

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

**ORIGINAL APPLICATION NO. 591 OF 1998
Cuttack this the 15th day of January/2004**

Santosh Kumar Biswal...

Applicant(s)


VERSUS

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *Ye*
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunal or not ? *Pe*


[Signature]
(B.N. SOM)
VICE-CHAIRMAN

[Signature]
15/01/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

7

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 591 OF 1998
Cuttack this the 15th day of January/2004

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

AND

THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

...

Sri Santosh Kumar Biswal,
aged about 48 years,
Son of late Banchhanidhi Biswal of
Village - Madhapur, P.S. Hindol
District-Dhenkanal - at present
working as Divisional Forest Officer
(Kenduleaf), Keonjhar Division,
At/PO/District - Keonjhar

...

Applicant

By the Advocates

M/s.K.P.Mishra
J.K.Khandayatray
S.Dash

- VERSUS -

1. Union of India represented through the
Secretary, Department of Environment & Forests,
Government of India, Paryavaran Bhawan,
C.G.O.Complex, Lodhi Road, New Delhi
2. State of Orissa represented through the
Secretary, Department of Forests,
Government of Orissa at Secretariat Building,
PO-Bhubaneswar, Dist-Khurda
3. Secretary, General Administration Department
at Secretariat Building, PO-Bhubaneswar,
Dist-Khurda
4. Principal Chief Conservator of Forest, Orissa,
At/PO-Bhubaneswar, Dist-Khurda

...

Respondents

By the Advocates

Mr.J.K.Nayak, ASC (Central)
Mr.K.C.Mohanty, Govt.
Advocate (State of Orissa)

...

7

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (J): The Applicant (Shri Santosh Kumar Biswal), a member of Indian Forest Service, has put-forth a complaint in this Original Application under Section 19 of the Administrative Tribunals, Act, 1985 that his Year of Allotment (in short Y.O.A.) should have been 1983 instead of 1987 which has wrongly been fixed by the Respondents.

2. The Applicant had earlier approached this Tribunal in O.A.No.223/97 with the same relief; inter alia praying that his representation made in this regard dated 26.3.1993 (to Respondent No.1) as well as (to Respondent No.2) dated 30.11.1996 should be considered by the Respondents under intimation to him and this Tribunal, in its order dated 9.4.1997 directed both the Respondents to pass a speaking order (within a period of 90 days) on the representation dated 26.3.1993 (Annexure-3) and to communicate the decision (in another 15 days) to the Applicant.

3. Pursuance to the above direction of this Tribunal, the Respondents (vide their order under Annexure-5 dated 17.11.1997) while rejecting the prayer of the applicant passed an elaborate and exhaustive order. It is to be noted that while the Applicant has prayed for relief (in this O.A.) that his Y.O.A. should be 1983 (instead of 1987) has not made any prayer that the impugned order of rejection of his representation (under Annexure-5) should be quashed by the Tribunal.

4. The Applicant joined the State Forest Service



7
8

cadre with effect from 6.3.1974 and was promoted to the Indian Forest Service (in short I.F.S.) (Orissa cadre) vide Govt. of India Notification dated 7.11.1991. It is in this background the Applicant has urged that due to non-sitting of the Selection Committee Meeting he suffered and, as such, such, the direct recruits had marched over the promotee officers. The Applicant has, therefore, contended that he should have been deemed as a promoted officer, notionally of the year 1983, i.e., the year of vacancy.

