

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1274/90
T.A. No.

199

DATE OF DECISION 19.4.1991.

Shri S. S. Chana

Petitioner Applicant

In person

Advocate for the Petitioner(s) Applicant

Versus
Union of India through the Secy.
Min. of Environment & Forests Respondent

None Advocate for the Respondent(s)

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The Hon'ble Mr. P. K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D. K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? /No
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement of the Bench delivered by
Hon'ble Mr. D. K. Chakravorty, Member)

The applicant, while working as Principal Chief Conservator of Forests in the Andaman & Nicobar Islands, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to give him pay in the grade of Rs. 7300-7600 w.e.f. 10.12.1987, i.e., the date from which his junior, Shri O. N. Kaul, has been allowed the pay in the said grade of Rs. 7300-7600. The application came up for admission on 10.7.1990, when notice was directed to be issued to

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the respondents on admission, returnable on 7.11.1990. Despite service of notice on the respondents, none appeared on their behalf on 7.11.1990. Thereafter, the case was heard on 8.1.1991, 4.3.1991, 7.3.1991 and 15.4.1991. None appeared for the respondents. They have also not filed their counter-affidavit. On 7.3.91, the Tribunal passed an order forfeiting the right of the respondents to file counter-affidavit. Notice was issued to the respondents to the effect that the case will be heard finally on the basis of the available records on 15.4.1991. None appeared on behalf of the respondents on 15.4.1991.

2. The brief facts of the case are that the applicant belongs to the Indian Forest Service (Union Territory Cadre). He is senior to Shri O.N. Kaul, who also belongs to the U.T. Cadre. By order dated 27.6.1988, the Governor of Mizoram appointed Shri Kaul to the post of Principal Chief Conservator of Forests, Mizoram in the pay-scale of Rs.7300-7600 per month with retrospective effect from 10.12.1987 until further orders. The appointment was made against the newly created post of Principal Chief Conservator of Forests, Mizoram vide order dated 20.5.1988.

3. Shri Kaul retired on attaining the age of superannuation on 27.7.1988. The applicant before us also retired on 1.6.1990. It is not clear from papers as to whether Shri Kaul drew the salary in the day-scale of Rs. 7300-7600 w.e.f. 10.12.1987.

4. In the case of the present applicant, a post of Principal Chief Conservator of Forests for the Andaman & Nicobar Islands was created by notification dated 3.8.1988. The applicant, along with two others, was appointed as Principal Chief Conservator of Forests w.e.f. 1.2.1989 by order dated 20.1.1989.

5. The respondents have rejected the representation made by the applicant for giving him promotion as Principal Chief Conservator of Forests w.e.f. 10.12.87, that is, the date of Shri O.N. Kaul's appointment as Principal Chief Conservator of Forests on the ground that Shri Kaul's appointment was purely on ad hoc basis, and that in the All India Services, an incumbent appointed to super-time scales and above, gets his pay only when he holds the post and not otherwise.

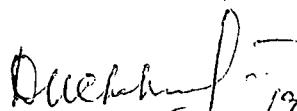
6. We have carefully considered the claim put forward in the present application. It is true that

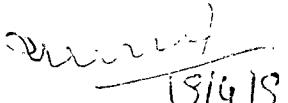
in the case of Shri Kaul, the Governor of Mizoram issued the notification regarding the creation of the post of Principal Chief Conservator of Forests by an order dated 20.5.1988, while in the case of the applicant, there was some delay in the issue of a similar notification by about three months. The circumstances in which Shri Kaul was appointed as Principal Chief Conservator of Forests, Mizoram, with retrospective effect from 10.12.1987, are not clear from the papers. The notification dated 27.6.1988 whereby Shri Kaul was appointed, did not specify that it was on ad hoc basis. Since there is a unified cadre of the Indian Forest Service for the Union Territories to which Shri Kaul and the applicant belonged, the post of Principal Chief Conservator of Forests created by Notification dated 27.6.1988, should have been offered to the applicant who is admittedly senior to Shri Kaul according to the Civil List of the Indian Forest Service as on 1.1.1987 for the Union Territories, a copy of which is annexed as Annexure I, page 14 of the paper-book. Had he been appointed to the said post with effect from 10.12.1987, the applicant would have drawn higher salary which would in turn have entitled him to higher pension

and other retirement benefits.

7. In the facts and circumstances, we hold that the applicant would be entitled to notional promotion from 10.12.1987 as Principal Chief Conservator of Forests as also notional increments. We, therefore, direct the respondents to refix the pension and other retirement benefits of the applicant on the above basis within a period of two months from the date of receipt of this order.

There will be no order as to costs.


(D.K. Chakravorty) (3/4/89)
Administrative Member


(P.K. Kartha) (3/4/89)
Vice-Chairman (Jud1.)