

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**O.A.No.484/2007
Dated the 5th day of June, 2009**

CORAM :

**HON'BLE Dr K B S RAJAN, JUDICIAL MEMBER
HON'BLE Ms K NOORJEHAN, ADMINISTRATIVE MEMBER**

M V Somasundaram,
Superintendent of Police,
Vigilance and Anticorruption
Bureau Special Cell,
Kozhikode (Retired)
Residing at Aramam,
Nithyananda Nagar,
Pallikunnu, Kannur-670 004. ... Applicant

By Advocate Mr P V Mohanan

V/s

- 1 Union of India,
Represented by Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2 State of Kerala,
Represented by Chief Secretary,
Government Secretariat,
Thiruvananthapuram.
- 3 The Accountant General (A&E),
Kerala P.B.No.5607, MG Road,
Thiruvananthapuram-695 039. ... Respondents

By Advocates Mr TPM Ibrahim Khan SCGSC(R1)
Mr R Premkar (R-2)
Mr P Nandakumar (R-3)



This application having been heard on 5th June, 2009, the Tribunal on the same day delivered the following

(ORDER)

Hon'ble Dr K.B.S.RAJAN. Judicial Member

The applicant was eligible for consideration for selection to IPS (Kerala Cadre) as on 1.1.1997 and thereafter. The Committee for selection for the year 2001 to 2003 could meet only on 24.12.2003 and notification of select list for 2001 in which the name of the applicant was reflected was issued only on 8.4.2004. The applicant was appointed to IPS Kerala Cadre by order dated 17.4.2004. Meanwhile from the State Service, he had superannuated on 30.4.2002. Thus, according to the applicant he is entitled to count the period from 1.5.2002 to 20.4.2004 when he was kept away from duty, as duty period, and that he is entitled to regularisation of the said period for all purposes including pay and allowances. His claim in this OA is for such regularisation and for a direction to the respondents to disburse the arrears of pay and allowances.

2 The respondents have contested the OA. While the facts as stated above are not denied by them, the respondents have only contented that in an identical case in OA 827/02, tribunal had passed an order allowing the OA for such a claim and appeal against the same by the respondents in Writ Petition No.39392/03 was not successful. Special Leave Petition © No.5494/07 filed by the respondents was pending as on the date of filing reply. They have therefore stated that the applicant is not eligible for the relief prayed for.

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3 Counsel for applicant submitted that this case is covered by decision of this Tribunal in OA 441/08 and 442/08. An identical order may be issued. Counsel for the respondents has not denied the fact that the case in question is identical to the earlier cases referred by the counsel for applicant. Arguments were heard and documents perused.

3 At the outset it may be stated that though the SLP 5494/07 was pending at the time of filing of counter, the same stands dismissed by the Hon'ble Supreme Court vide order dated 30.3.2009.

4 The orders passed in identical cases (OA No.441/08 and 442/08) were as follows:-

The applicants in these OAs are aggrieved on the refusal by the respondents in acceding to their request of fixation of pay in the Senior Time Scale of pay against substantive vacancy of IFS cadre from 1st January of the year of selection and payment of arrears of pay and allowances with attendant increments.

2. *Briefly stated the facts of the case of the applicants are as under:*

A) **Applicant in OA 441 of 2008 :**

The applicant in this OA was selected for appointment to IFS cadre and was included in the select list for the year 2002. This selection however, took place only after his retirement from the State Forest Service on 31.3.2003. Thus, the applicant came to be appointed in IFS cadre on 29.4.2004 and he superannuated from the IFS cadre on 31.3.2008. According to the applicant, he is entitled to have his pay fixed in the Senior Time Scale of pay in IFS cadre from 2000 and consequently his fixation of pay in Junior Administrative Grade from the date should also follow. Again, the applicant expects that the period from 1.4.2003 to 28.4.2004 should also be regularized as duty for all purposes including pay and allowances.