5. The Respondents have filed their counters contesting the case of the Applicant. We have gone through the counters (filed by Respondent No.1, viz., Union of India; as well as of the Respondent No.3, viz., the General Administration Department of Government of Orissa), and order dated 17.11.1997 (Annexure-5); wherein the prayer of the Applicant had been rejected. It is the categorical stand of the Respondents that they have assigned the Year of Allotment to the applicant as per relevant rules governing the field. To meet the point as to why the Selection Committee could not meet earlier, Respondent No.3 has stated that though Regulation 5 of the I.F.S. (Appointment by Promotion) Regulations, 1966 (in short Regulations, 1966) provides that the Selection Committee shall ordinarily meet at intervals not exceeding one year, there could be reasons beyond the control of the State Government; as a result of which the Committee was not able to hold its meeting on annual basis. To substantiate this stand, the Respondents have relied on a direction of the Hon'ble Supreme Court of India

[Handwritten signature]

dated 28.7.1993 rendered in Civil Appeals No.3891/93 (H.R.Kasturi Rangan & Ors. vs. Union of India & Ors.) While clarifying the judgment dated 29.11.1992 rendered in Syed Khalid Rizvi case, the Apex Court held that "failure to prepare the select list annually cannot be taken as a ground to invalidate the select list. They have further adduced the copy of judgment rendered on 8.2.1995 (in Civil Appeal No.2370-2371 (K.J.Singh & Another vs. State of Manipur & Ors.) by the Hon'ble Apex Court. The issue germane to the present case; as dealt and decided by the Hon'ble Supreme Court in K.J. Singh case (supra) reads as under:-

"...The grievance of the appellants is that had there been selection during the period 1977-79, they were sure to be selected and as a consequence would have got earlier year of allotment. The Central Administrative Tribunal by a detailed judgment rejected the contention of the appellants. It is no doubt correct that ordinarily the Selection Committee should meet every year to revise the select list for appointment by promotion of the I.F.S. but due to reasons beyond the control of the respondents, no selection could be made during the relevant period. We see no ground to interfere with the impugned judgment of the Tribunal. We agree with the reasoning and the conclusions reached therein".

It is in this background, the Respondents have prayed for dismissal of this Original Application.

6. We have heard Shri K.P.Mishra, the learned counsel appearing for the Applicant, Shri J.K.Nayak, learned Addl.Standing Counsel representing the Union of India (Res.No.1) and Shri K.C.Mohanty, learned Govt. Advocate representing the State of Orissa. We have also perused the rejoinder filed by the Applicant.



7
8

We have also taken note of the decision rendered rendered by this Tribunal on 4.8.1999/in O.A.383/92 (in the case of Basanta Kumar Pradhan vs. Union of India & ors.), based on similar and identical issue. While dealing with the point, as raised in the instant case This Tribunal (in Para-9 of the said decision) observed as under :-

"... Regulations do not provide for splitting up of the vacancies year-wise and drawing up the select list year wise. It is only provided that if the meeting is not held in a particular year, then an officer, who was eligible for consideration in that year and had become overaged by the time selection committee meets in the next year in relation to the reference date of that year would be considered by the selection committee notwithstanding the fact that by that time, he was overaged. This provision of course does not specifically rule out preparation of select list year wise on the basis of year wise vacancies. Regulations also do not provide for preparation of select list for each year on the basis of year wise vacancies. In view of this, this contention is held to be without any merit and is rejected".

Viewed from above angle, there is no reason for the Applicant to cry over the matter in issue, on the face of the settled position of law as laid down by the Hon'ble Apex Court (supra) as well as the decision rendered by this Tribunal in the aforementioned case. Besides the above, it is not the case of the Applicant that he has been either superseded by any of his junior and/or he has been discriminated against. To add to this, we would like to say that promotion regulations, which provides that a Meeting of the Selection Committee shall ordinarily be held




7
6

at an interval of one year, presumably basing on which the Applicant wants to substantiate his case, will be of no avail to him inasmuch as this point has already been considered and decided by the Hon'ble Apex Court in the case of J.J.Singh (supra) by observing that there could be reasons beyond the control of the State Government, as a result whereof the Selection Committee was not in a position to meet in a certain year.

For the reasons discussed above, while we reject this Original Application, being devoid of merit, we, at the same time, uphold the reasonings as expressed by Respondent No.3 vide Annexure-5 dated 17.11.1997. No costs.



(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

BJY