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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK


Original Application No. 321 of 2002
Cuttack, this the 10th day of September, 2004

Pramod Kumar Sarangi	Applicant
	Vs	
Union of India & Others	Respondents

FOR INSTRUCTIONS

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. Saha)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER (J)

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Shri Pramod Kumar Sarangi, aged about 53 years, S/o Late Banamali Sarangi, Village Jagannathpur, P.O. Kakatpur, Dist. Puri at present working as Divisional Forest Officer, Kendu Leaves, Angul

..... Applicant

Advocates for the applicant - M/s. K.N.Das, D.C.Mohanty,
P.K.Rath, S.Kanungo, S.M.Anwar,
J.Agrawal, S.S.Senapati.

Vrs.

1. Union of India represented through the Secretary to Government, Ministry of Forest & Environment, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New Delhi-110003.
2. Union Public Service Commission, represented through the Secretary Dholpur House, New Delhi.
3. State of Orissa represented through Commissioner-Cum-Principal Secretary to Government, Government of Orissa General Administration Department, Orissa Secretariat, Bhubaneswar.
4. Principal Secretary to Government, Department of Forest & Environment, Orissa Secretariat, Bhubaneswar.
5. Shri G.Ranga Patra, IFS, Divisional Forest Division, At/P.O. Baliguda, Dist. Phulbani.
6. Shri Rabindra Nath Sahoo, IFS, Divisional Forest Officer, Athagrah Forest Division, At/P.O. Athagarh, Dist-Cuttack.
7. Shri Akshaya Kumar Patra, IFS, Assistant C.C.F., Kendu Leaves, Aranya Bhawan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
8. Shri K.C.Das, IFS, Deputy Director, Social Forestry,

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- At/P.O. Rayagada, Dist. Rayagada.
9. Shri Suresh Ch. Mishra, IFS, Divisional Forest Officer, Wild Life, At. Motigharan, P.O./Dist. Sambalpur.
 10. Shri B.K. Sahoo, IFS, Divisional Forest Officer, Kendu Leaves Division, At/P.O./Dist. Keonjhar.
 11. Shri Laxmikanta Dash, IFS, Wild Life Conservation Officer, O/o the Director, Nandan Kanan, Sahid Nagar, Bhubaneswar, Dist. Khurda.
 12. Shri Biswa Narayan Mohanty, IFS, Divisional Forest Officer, Bolangir Forest Division, At/P.O./Dist. Bolangir.
 13. Shri Abhiram Dash, IFS, Deputy Director, Social Forestry, Puri Division, At. Baramunda, Bhubaneswar, Dist. Khurda.

..... Respondents

Advocates for the Respondents - Mr. S. Behera, Addl. CGSC,,
Trilochan Dash, Govt. Advocate (State of Orissa)

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Pramod Kumar Sarangi, an officer of Indian Forest Service (in short IFS) has filed this O.A. seeking direction to be issued to the Respondents to give him promotion to the I.F.S. Cadre retrospectively from the date, his juniors, namely, Shri R.N. Panigrahi and Shri Sidheswar Mohanty were promoted to that service on 4.12.91 and also to give him all consequential service and financial benefits as consequence thereof.

2. The facts of the case in brief are that as per Rule 3 of Indian Forest Service (Appointment by Promotion) Regulations, 1966 he was eligible for promotion to that cadre in the year 1990. But, he was not selected for that

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year due to some adverse remarks in his ACR for the year 1987-88 and 1988-89. As a result, two of his juniors, namely, Shri R.N.Panigrahi and Shri Sidheswar Mohanty marched over him. The adverse remarks were expunged subsequently by the Government vide its order dated 24.2.92 and 13.3.92 respectively. He was not considered by the Selection Committees which met for the year 1991-92 and 1992-93. The Selection Committees which met in 1994, 1996-97 also did not recommend him for promotion. Selection Committee of 1994 did not recommend him for promotion as some adverse remarks were available in his ACR. Non-inclusion of his name in the select list of 1996-97 was on account of withholding his integrity certificate by the State Government. The adverse remarks in the ACR for the year 1991-92 were expunged only on 7.1.2000, after which, he was given promotion to IFS w.e.f. 16.3.2000.