B) **Applicant in OA 442 of 2008 :**

The applicant in this OA was selected for appointment to IFS cadre and was included in the select list for the year 1999. This selection however, took place only after his retirement from the State Police Service on 30.9.2001. Thus, the applicant came to be appointed in IFS cadre on 17.12.2004/14.1.2005 and he superannuated from the IFS cadre on 13.9.2006. According to the applicant, he is entitled to have his pay fixed in the senior time scale of pay in IFS cadre from 1999 and consequently his fixation of pay in Junior Administrative Grade from the



date should also follow. Again, the applicant expects that the period from 1.10.2001 to 13.1.2005 should also be regularized as duty for all purposes including pay and allowances.

3. Respondents have contested the Original Applications. According to them when selection to IFS takes place posterior to the date of retirement from the State Forest Service of an individual, such individuals are not entitled to pay and allowances for the period they have not worked and according to DOP&T vide order dated 09/11/2006 (Annexure R1) the clarifications in this regard are as under:

i) Since SFS officers have not worked on the post of IFS from the date of their retirement from State Forest Service on attaining the age of superannuation till the date of joining as IFS, there shall be no pay for no work. Therefore, such officers shall be entitled for fixation of their pay with effect from the date of joining as members of IFS and not from the date of inclusion of their names in the Select List or from the date of their retirement from SFS.

ii) The intervening period from the date of retirement from SFS on attaining the age of superannuation to the date of assuming charge as IFS officer after issue of orders of their appointment may be treated as dies-non.

iii) The period the officers have not worked in the Service will not count towards Service and hence cannot be regularised."

Further according to the respondents for the purpose of fixation of pay, such officers would be eligible for notional increments, but for their retirement from SFS (Annexure A-11 dated May, 2006 in respect of SPS officers after their appointment in IPS). The date of appointment cannot be pre-poned as other officers senior to the applicants would have been appointed on subsequent dates. The applicants are entitled only for notional fixation of pay based on the inclusion of their names in the select list of their respective years of selection and have their pay fixed for the purpose of pensionary benefits accordingly. In so far as intervening period from the date of retirement from SFS to the assumption of charge as an IFS officer is to be treated as dies non on the principle of 'no work no pay'.

4. With reference to the applicant in OA 441 of 2008 the respondents have stated that at the time of retirement from State Forest Service the applicant's basic pay was Rs. 14,100/- in the scale of pay of Rs. 12,600-15,600/- in the post of Assistant Conservator of Forest (Senior Grade). The pay of the officer was fixed at Rs. 12,925/- with effect from 29.4.2004 in the senior scale of IFS of Rs. 10,000-15,200/- and thus fixation was done in accordance with Section (I) of Schedule (II) of Indian Forest Service (Pay) Rules, 1968. The fixation was subject to further condition laid down in Rule (8) of Section (I) of Schedule (II) of IFS (Pay) Rules, 1968 which states, "[N]otwithstanding anything contained in any clause in this Section, the basic pay of a promoted officer of the Indian Forest Service Time Scale shall not at any time exceed the basic pay he would have drawn on the Indian Forest Service Time Scale as a direct recruit on that date if he had been appointed to the Indian Forest Service on the date he was appointed to the State Forest Service".

4.1 In the case of above applicant the respondents have further stated as under:

Though his pay can be fixed at Rs. 14,225/- in the senior scale of IFS on 29.4.2004 with respect to the pay in State Service post on applying the limitation of pay with respect to the regular recruits as laid down in Rule 8 Section I, Section II of IFS (Pay) Rules ibid and also in

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accordance with Government of India, Department of Personnel and Training's letter No. 20015/1/2000-AIS (II) dated May, 2000 disallowing Personal Pay of a promotee officer in the All India Service Time Scale of pay, his pay was finally fixed at the stage of Rs. 12,925/- in the scale of pay of Rs. 10000-15200/- with effect from 29.4.2004, the date on which the petitioner was appointed to Indian Forest Service. Hence, the pay fixed in the IFS cadre was less than the pay of the petitioner was drawing in the State Forest Service. There is no irregularity in the matter.

