

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
~~XXXXXXXXXX~~

O.A. No. 296 of 1988.  
~~XXXXXXXXXX~~

DATE OF DECISION 10.6.1991

Dilip M. Naik Petitioner

Mr. M.R. Anand Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. P.M. Raval for resp. No.1 Advocate for the Respondent(s)

Mr. A.R. Dave for resp. No.2

CORAM :

The Hon'ble Mr. P.H. Trivedi .. .. Vice Chairman

The Hon'ble Mr. S. Santhana Krishnan .. Judicial 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? *No*

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Dilip M. Naik,  
Conservator of Forests,  
Extension Circle,  
Multi storeyed Building,  
Rajkot.  
(Advocate-Mr. M.R. Anand)

.. Applicant

Versus

1. Union of India,  
Dept. of Environment  
and Forests,  
Panchayat Bhavan,  
C.G.O. Complex,  
Lodhi Road,  
New Delhi.
2. State of Gujarat  
(Notice to be served  
through the Secretary,  
Forests & Environment  
Department, Secretariat,  
Gandhinagar.
3. Shri A.P. Mishra, I.F.S.,  
Conservator of Forests,  
Gujarat State Forests,  
Development Corp. Ltd.,  
Van Ganga, Alkapuri,  
Vadodara.  
(Advocate - Mr. P.M. Raval  
& Mr. Anil Dave)

.. Respondents

O.A. No. 296 of 1988

J U D G M E N T

Dated : 10.6.1991

Judgment cited : (1989) 4 S.C.C. 689 - Union of India  
v. Dr. S. Krishna Murthy & Ors. etc.

Per : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

In this application, under section 19 of the Administrative Tribunals Act, 1985, the applicant states that the Indian Forest Service was constituted in the year 1966 w.e.f. 1.10.1966. The applicant who was originally in the State Service of Gujarat alongwith respondent No. 2 was absorbed in the Indian Forest Service and allotted the year of 1964 and a half as

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initial recruit by order dt. 26th October, 1972. The respondent No. 3 was allotted to the Gujarat cadre of Indian Forest Service and was given the year of allotment of 1964 for the purpose of seniority, although he joined the services only in the year 1972. This order was passed pursuant to rule 3(2)(d) of the Indian Forest Service (Regulation of Seniority) Rules, 1968. This rule was framed in the year 1969 by amendment dt. 7.6.1969 to the original rules. The said Rules do not permit any retrospective application nor any special treatment for giving to the Members of the Armed Forces the year of allotment prior to their date of entry into the Indian Forest Service. The challenge by the applicant to the order dt. 26th October, 1972 giving seniority by allotting the year 1964 to the respondent No. 3 is on the ground that such retrospective application of the Rules empowering respondent No. 1 to give the year of allotment prior to the date of entry into the service is not permissible and therefore, the order is not valid. The applicant has referred to the judgment of the Calcutta High Court in a related case. His challenge is that the Rule 3(2)(d) of the Indian Forest Service (Regulation of Seniority) Rules, 1968 is discriminatory, arbitrary and violative of articles 14 and 16 of the Constitution of India in so far as it confers upon the subsequent recruits year of allotment which is prior to that of the initial recruits and consequential action taken by respondent No. 1 is nullity and therefore, there can be no bar of limitation with regard to it.

2. It is not disputed that the entire case of the applicant rests on the foundation of Rule 3(2)(d) of the Indian Forest Service (Regulation of Seniority) Rules, 1968 as invalid and unconstitutional and null

and void. Learned advocate for the applicant has fairly brought to our notice that in (1989) 4 S.C.C. 689 -

Union of India v. Dr. S. Krishna Murthy & others etc. the Supreme Court has upheld the said rule as constitutional and valid and that no illegality has been committed by the Government in framing impugned rules are legal and valid. The petitioner, therefore, has not established his case for relief in view of the decision of the Supreme Court. The application, therefore, must fail. There shall be no order as to costs.



( S Santhana Krishnan )  
Judicial Member



( P H Trivedi )  
Vice Chairman