

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No.1655/97

New Delhi, this the 29th day of July, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)  
Hon'ble Shri K.Muthukumar, Member (A)

Krishna Nand Sinha  
s/o Late Deo Narayan Sinha  
presently residing at 3 Kasturba Path,  
North Srikrishna Puri,  
PATNA - 800 013. ....Applicant

(By Advocates: S/Shri J.P.Shukla, M.P.Jha,  
Anil Kumar Chopra and Ram Ekbal Rai)

-Versus-

1. Union of India through  
Secretary,  
Department of Forest and Environment,  
New Delhi.
2. Secretary,  
Department of Personnel,  
Pension and Public Grievances,  
New Delhi.

(By None)

3. The State of Bihar through  
Chief Secretary,  
Old Secretariat,  
Patna.
4. Secretary-cum-Commissioner,  
Department of Forest & Environment,  
Govt. of Bihar, Sicha Bhawan,  
3rd Secretariat,  
Patna.

(By Advocate: Ms. Dipti Jain)

5. Sri B.D. Bhagat,  
Regional Chief Conservator of Forest,  
Jamshedpur, Adityapur,  
Jamshedpur. ....Respondents

(By Advocate: Shri Braj K. Mishra)

O R D E R(ORAL)  
[Dr. Jose P. Verghese, Vice-Chairman (J)]

The petitioner in this case was seeking the relief  
of a direction from this court to the respondents that the  
petitioner may be considered for promotion in the scale of Rs.

7300-7600/- in accordance with Rules in the Department of Forest and Environment, Govt. of Bihar, to the post of Principal Chief Conservator of Forest. It was stated that DPC for the said purpose held on 4.4.1997 considered all candidates within the zone and in the meantime acting on the basis of an information that there is a FIR filed against the petitioner, DPC in its wisdom, decided to keep one post in the same scale reserved till the cloud against the petitioner is cleared and in the same DPC the respondent no. 5 was promoted to the said post. It was argued on behalf of the petitioner that even though there were two posts in the same scale of pay which were being considered by the DPC, the petitioner was claiming for the post of Principal Chief Conservator of Forest which, according to him, is a prime posting and he is entitled to it being the senior-most candidate.

2. Contention on behalf of the petitioner is that the consideration by the DPC that there is an existing FIR and, therefore, the case of the petitioner could not be considered and it can be deferred for a future date, is wrong especially in view of the fact that the petitioner is being superannuated on 31.7.1997. In support of his case he cited the decision of the Hon'ble Supreme Court in the case of Union of India etc. etc. vs. K.V. Jankiraman, etc. etc. reported in AIR 1991 (SC) page 2010 and the OM issued in 1992 by the respondents in pursuance to the said judgement and stated that the DPC could not take note of the fact of FIR or show cause notice or a preliminary inquiry, rather that there must be a charge-sheet or a challan issued, in order to

consider that there is a case pending against the petitioner which alone shall be the reason to exclude the consideration of an incumbent at the instance of the DPC.

3. Learned counsel, on the other hand, submitted that since there are serious allegations against the petitioner and since an FIR is filed, the spirit of the case of K.V. Jankiraman and thereafter some more decisions in these lines, may be applicable and DPC had correctly thought that the case of the petitioner, from consideration, could be deferred. We are unable to agree with the contention that since these matters have been clearly settled by the Hon'ble Supreme Court in the case of K.V. Jankiraman and few other pronouncements of the apex court which had been given effect to by an OM of the year 1992, we are of the opinion that in the case of the petitioner there was no charge-sheet nor challan issued and as such it cannot be said that there is any disciplinary proceedings or a criminal case pending against the petitioner on the date when he was considered for promotion by DPC.

In the circumstances, the said DPC proceedings are set aside to the extent stated hereinbelow:-

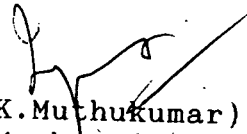
- (i) Respondents shall hold a review DPC within ten days from the date of receipt of a copy of this order positively in view of the superannuation of the petitioner on 31th July, 97 so that the result of the


DPC may be immediately implemented without affecting the retiral benefits of the petitioner.

- (ii) Respondents are directed to maintain status-quo as on today regarding the appointment/promotion of the respondent no. 5 till the result of the DPC is implemented. While implementing the result of the DPC, the same shall be done in accordance with the Rules applicable in the case at a given time.

5. Since no other relief is sought and no other contention raised or allegations putforward, we dispose of this OA, in the interest of justice, in these terms and there shall be no order as to costs.

6. A copy of this order be given to the parties.

  
(K. Muthukumar)  
Member (A)

  
(Dr. Jose P. Verghese)  
Vice-Chairman (J)

na