Though earlier in May, 2006 it was clarified that the break between the date of retirement from State Police Service and date of joining in IPS could be counted for the notional regulation of pay, no such orders were issued in respect of IFS officers for reckoning the period of break notionally for the purpose of regulation of increments in State Forest Service.

5. In so far as the applicant in OA 442 of 2008, respondents, in paragraph 10 of their reply, have stated as under:

The Rules of Fixation of Pay of State Forest Service Officers on their appointment to IFS are laid down in Section I Schedule II of IFS Pay Rules, 1954 subject to amendments issued subsequently. In terms of these rules the pay of the applicant was initially fixed at Rs. 14,225/- with effect from 14.1.2005 in the Senior Scale of Rs. 10000-15200/- with date of next increment on 1.1.2006 raising the pay at Rs. 14,550/- without reckoning the intervening period. On the basis of clarification issued by Ministry of Home Affairs in letter dated 2.5.2006 ibid the pay of the applicant was fixed at Rs. 15,750/- with effect from 14.1.2005 in the junior administrative grade scale of Rs. 12000-375-16500/- applying the provisions in Rule 8 of Section I of AIS Rules read with OM No. 20015/1/2000 AIS II of Government of India dated 13.1.2005 reckoning the period of break from 1.10.2001 to 13.1.2005 notionally. As per Rule 8, the basic pay of a promoted officer in the Indian Forest Service time scale shall not at any time exceed the basic pay he would have drawn in the IFS time scale as a direct recruit on that date if he had been appointed to IFS on the date he was appointed to the State Forest Service. However, on the basis of Government order dated 15.1.2007 issued by Government of Kerala the pay of the applicant as on 14.1.2005 was reduced to its original rate of Rs. 14,225/- and re-regulated the pensionary claims also based on this lower rate of pay initially fixed.

6. The applicant in OA 441 of 2008 filed the rejoinder stating as under:

The Pay drawn by the applicant at the time of retirement from State Forest Service on 31.3.2002 was Rs. 14100/. The above aspect is pleaded in paragraph 6 of the OA. Had applicant remained in State Service, the pay would have been Rs. 14425/- as on 29.4.2004. The pay has to be fixed at Rs. 14225/- in IFS cadre (Senior Scale) on 29.4.2004, protecting the last pay. The pay of the direct recruit, Noyal Thomas (1991 DR batch) on 29.4.2004 was 14300/- in the scale of pay of Rs. 14300-400-18300/- (Selection grade). Shri Noyal Thomas was promoted to Selection Grade in the year 2004. The fixation of pay of Sri Noyal Thomas at Rs. 14300/- as on 1.1.2004 cannot be disputed by the respondent. Therefore, at the time of appointment of the applicant to IFS (Kerala) cadre on 29.4.2004, the pay should have been fixed at Rs. 14225/- at a stage in the time scale of pay of Rs. 10000-325-15200/- which does not exceed the pay of Shri Noyal Thomas as on that date (Rs. 14300/-) and therefore, clause 8 of Section 1 of Scheduled II of IFS (Pay) Rules has not been overlooked. It is not known on what basis the pay is fixed at Rs. 12925/- in the time scale of pay of Rs. 10000-15200/- w.e.f. 29.4.2004 in the case of the applicant. This fixation is far below the last pay drawn in State Forest Service, namely Rs. 14100/. No explanation is forth coming in the reply affidavit. It is only stated in the reply that the personal pay of

the promoted officer has to be disallowed. Even if the personal pay (Rs. 250/-) granted in IFS (cadre) is with held or disallowed, the pay would have been Rs. 14225/- - Rs. 250/- and not Rs. 12925/-. Therefore, the fixation sought to be made as explained in paragraph 5 of the reply statement is without any basis. It has been stated in paragraph 9 that while fixing pay of the applicant, his pay was limited to that of one Shri Noyal Thomas, IFS direct recruit of 1991 batch in terms of Rule 8 of Section 1 Scheduled II of IFS pay rules. No explanation is forthcoming..

