

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 113 of 2010

Wednesday, this the 17th day of March, 2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Sri. Babu Bonaventure. A.M., aged 54 years,
Arakkal House, Poriyani, Mundoor. P.O.,
Palghat - 678592, Presently working as
Deputy Conservator of Forests (Non Cadre),
Social Forestry, Palghat.

Applicant

(By Advocate – Mr. P.K. Manoj Kumar)

V e r s u s

1. Principal Chief Conservator of Forests, Forest Head Quarters, Vazhuthacaud, Thiruvananthapuram.
2. State of Kerala, represented by the Chief Secretary, Secretariat, Thiruvananthapuram.
3. Union of India, represented by Secretary to Government of India, Ministry of Environment and Forests, New Delhi.

Respondents

**[By Advocate – Mr. N.K. Thankachan, GP (R1&2) &
Mr. Sunil Jacob Jose, SCGSC (R3)]**

This application having been heard on 17.3.2010, the Tribunal on the same day delivered the following:

O R D E R

By Hon'ble Mr. Justice K. Thankappan, Judicial Member -

The applicant prays in this Original Application to direct the first respondent to issue an integrity certificate to the applicant for the year 2008 for consideration of his name for conferment of IFS on promotion



quota and further it is prayed that the inclusion of three cases in Annexure A-1 shall be declared as irregular and illegal rather that portion may be quashed.

2. The applicant is now working as Deputy Conservator of Forest, Social Forestry, Palghat. Now as per Annexure A-1 the State Government prepared the list of eligible forest officials to be included in this list for selection to the IFS cadre by promotion for the year 2008-09. In the said list it is recorded that three cases are pending against the applicant as B-7-23894/2, B-1-13338/84 and B-1-37098/96, respectively. Further the list prepared by the State Government to be submitted before the Union Public Service Commission ('UPSC' in short) and the Central Government for selection to the post of IFS by way of promotion, the State Government has not issued the required integrity certificate to the applicant. Hence, the applicant filed this Original Application.

3. This Original Application has been admitted by this Tribunal and notice has been issued to the respondents. Though a notice has been received on behalf of third respondent, no reply statement has been filed on behalf of the Government of India, Ministry of Environment and Forests. However, on behalf of the first and second respondents a statement has been filed before this Tribunal on 16th March, 2010.

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4. We have heard learned counsel appearing for the applicant Mr. P.K. Manoj Kumar, learned counsel appearing for the respondents 1&2 Mr. N.K. Thankachan and counsel appearing for the respondent No. 3 Mr. Sunil Jacob Jose. We have perused the records now produced before this Tribunal. Learned counsel appearing for the applicant had taken two main contentions before this Tribunal. Firstly the counsel submits that entry in Annexure A-1 regarding the pendency of disciplinary proceedings and criminal cases against the applicant are not correct as disciplinary proceedings is over by imposing a minor penalty of barring of one increment without cumulative effect. As far as the criminal cases are concerned, the counsel relies on Annexure A-3 order of the Inquiry Commissioner and Special Judge, Kozhikode, which would show that the vigilance case registered against the applicant as CC 6 & 7 of 1999 has been tried and the applicant has been acquitted. Hence, there is no case pending against him. Further the counsel appearing for the applicant submits that even if any case has been pending which was the subject matter prior to the drawing of the list is not a reason for denying the integrity certificate to the applicant as the cases were for prior to the period in question and for this the counsel for the applicant also relies on Annexure A-5 judgment of the Hon'ble High Court of Kerala passed in Writ Appeal No. 2223 of 2009 wherein a similarly placed officer was the appellant and the Hon'ble High Court held that pendency of any disciplinary proceedings prior to the period in question shall be ignored and integrity certificate shall be issued to that appellant. Hence, hitherto the previous records, the service



records and other particulars of the service of the applicant are clear and the applicant is entitled for the relief which he claimed in this Original Application.

5. To the above argument the counsel appearing for the respondents 1& 2 Mr. N.K. Thankachan relying on the reply statement filed, contends that prior to drawing of Annexure A-1 list two criminal cases were pending before the Vigilance Commissioner and Special Judge, Kozhikode against the applicant and on that score respondents 1&2 have justification in not granting the integrity certificate. Hence, according to the counsel for the respondents 1& 2 recording in Annexure A-1 regarding the pendency of the disciplinary proceedings as well as the criminal cases against the applicant is based on facts.

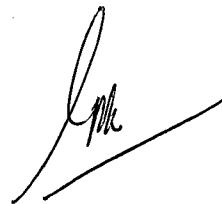
6. Considering the facts revealed in this Original Application and the contentions taken by the respective counsel for the parties, the question to be decided is that whether the applicant is entitled for the reliefs which he claimed or not. We have considered the contentions of the counsel for the applicant and it is found that when Annexure A-1 is drawn the disciplinary proceedings as well as the criminal cases were subsequent to Annexure A-1. The disciplinary proceedings initiated against the applicant was also over by imposing a minor penalty of barring one increment without cumulative effect. Hence, the reasons stated by the counsel appearing for the respondents that only because of the pendency of the disciplinary

proceedings the integrity certificate has been denied to the applicant, cannot be justified and it is also admitted fact before us that against the minor penalty imposed against him by the Government, the applicant has filed appeal, though it was rejected. There is no case pending against the applicant as it is seen from the statement filed on behalf of the respondents as stated in paragraph 7 of the statement to the effect that "it is true that there are no cases pending against the applicant". Further stand taken in the reply statement is that the non-pendency of any case against the applicant or the completion of the disciplinary proceedings may not be a reason for entitling the applicant for integrity certificate. The integrity certificate is denied only because of the recording in Annexure A-1 list. But we have seen that the above recording of the pendency of the disciplinary proceedings or the criminal cases are not basis at present and it is also to be noted that the UPSC or the 3rd respondent has not taken any steps for convening the committee meeting for selection to the post. Further we have seen from Annexure A-5 judgment of the Hon'ble High Court of Kerala wherein it is ordered that integrity certificate shall not be refused only on account of disciplinary proceedings based on an incident which took place years back.

7. Considering all these aspects, we are of the considered view that the Original Application can be allowed by declaring that only because of the recording in Annexure A-1, the integrity certificate cannot be denied to the applicant. Hence, we direct the 2nd respondent to consider the case



of the applicant for issuing an integrity certificate at the earliest at any rate within 15 days from the date of receipt of a copy of this order and forward the same to the concerned authorities. There shall be no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


K. Thankappan

(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

“SA”