



CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 601 OF 1998  
Cuttack this the 3rd day of May, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

THE HON'BLR SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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Soukilal Jeswal  
aged about 57 years  
S/o. Late Sitaram Jeswal  
At & PO: Remunda, Via: Bheden  
PS: Bheden, Dist: Bargarh

At present working as Deputy Conservator of  
Forests-cum-Instructor, Orissa Forest Ranger's  
College, Angul, At/PO/Dist: Angul

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Applicant

By the Advocates

M/s.R.K.Patnaik  
G.N. Rout

-VERSUS-

1. Union of India represented through its Secretary to Government, Ministry of Environment and Forests, At/PO:Parayavaran Bhawan, C.G.O.Complex, Lodhi Road, New Delhi-110003
2. State of Orissa represented through its Principal Secretary-cum-Commissioner, Forest & Environment Department, Bhubaneswar, At/PO:Secretariat Building, Bhubaneswar, Dist: Khurda
3. Principal Chief Conservator of Forests, Orissa Bhubaneswar, At/PO: Aranya Bhawan, Chandrasekharpur Bhubaneswar-16, Dist: Khurda
4. Shri Suresh Chandra Mishra, I.F.S., Deputy Conservator of Forests, C/o. Principal Chief Conservator of Forests, Orissa, Bhubaneswar, At/PO:Chandrasekharpur, Bhubaneswar-16 Dist: Khurda

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Respondents

By the Advocates

Shri U.B.Mohapatra,  
Addl.Standing Counsel  
(Res.1)  
Shri K.C.Mohanty,  
Govt.Advocate (Res.2 & 3)

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to respondents to allow his appointment to the Indian Forest Service with retrospective effect, i.e. from the date Res.4 was appointed as I.F.S. officer within a stipulated time limit with all financial and consequential benefits.

2. The case of the applicant is that in the rank of Orissa Forest Service Class-I he is senior to Res.4. But when the case of Res.4 was recommended for consideration for promotion to the I.F.S., the case of the applicant was not recommended. He has further stated that the adverse entries in his C.R. had earlier been expunged by the Department on consideration of his representation and for certain other adverse entries, which the Government allowed to stand, he had approached the State Administrative Tribunal in which the State Administrative Tribunal directed expunging of those adverse entries. It is submitted by him that his records are good and therefore, his case should have been considered by the Selection Committee.

3. In this case respondents have not filed any counter. On 2.12.1999 learned Govt. Advocate for the State of Orissa asked for two weeks time to file counter. This prayer was strenuously opposed by the learned counsel for the applicant and it was pointed out that on 22.9.1999 two weeks time was allowed as last chance to file counter by the respondents. In view of the above respondents were not given further time to file counter and the matter was posted to this day for final disposal at the admission stage.

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4. We have heard Shri R.K.Pattnaik, learned counsel for the petitioner, Shri K.C.Mohanty, learned Govt. Advocate for the State of Orissa and on behalf of Shri S.C.Mishra, who has been arraigned as Res.4 and Shri U.B.Mohapatra, learned Addl.Standing Counsel appearing for the Union of India and also perused the records.

5. It is submitted by Shri K.C.Mohanty, learned Govt.Advocate for the State of Orissa that the applicant has not impleaded G.A.Department as respondent and according to Rules of Business the matter relating to promotion to I.F.S. are dealt by the G.A.Department. In view of this it is submitted that on the ground of non joinder of necessary party the application is liable to be dismissed as being not maintainable. In this case we find that the applicant has claimed consideration for promotion to I.F.S. from the date his junior (Res.4) was promoted by a Presidential Order issued by Res.1 and notified by the G.A.Department vide Annexure-9. It has also been submitted that the case of the applicant was not recommended for consideration by the Selection Committee and making a grievance of this he filed two representations vide Annexures-6 and 7 to the authorities whom he has made party respondents in this O.A. In view of this we hold that the Original Application in the present form is maintainable and contention of Shri Mohanty in this regard is rejected.

J.S.M.

6. Coming to the merits of the case from Annexure-5 which is an order dated 6.3.1997 of the Forest Department, it is seen that the applicant <sup>is</sup> /admittedly senior to Res.4. He has filed representations stating that the case of Res.4 was recommended

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by the Forest Department for consideration of the Selection Committee, but his case was not forwarded. The applicant has not specifically mentioned the date when the name of Res. 4 was recommended by the Forest Department for consideration for his promotion to I.F.S. He has also not mentioned the date when the Selection Committee met and considered the case of Res.4 and recommended his case. We find from Annexures filed by the applicant himself that his date of birth is 2.2.1941 and Res.4 has been promoted in order dated 15.1.1998. The meeting of the Selection Committee would have taken place within preceding one year, because under the Rules, if during one year persons put in that selection list are not appointed then again their cases have to be considered by the next Selection Committee. From this it is reasonable to presume that the case of Res.4 was considered by the Selection Committee sometime in May, 1997 or at best in 1996. The applicant had attained the age of 54 years as on 2.2.1995. Under sub rule 3 of Rule-5 of Indian Forest Service(Appointment on Promotion) Regulation 1966, it is provided that Selection Committee shall not consider members of the State Forest Service who have attained the age of 54 years on the 1st of January of the year in which it meets. May be for that reason the case of the applicant was not forwarded to the Selection Committee for consideration. As in this case respondents have not filed any counter it is not possible to take a view in this regard. In view of this, while declining to the prayers made by the applicant in this O.A. we direct Res. 2 to pass appropriate orders on the representations of the applicant vide Annexures-6 and 7, if the same are still

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pending within a period of 15(Fifteen) days from the date of receipt of copy of this order. The applicant is given liberty to approach the Tribunal in case he feels aggrieved by the order to be communicated by the respondents to him on his representations.

The O.A. is disposed of with the above directions, but no order as to costs.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN *2/10*