In addition to the above he has stated that it has been ruled by this Tribunal and the Apex Court that period of out of service has to be regulated as if in service for the purpose of fixation at least notionally. Hence, the period from 1.4.2003 to 28.4.2004 has to be regulated as on duty for the purpose of fixation of pay notionally with attended increments as declared by the High Courts in an identical case of UPSC Vs. A.K. Saleem, 2008 (11) SCC 495. It has also been stated by the applicant that as per the judgment of Apex Court reported in 2007 (7) SCC 689 principle of no work no pay shall not be imported in a case of this nature.

7. In so far as OA 442 of 2008, the applicant has stated as under:

"The issue arises for consideration is no more re-integra in the light of the judgment rendered by the Apex Court 2008 (11) SCC 495 and the judgment in OA No. 595/2006 and 589/2006. In fact the pay of the applicant was initially fixed at Rs. 14225/- w.e.f. 14.1.2005 in the Senior Time Scale of Rs. 10000-15200/- with the date of next increment as on 1.1.2006 placing the pay at Rs. 14550/-. The pay was further fixed at Rs. 15750/- w.e.f. 14.1.2005 in the scale of pay of Rs. 12000-14500/- by reckoning the period from 1.10.2001 to 13.1.2005 notionally. This fixation is correctly done and based on which the pension was recommended. With out notice, this fixation has been canceled in view of Annexure A9 order. Annexure A9 order cannot be pressed into service in view of the judgment of the Apex Court reported in 2007(7) SCC 689. Due to the irregular fixation of pay contrary to Rule 8 of Scheduled II of IFS (Pay) Rules, the pension of the applicant was scaled down from Rs. 12066/- to Rs. 10889/-. Therefore, the contention raised in the reply filed by the 3rd respondent has to be rejected out right."

8. Counsel for the applicants has submitted that the respondents have committed mistake in not fixing the pay of the applicants at the time of selection to IFS. He has also submitted that the period when the applicants were kept out of duty was for no fault of the applicants and the entire delay in selection is attributable to the respondents and as such the respondents should have considered fixation of pay taking into account the period when the applicants were out of service. Reliance on the judgments referred to in the rejoinder of the two applicants were also made by the applicants' counsel.

9. Counsel for the respondents on the other stated that as the applicants did not perform any duties when they were out of service the question of payment of pay and allowances does not arise. As regards the other point of fixation of pay notionally, he has reiterated the contentions made in the counter.

10. Arguments were heard and documents perused.

11. The main objection by the respondents in respect of the claim by the applicants is that vide order dated 09/11/2006 (Annexure R1), IFS Officers promoted from State Forest Service would not be eligible for pay during the period from the age of their superannuation in the State Forest Service till the date of their joining as IFS. Such period shall also not be reckoned as qualifying service. In the reply by the 3rd respondent viz., the

Accountant General (A & E) has, vide Para 7 of their counter, it has been contented that in accordance with directions issued by the Government of India, Ministry of Environment and Forest in letter dated 09/11/2006 (Annexure A16), the Government of Kerala has ordered vide G.O. Dated 15/01/2007 (Annexure A17) that the intervening period between the date of retirement from service and the date of assumption of charge in IFS is treated as dies-non and the period the applicants have not worked in service will not count towards service and cannot be regularised. They shall be entitled to the fixation of their pay with effect from the date of joining of the IFS only.

