22.2.89 and obtained the same relief as became available in the case of Madhya Pradesh. The luck was obviously not on his side and that is why he has come up before us only now. We have referred to the provision of Rule 9 (2) of the Promotion Regulations Rules, 1966 in our order in OA-2195/94, and would like to reiterate the same in the context of this application, to highlight the fact that if the applicant had not been caught up in the departmental proceedings, he would have been the first person to be promoted to the IFS after 1984, subject to vacancies in the promotion quota arising from year to year. There is, thus, no substance left in this case and we are left with no option other than to reject the OA.

13. We have, in our order in OA-2195/94, referred to the statement of respondent No.3 (State of Haryana) in which they have informed us that the representation dated 16.9.97, filed by the applicant which was forwarded to the Govt. of India vide their letter dated 29.1.98, was still pending. Notwithstanding, the views expressed by us in this order in the preceding paragraphs, we would still like the Govt. of India to take a decision on the aforesaid representation of the applicant at an early

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date and in any case, within a period of three months from the date of receipt of a copy of this order, so that the applicant has the satisfaction that he has been heard by the competent authority. The Govt. of India are free to form their views in the matter irrespective of the views expressed by us in this order.

14. Finally, the OA is dismissed without any order as to costs. Let a copy of this order be placed on the file relating to OA-2195/94.

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(S.A.T.Rizvi)  
Member (A)

*Lakshmi Swaminathan*  
(Mrs. Lakshmi Swaminathan)  
Member (J)

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