

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No. 431/99

Tuesday this the 27th day of April, 1999

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. B.N. BAHADAUR, ADMINISTRATIVE MEMBER

M.S.Joy, S/o late Scaria,  
Assistant Conservator of Forests,  
Agasthyavanam Biological Park,  
Thiruvananthapuram  
residing at 'Josna', House No.64,  
CSM Nagar, Idappzhanji,  
Thiruvananthapuram.

...Applicant

(By Advocate Mr. P. Ramakrishnan)

Vs.

1. Union of India represented by its  
Secretary, Ministry of Environment and Forests,  
CGO Complex, Lodhi Road,  
New Delhi.

2. State of Kerala, represented by  
Chief Secretary to Government,  
Government Secretariat,  
Thiruvananthapuram.

3. The Chief Conservator of Forests,  
Thiruvananthapuram.

...Respondents

(By Advocate Mr. C.A.Joy, Govt.Pleader for R.2&3  
Mr. P.J.Philip, ACGSC for R.1)

The application having been heard on 27.4.99 the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant presently working as  
Assistant Conservator of Forests was included in the  
Select List for appointment to the Indian Forest Service  
prepared for the years 1994-95 and 1995-96. The name of  
one Shri Muraleedharan was also included alongwith  
others in the Select List. Muraleedharan and the  
applicant were not appointed because some vigilance  
cases were pending against them. The applicant was  
convicted and sentenced in two vigilance cases, but the

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High Court has suspended the sentences on the applicant executing a bond of Rs.25,000/- each in the two cases. Finding that Shri Muraleedharan has now been appointed before another select list was drawn up and before the vigilance case against him has been disposed of, the applicant feels that he has been discriminated against in the matter of appointment to the Indian Forest Service. Just as Shri Muraleedharan was appointed when the vigilance case against him is still pending, the applicant also should have been appointed because the suspension of the sentence by the High Court takes away the cloud in his case also, according to the applicant. With these allegations the applicant has filed this application for a direction to the respondents to appoint the applicant in the Indian Forest Service declaring that the applicant is entitled to be considered for appointment in the Indian Forest Service, notwithstanding his retirement on superannuation on 30.4.99 with consequential benefits.

2. Shri C.A.Joy, Government Pleader took notice for the respondents 2&3 and Shri P.J.Philip, ACGSC took notice on behalf of the first respondent. We have gone through the application and have heard the learned counsel appearing for the parties. Shri Joy under instructions from the State of Kerala states that Shri Muraleedharan was appointed to the Indian Forest Service on the basis of his inclusion in the Select List because the disciplinary proceedings against him was dropped and that the applicant was not appointed as he stands convicted in two cases by the Enquiry

Commissioner and Special Judge, Thiruvananthapuram. It is also stated by the learned counsel for the State Government that on a redrafting the Seniority List of Assistant Conservator of Forests in accordance with the Orders of the High Court of Kerala in OP.No. 3583/87 the applicant has now gone below the zone of consideration, while Muraleedharan would stay for consideration from the year 1985 onwards and on this score also the applicant could not have any grievance on the appointment of Shri Muraleedharan to the Indian Forest Service. It has also been stated that the disciplinary action against Shri Muraleedharan has been dropped vide Orders G.O.(RT)/241/VIG. dated 17.9.98.

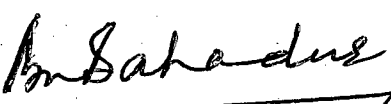
3. A scrutiny of the application and its annexures and on hearing the learned counsel we are of the considered view that even prima facie the action of the State Government in not making necessary recommendation for appointment of the applicant to the Indian Forest Service on the basis of his inclusion in the Select List cannot be faulted since the applicant stands convicted in two cases by the Enquiry Commissioner and Special Judge, Thiruvananthapuram. In the case of Shri Muraleedharan there is no conviction admittedly. It is not necessary for us to go into the correctness or propriety of the recommendation made by the State Government in regard to appointment of Shri Muraleedharan, as his appointment is not under challenge in this application. As the applicant stands convicted in two vigilance cases, we cannot fault the action of

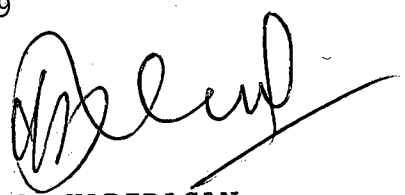
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the State Government in not recommending his name for appointment to the Indian Forest Service. However, it would be open for the applicant depending on the final result of the Criminal Appeal to seek appropriate relief if any in accordance with law.

4. The application therefore fails and the same is dismissed in limine. There is no order as to costs.

Dated the 27th day of April, 1999

  
B.N. BAHADUR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

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