12. The above contention will go to show that entire reliance has been placed by the respondents on the aforesaid Government of India letter dated 09/11/2006 (Annexure A16) as if the said order still subsists. Vide O.A. 589 & 595 of 2006, the aforesaid order was impugned along with some other orders. Discussion as to the validity of the above order dated 09/11/2006 in order dated 23/07/2008 in the aforesaid O.A. is as here under:-

2.7 Finally, the Union Government (respondent No.3) vide its letter dated 9.11.2006 (Annexure A-19) informed the State Government that:

“..the request of the applicant and similarly placed persons to grant them retrospective appointment to IFS (i.e. w.e.f. the date of effect of select list) cannot be acceded to for the following reasons:

- (i) Since they have not worked on the post of IFS from the date of their retirement from State Forest Service on attaining the age of superannuation till the date of joining as IFS, there shall be no pay for no work. Therefore, such officers shall be entitled for fixation of their pay with effect from the date of joining as members of IFS and not from the date of inclusion of their names in the select list or from the date of their retirement from SFS.
- (ii) The intervening period from the date of retirement from SFS on attaining the age of superannuation to the date of assuming charge as IFS officer after issue of orders of their appointment is treated as dies non.
- (iii) The period they have not worked in the service will not count towards service and hence cannot be regularised.”

The State Government vide Annexure A-18 impugned order dated 15.1.2007, informed the applicant that his request for appointment to IFS with retrospective effect from the date of effect of the Select List with all consequential benefits and for regularising the period which he was not in service was considered along with similar requests from S/Shri M.I. Varghese IFS (Retired), Patric Gomez IFS and P Muraleedharan Nair IFS (Retired), but the Government of India has not agreed to it. Thereafter, the Accounts Officer, Indian Audit Department, Thiruvananthapuram vide Annexure A-20 dated 8.3.2007 referring to the Annexure A-18 letter dated 15.1.2007 informed the applicant that his pay as on 26.10.2004 has been refixed as Rs.14,550/. Along with the said letter, the pay slip dated 8.3.2007 (Annexure A-21) reducing his pay to Rs.31,323/- from Rs.33,328/- was also served on the applicant.

2.8 The applicant has, therefore, filed the present O.A seeking the following reliefs:

- i) To call for the records leading to Annexure A-18 GO dated 15.1.2007, Annexure A-19 Government of India letter dated 9.11.2006, Annexure A-20 dated 12.3.2007 and Annexure A-21 dated 8.3.2007 and to set aside the same.

- ii) To issue appropriate direction or order directing the respondents to assign 1.1.1999 as the date of appointment of the applicant to Indian forest Service having been appointed from the Select List of the year, 1999 and to grant him fixation of pay in the Indian Forest Service reckoning his service from 1.1.1999 and to make available the arrears of pay and allowances with interest within a time frame that may be fixed by this Tribunal.
- iii) To issue appropriate direction or order directing the respondents to assign year of allotment reckoning his service in the Indian Forest Service from 1.1.1999 in terms of Rule 3 of the IFS (Regulation of Seniority) Rules, 1997.
- iv) To issue appropriate direction or order directing the respondents to regularise the period of absence from 31.5.2002 to 26.10.2004 as duty in the Indian Forest Service for all purposes and to grant him arrears of pay and allowances with interest within a period that may be fixed by this Tribunal.
- v) To issue appropriate direction or order directing the respondents to promote the applicant in the Junior Administrative Grade with effect from the date of his entitlement as determined on assigning the year of allotment in terms of Annexure A-14 guidelines and to make available the arrears of pay and allowances that would become due to him on his promotion to Junior Administrative Grade with interest within a period that may be limited by this Tribunal and to expedite steps for preparation of and completion of pension papers and to forward the same to the Accounts Officer in terms of the provisions of Rules 56 to 61 of the CCS (Pension) rules.

