

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 1374/1990

Date of decision: 27.11.1992

Shri Anil Misra

...Applicant

Vs.

Union of India through the
Secretary, Ministry of Environment
and Forests

...Respondents

For the Applicant

...Shri P.P. Khurana,
Counsel

For the Respondents

...Shri M.L. Verma,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes
2. To be referred to the Reporters or not? Yes

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K.
Kartha, Vice Chairman(J))

The applicant who belongs to the Indian Forest Service (IFS) filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the order dated 17.01.1989 in so far as it concerns the applicant granting him Senior Time Scale w.e.f. 27.5.1989 and to direct the respondents to grant Senior Time Scale to him w.e.f. April, 1988 will all consequential benefits.

2. We have gone through the records of the case and have heard the learned counsel of both parties. There is no dispute as regards the facts of the case. The applicant appeared in the Indian Forest Service Examination conducted by the UPSC in 1983. The nominees recommended for appointment on the result of the Indian Forest Service Examination aforesaid were appointed to the Service in the year 1984 itself. However, a supplementary list of candidates was called for from the Union Public Service Commission to fill gaps left unfilled on the account of candidates being declared medically unfit etc. In the list of candidates recommended by the Union Public Service Commission subsequently, later in the year 1984, the name of the applicant figured. By the time the said recommendations were received from the Union Public Service Commission, training of probationers recommended on the results of the examination which had commenced in mid 1984 had already got underway substantially and it was not possible, taking into account the scheme of training at the Indira Gandhi National Forest Academy, Dehra Dun, to send officers on training mid-stream. For this reason, the applicant herein, and also the other officers recommended in the supplementary list recommended by the Union Public Service Commission for appointment on the result of the IFS Examination 1983, could only be sent for training in the year 1985. This, however, did not affect the year of

allotment of the applicant. Rule 3(2) of the IFS (Regulation of Seniority) Rules, 1968 stipulates as under:-

"3(2) The year of allotment of an officer appointed to the Service shall be -

(a) where an officer is appointed to the service on the results of a competitive examination, the year following the year in which such examination was held".

3. On 20.11.1984, the respondents informed the applicant that his seniority on the results of the Indian Forest Service Examination, 1983 will, however, remain protected(vide page 7 of the paper book).

4. The applicant joined the said service w.e.f. 27.5.1985 and after successfully completing the training alongwith the candidates recommended by the UPSC for appointment to IFS on the results of IFS examination 1984. He was allotted the Union Territory Cadre of the Indian Forest Service and posted as Assistant Conservator of Forests in Middle Andaman Dn., Long Island under the control of Chief Conservator of Forests, Andaman & Nicobar Islands. He was confirmed in the IFS w.e.f. 27.5.1988.

5. The contention of the applicant is that he is entitled to promotion to the Senior Time Scale in 1988, on completion of 4 years of service on the footing that

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his year of allotment is 1984 but he has been allowed the same only w.e.f. 27.5.1989 by the impugned order dated 17.1.1989. According to the respondents, he has been promoted to the Senior Time Scale on actual completion of 4 years of service, i.e., on 27.5.1989. They have, however, sought the leave of this Tribunal to ante-date his promotion to the Senior Time Scale to 1.4.1989 instead of 27.5.1989.

6. The respondents have relied upon the circular issued by the Central Government on 23.8.1982 which, inter alia, provides as follows:-

"It has been decided that in order to determine the suitability of the direct recruits to the Indian Forest Service for promotion to the posts in the Senior Time Scale, their work and performance should be watched for a period at least one year after they have completed successfully the period of probation of 3 years. In other words, the direct recruits to the Indian Forest Service may be considered for promotion to Senior Time Scale on completion of 4 years of service, including the period of their training".

7. According to Rule 3(1) of the IFS(Pay) Rules, 1968, a member of the Service shall be appointed to the senior scale on his completing four years of service. This provision has been clarified in the circular issued by the Central Government on 27.4.1987, as follows:-

"An officer shall be eligible for appointment to the Senior Time Scale at any time after 1st April, of the year in which he completes 4 years of service depending on the availability of a vacancy in that year subject to the provisions of the IFS (Recruitment) Rules, 1966. For example, an officer whose year of allotment is 1983 may be appointed to the Senior Time Scale on or after 1.4.1987".

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8. In the instant case, the appointment of the applicant to the Service had been delayed and in view of this, the respondents have argued that the year of allotment does not represent the actual length of service in respect of him. In this context, they have referred to the provisions of Rule 6A of the IFS (Recruitment) Rules, 1966 and have contended that for determination of suitability of directly recruited officers for promotion to the Senior Time Scale, what is relevant is not the length of service with reference to the year of allotment but the actual length of service.

9. In our opinion, Rule 6A of the IFS(Recruitment) Rules, 1966, Rule3(1) of the IFS(Pay) Rules, 1968 and Rule 3(2) of the IFS (Regulation of Seniority) Rules, 1968 should be construed harmoniously. When so construed, the completion of 4 years service should be reckoned from the year of allotment which, in the instant case, is 1984. In view of this, the applicant would be entitled to be considered for promotion to the Senior Time Scale in 1988. We, therefore, set aside and quash the impugned order dated 17.1.1989 to the extent that it provides that the date of appointment to the Senior Time Scale is 27.5.1989. We direct that the correct date should be 1.4.1988 and that the applicant would be

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entitled to the consequential benefits including monetary benefits from the said date.

10. The respondents shall comply with the above directions expeditiously and preferably within a period of three months from the date of receipt of this order. There will be no order as to costs.

B.N. DHOUDIYAL
(B.N. DHOUDIYAL) 27/11/92
MEMBER (A)

P.K. KARTHA
27/11/92
(P.K. KARTHA)
VICE CHAIRMAN (J)