3. The Respondents have opposed this O.A. by filing counter. The main contention of the Respondents is that no relief is available to the applicant in this case as he was admittedly superseded by two of his juniors, namely, Shri R.N.Panigrahi and Shri Sidheswar Mohanty, as they, on overall relative assessment of service records, ^{and} had better merit than the applicant. The applicant was not considered by the Selection Committee for the year 1991-92 and 1992-93 as he was not within the zone of consideration according to the seniority list. In the year 1993-94 though he was con-

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sidered, his name was not included in the select list as he was assessed 'unfit' by the Selection Committee. No select list was prepared for the year 1994-95. For the year 1995-96 he was assessed as 'Good' and hence could not be included in the select list. He was considered for the select list of 1996-97 and his name was included at Sl.No. 4 of the select list but his name in the list was made provisional as the State Government had not furnished integrity certificate. His name was also considered for the year 1997-98 but his name could not be included in the select list on the basis of overall assessment of the officers in the zone of consideration. Finally, his name was included in the select list of 1999 and his name was approved for appointment as soon as the State Government approved integrity certificate in his favour.

4. We have heard the Ld. Counsel for both the parties and have perused the records placed before us.

5. From the narration of the recommendations of the successive Selection Committees held for promotion of officers to State Forest Service Officer to I.F.S., it appears that the applicant was superseded in the year 1990 by two of his juniors as he was assessed only 'Good' by the Selection Committee. Thereafter, till the year 1996-97 his name could not find place in the select list, either because he was not within the zone of consideration or his overall merit assessment was not good

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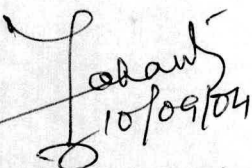
enough to secure berth for him in the select list. It is an admitted fact his name was included at Sl. No. 4 in the select list for the year 1996-97 but he could not be promoted, as integrity certificate was not available in terms of the Regulation 5(4) of the Promotion Regulationa. In the year 1998 again he was superseded due to lower grading.

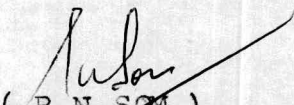
6. The grievance of the applicant is that he was ignored for selection during the year 1990 on account of certain adverse remarks in his ACRs for the year 1987-83 and 1983-89. The Respondents, on the other hand, have stated that his name could not be included in the select list for 1990 as he was assessed as 'Good' by the Selection Committee. The applicant's grievance is that existence of adverse remarks in his ACR for the year 1987-83 and 1983-89 had affected his prospects for promotion to I.F.S. in 1990. He had, therefore, carried his grievance before the Orissa Administrative Tribunal which directed the State Government to review the Recommendation of the Selection Committee ignoring those adverse remarks. Accordingly, the State Government had requested the Union Public Service Commission for convening a review selection committee meeting. But, the Commission did not agree on the ground that the case of the applicant related to promotion to the I.F.S., a matter, over which, under Section 15 of the Administrative Tribunal Act, 1985, the Orissa Administrative Tribunal has no jurisdiction to

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hear and pass any order and hence did not consider the matter further. In this application also, the applicant has not made out any case that delay in expunging of the adverse remarks of those two years denied him selection for the year 1990. Even if, he had so made a case, it would have been hopelessly barred by limitation. We, therefore, refrain from entering into this matter further. It is the admitted fact of the matter that he had been considered by all the subsequent selection committees and that he could have been promoted during the year 1996-97, had the State Government furnished integrity certificate in his favour. As the applicant had not made out any case in this application that non-furnishing of integrity certificate for the year 1996-97 by the State Government was an act of malice or malafide, we see no scope for intervening in the matter.

7. Having regard to the above facts and circumstances of the case, we see no merit in this O.A. which is accordingly disposed of. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SAHA)
VICE-CHAIRMAN