3.2 The 1st respondent has also issued Annexure A-18 G.O(Rt) No.388/07/GAD dated 15.1.2006 stating that the Government of India (3rd respondent) has issued a letter dated 9.11.2006 (Annexure A-19) clarifying that his request to grant retrospective appointment with effect from the date of select list cannot be acceded to, for the reasons that (i) since SFS officers have not worked on the post of IFS from the date of their retirement from SFS on attaining the age of superannuation till the date of joining as IFS, there shall be no pay for no work and, therefore, such officers shall be entitled for fixation of their pay with effect from the date of joining as members of IFS and not from the date of inclusion of their names in the select list or from the date of their retirement from SFS, (ii) the intervening period from the date of retirement from SFS on attaining the age of superannuation to the date of assuming charge as IFS officer after issue of orders of their appointment is treated as dies non and (iii) the period the officers have not worked in the service will not be counted towards service and hence cannot be regularised.

4. We have heard Shri O.V.Radhakrishnan, senior counsel for applicant, Shri TPM Ibrahim Khan, SCGSC for R. 3 & 4 and Shri R Prem Shanker, G.P for R.1 2 & 5 respectively. Shri O.V.Radhakrishnan submitted that the issue involved in this O.A are no longer *re integra*. We fully agree with the submissions made by Shri Radhakrishnan. No doubt, the applicants in these O.As are similarly placed as N.P.Balakrishnan (supra), P.K.Lambodharan Nair (supra), K.J. Thomas (supra) and therefore, they are entitled for similar reliefs.

5. We, therefore, allow both these O.As and pass the following orders:

The Annexure A-19 letter dated 9.11.2006 of the respondent No.3 and the consequential Annexure A-18 order No.GO(Ft) No.388/2007/GAD dated 15.1.2007 of the respondent No.1 rejecting the request of the applicant in O.A.589/2006 to grant him retrospective appointment to IFS (i.e. with



effect from the date of effect of select list), are quashed and set aside. The consequentially the Annexure A-20 letter dated 8.3.2007 and Annexure A-21 pay slip dated 8.3.2007 are also quashed and set aside. Similarly, the Annexure A-12 oder dated 31.5.2007, Annexure A-13 order date 19.7.2006, Annexure A-14 pay slip dated 31.5.2005 and the Annexure A-20 letter dated 8.3.2007 in O.A.595/2006 are quashed and set aside. The respondent No.4. Viz, the Union of India, represented by its Secretary, Ministry of Environment & Forests, Paryavaran Bhavan, New Delhi is directed to assign the year of allotment to the applicant in O.A.595/2006 to IFS from 1996-1997 and to the applicant in O.A.589/2006 from 1.1.1999 in terms Rule 3 of the IFS (Regulation of Seniority) Rules, 1997 to IFS having been appointed from the select list for the year 1996-97 and from the select list for the year 1997 respectively. Respondent No.4, the State of Kerala is represented by its Chief Secretary is directed to regularise the period of absence of the applicant in O.A. 589/2006 from 31.5.2002 to 26.10.2004 and that of the applicant in O.A.595/2006 from 31.10.2002 to 29.3.2005 as duty in the IFS for all purposes and to grant them arrears of pay and allowances. Respondents are also directed to consider the applicants for promotion to the Junior Administrative Grade with effect from the date of their entitlement as determined on assigning the year of allotment in terms of Annexure A-14 guidelines and to pay him arrears of pay and allowances that would become due to him on such promotion. Their pensionary benefits shall also to be revised accordingly. The aforesaid directions shall be carried out within three months from the date of receipt of this order.

13. The applicant in his M.A. No.855/2008 has furnished a copy of the above order vide M.A.1. The aforesaid order was challenged in W.P. (C). No.5791/2009 and the Hon'ble High Court of Kerala has passed the following order vide order dated 24/02/2009 as under:-

"Admit.

Assistant Solicitor General appeared for respondents 2 to 4. Issue notice to R1.

Interim stay, is prayed for, is issued, on condition that if the Writ Petition is dismissed, the petitioners will pay the amount due to the 1st respondent with 10% interest from today."

