

**Central Administrative Tribunal
Jammu Bench, Jammu**



T.A. No.6323/2020
S.W.P. No.1446/2004

Wednesday, this the 17th day of February, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Zakir Hussain,
S/o Sh. Abdul Ghani,
R/o Village Pochhal Tehsil,
Kishtwar, District Doda,
Age 36 years.

..Applicant
(Mr. Vinod Kotwal, Advocate)

VERSUS

1. State of Jammu and Kashmir,
Through Commissioner/Secretary to Govt.,
Forest Department, New Sect. Srinagar.
2. Principal Chief Conservator of Forest,
Srinagar.
3. Chief Conservator of Forest,
Jammu.
4. Ravi Kumar, Dy. Forester 1 in the office of
Project Officer Mathwan Project, Jammu.
5. Virinder Singh Dy. Forester in the Office of Divisional
Forest Office, Jammu.

..Respondents
(Mr. Sudesh Magotra, Dy. Advocate General)

ORDER (ORAL)

Justice L. Narasimha Reddy:



The applicant was appointed as Forest Guard in Kishtwar Division on 19.07.1989. It is stated that the respondents 4 and 5 were appointed as Forest Guard on 07.10.1989 and 04.12.1989 respectively, and that in the seniority list for the post, the applicant figures at 363, whereas the respondents 4 and 5 figured at Serial Nos.438 and 443, respectively. Through an order dated 28.10.2002, the Chief Conservator of Forests, Jammu, promoted four Forest Guards including respondent nos.4 and 5 herein, as Deputy Foresters in the pay scale of Rs.4300-5000/-.

2. The applicant filed SWP.No.1446/2004, challenging the impugned order dated 28.10.2002. According to him, promotion ought to have been made strictly in accordance with the seniority and instead the respondents 4 and 5 were promoted out of turn.

3. On behalf of the respondents, a preliminary counter affidavit and a final counter affidavit are filed. The relevant positions of the applicant on the one hand and the respondents 4 and 5 on the other hand are not disputed. It is stated that the respondent no.5 did not figure in the seniority list at the relevant



point of time because of his working with another establishment, and he deserved to be put in Serial No.433. It is also stated that the promotion to the post of Deputy Forester is based upon merit-cum-suitability and no exception can be taken to the impugned order.

4. The Writ Petition has since been transferred to this Tribunal in view of re-organization of the State of Jammu and Kashmir and renumbered as TA.No.6323/2020.

5. We heard Mr. Vinod Kotwal, learned counsel for the Applicant and Mr.Sudesh Magotra, learned Dy.Advocate General, for the official respondents. There is no representation on behalf of the respondents 4 and 5.

6. The applicant and the respondents 4 and 5 were appointed as Forest Guards in the year 1989. The appointment of the applicant herein was ahead of the appointment of the respondents 4 and 5. The plea of the applicant that he figured at Serial No.363 and the respondent no.4 at Serial No.438, remains un-rebutted. The 5th respondent is also notionally assigned the place at 443. Both of them figured much below the applicant, almost by 70 places. The respondents are totally silent as to the method of promotion to the post of Deputy Forester. Neither any rule is cited nor any principle is mentioned. Since it is from the post of Forest Guard, invariably it would be on the basis of

seniority alone. There is no mention of the DPC in the impugned order. The selection process did not take place at all.



7. Therefore, it is a clear case of overlooking the seniority of the applicant in the context of promotion to the post of Deputy Forester. It is not known as to whether the applicant has since been promoted. If he is promoted, he shall be treated as senior to the respondents 4 and 5 with effect from the date they were promoted. If, on the other hand, he is not promoted, he shall be promoted forthwith, with all consequential benefits other than arrears of salary. This exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8. The TA is accordingly disposed of. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 17, 2021
/sunil/ankit/dsn