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O.A. No.608/2009
ORDER DATED 5th JANUARY, 2010

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)
Hon'ble Mr. C.R. Mohapatra, Member (A)

The applicant is an Orissa Forest Service, Class-1 Officer, at present working as Serviculturist, Serviculture Division, Rayagarh. He has filed this O.A. with the following prayer:-

“... to admit the case, issue notice to the Respondents and after hearing the parties set aside the Notification No. IFA-60/09/18867/F&E dtd.12.11.2009 at Annexure-8 pertaining to promotion of Junior Respondent No.5 (Y. Bariha) to IFS Cadre issued by the Government of Orissa in Forest & Environment Deptt. or to direct the Respondent No.4 to include the name of the applicant just below the Solaram Marandi and above of Y. Beriha in the Notification dated 12.11.09”.

2. The case of the applicant as set out in the O.A. is that as per Annexure-A/1 dated 20.08.2005, his name appears at Sl. No.115 of the Gradation List of OFS-II. It has been submitted that despite publication of gradation list, either draft or final, in the grade of OFS-1, as per notification dated 03.06.2004 (Annexure-A/2), the Forest Department, Govt. of Orissa promoted 30 OFS-II officers to OFS-I. It has also been submitted that again the state Govt. of Orissa, as per Annexure-A/3 notification dated 12.12.2005 promoted two OFS, Group-B officers to OFS, Group-A. While the matter stood thus, according to applicant, he having rendered years of

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successful service in O.F.S- Class-II, as per notification dated 03.11.2006 (Annexure-A/4) was promoted to O.F.S. Group-A.

3. It is the case of the applicant that a Selection Committee Meeting was held on 31.12.2008 for preparation of year-wise list of State Forest Service Officers, who are eligible for promotion to Indian Forest Service for the vacancies 07,05,01, 01 and 01 respectively for the year 2004, 2005, 2006, 2007 and 2008, wherein his name appeared at Sl. Nos. 13,7,6 & 6 for the years 204, 2005, 2007 and 2008. The above select list, according to applicant, having been approved by the U.P.S.C., as per notification dated 30.07.2009 (Annexure-A/6 series) the promotion orders were issued by ignoring him and even promoting his juniors, based on the select list for the years 2004, 2005 & 2008. Be that as it may, it is the case of the applicant that as per Annexure-A/8 letter dated 12.11.2009, Addl. Secretary to Govt. of Orissa in the Forest and Environment Department has moved the Principal Chief Conservator of Forests to furnish necessary information in respect of a batch of 33 OFS, Group-A Officers for convening the meeting of the Selection Committee for promotion to IFS cadre of Orissa during the year, 2009. Based on this, the applicant has submitted that he being senior to one Yasobant Bariha (Respondent No.5) whose name finds place at Sl. No.33 of Annexure-A/8, his name should have ~~been~~ found place above Sh. Yasobant Bariha and below one Solaram Marandi in between Sl. No.32 and 33. Hence, this O.A. with the aforesaid prayer.



4. Heard Mr. R.K. Patnaik, Ld. Counsel for the applicant, Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel for the Union of India and Mr. A.K. Bose, Ld. Counsel for State of Orissa on the question of admission and perused the averments made in the O.A. We have also perused the various methods to be followed in convening DPC for promotion as per Annexure-A/7. It reveals that whereas Respondent No.5 has been promoted to OFS-I as per notification dated 12.12.2005 (Annexure-A/3), the applicant has been promoted as per notification dated 03.11.2006 (Annexure-A/4), even though he had been recommended for such promotion by the DPC held on 20.12.2004 which was kept in the sealed cover. Though the applicant has submitted a gradation list of OFS-II (Annexure-A/1), wherein he has been shown senior to Respondent No.5, yet in view of his prospective promotion to OFS-I as indicated above, the seniority position between the applicant vis-à-vis Respondent No.5 appears to have undergone a change. It is also the case of the applicant that he is not aware of preparation of draft or final seniority list in the grade of OFS-I. He has also not produced any gradation list in the grade of OFS-I showing that he is senior to Respondent No.5 in that grade. Since the applicant has not been able to establish that he is senior to Respondent No.5 in the grade of OFS-I, we do not feel that the applicant has made out a *prima facie* case for admission. Accordingly, the O.A. is rejected not being admitted.

Chapak
Member (A)

4/9/2007
MEMBER (J)