14. The question now is as to whether on account of stay of this Tribunal's order dated 23/07/2008 in O.A. No.589/06, the said order could be treated as a precedent to follow in the instant cases. In the case of Shree Chamundi Mopeds Ltd. Vs. Church of South India Trust Assn., (1992) 3 SCC 1, the Apex Court has held as under:-

"While considering the effect of an interim order staying the operation of the order under challenge, a distinction has to be made between quashing of an order and stay of operation of an order. Quashing of an order results in the restoration of the position as it stood on the date of the passing of the order which has been quashed. The stay of operation of an order does not, however, lead to such a result. It only means that the order which has been stayed would not be operative from the date of the passing of the stay order and it does not mean that the said order has been wiped out from existence. This means that if an order passed by the Appellate Authority is quashed and the matter is remanded, the result would be that the appeal which had been disposed of by the said order of the Appellate Authority would be restored and it can be said to be pending before the Appellate Authority after the quashing of the order of the Appellate Authority. The same cannot be said with regard to an order staying the operation of the order of the Appellate Authority because in spite of the said order, the order of the

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Appellate Authority continues to exist in law and so long as it exists, it cannot be said that the appeal which has been disposed of by the said order has not been disposed of and is still pending."

15. In view of the above, it can be safely stated that notwithstanding an ad-interim stay by the High Court order dated 23/07/2008 in O.A. No.589 of 2006, the said order of the Tribunal can be taken as a precedent as the said order has not been quashed or set aside. This Tribunal is of the considered view that the ratio in the aforesaid order of the Tribunal dated 23/07/2008 should be applied to the case of the applicants herein since the applicants in this Original Applications are identically situated as those in the aforesaid O.A. No.589/2006 and 595/2006. In view of the above the O.A. has to be allowed. The benefits available to the identically situated officers as in the other Original Applications referred to above (as also to the officers whose cases are referred to in the above order of the Tribunal) are equally available to the applicants herein. The O.A. is therefore allowed and the following directions are passed:-

O.A. 441/2008:-

(a) It is declared that the applicant is deemed to have officiated in the Indian Forest Service (Kerala) Cadre on promotion quota in the Senior Time Scale of pay from the year 2000 onwards against substantive vacancies of IFS Cadre as on 01/01/2000 and he is entitled to consequential benefits thereof including fixation of pay and allowances with attended increment and terminal benefits based on the last pay drawn taking into account the aforesaid benefits.

(b) The respondents are directed to regularise the period from 01/04/2003 to 28/04/2004 for the purpose of pay and allowance and increments in Senior Time Scale to pay/JAG in IFS Cadre for all service purpose including pension.

(c) Annexure A19 order dated 13/06/2007 is quashed and set aside in so far as it declines the fixation of pay in Senior Time Scale in IFS Cadre by protecting pay in the State Forest Service.

O.A. 442/2008:-

(a) It is declared that the applicant is deemed to have been officiated in the Indian Forest Service (Kerala) Cadre on promotion quota in the Senior Time Scale of pay from the year 1999 onwards against substantive vacancies of IFS Cadre as on 01/01/1999 and he is entitled to consequential benefits thereof including fixation of pay and allowances with attended increment and terminal benefits based on the last pay drawn taking into account the aforesaid benefits.

(b) The respondents are directed to regularise the period from 01/10/2001 to 13/01/2005 for the purpose of pay and allowance and increments in Senior Time Scale to pay/JAG in IFS Cadre for all service purpose including pension.

(c) Annexure A18 order dated 08/03/2007 and Annexure A19 order dated 29/10/2007 are quashed and set aside.

5 The above order applies to the facts of this case in toto and as such, we are inclined to follow the same. Accordingly, this OA is allowed.

[Signature]

6 The respondents are directed to regularise the period from 1.5.2002 to 20.4.2004 as on duty for all purposes including pay and allowances and disburse the arrears of pay and allowances to the applicant. This order be complied with within a period of three months from the date of communication of this order. Pension and other terminal benefits may also be calculated accordingly and revised PPO issued.


K NOORJEHAN
ADMINISTRATIVE MEMBER


K B S RAJAN
JUDICIAL MEMBER

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