

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.139/04

Tuesday this the 22nd day of June 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

(By Advocate Mr.O.V.Radhakrishnan)

Versus

1. Union of India represented by its Secretary, Ministry of Environment & Forests, Pariavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110 003.
2. Union Public Service Commission represented by its Chairman, Dholpur House, Shahjahan Road, New Delhi - 110 069.
3. Selection Committee set up in accordance with Regulation 3 of the IFS (Appointment by promotion) Regulations 1966, represented by the Chairman of the Commission, Dholpur House, Shahjahan Road, New Delhi - 110 069.
4. State of Kerala, represented by its Chief Secretary, Secretariat, Thiruvananthapuram - 695 001.
5. Principal Secretary, Forests and Wild Life Department, Secretariat, Thiruvananthapuram - 695 001.
6. Principal Chief Conservator of Forests, Forests and Wild Life Department, Forest Head Quarters, Vazhuthacaud, Thiruvananthapuram - 695 014.

(By Advocate Mrs. Mariam Mathai, ACGSC [R1-3]
& Mr. Renjith A, GP [R4-6])

This application having been heard on 22nd June 2004 the Tribunal on the same day delivered the following :

O R D E R

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

The applicant a member of the State Forest Service presently working as Deputy Conservator of Forests (non-cadre) in the Office of the Chief Conservator of Forests (World Bank Project), Forest Head Quarters, Thiruvananthapuram, has filed this application for the following reliefs :

1. to issue appropriate direction or order directing the respondents to arrange the convening of review Selection Committee for recasting the select list of the year 2000 and 2002 for appointment by promotion to IFS in the light of Annexure A-7 judgement of the Hon'ble High Court of Kerala by deleting the name of Sri.M.R.Vijayashimhan from the Select List of 2000 and including the name of Sri.Patric Gomez in the Select List of 2000 and by including the name of the applicant in the Select List of 2002 in the place of Sri.Patric Gomez presently included in the select list of 2002 expeditiously and at any rate, within a time frame that may be fixed by this Hon'ble Tribunal ;
2. to issue appropriate direction or order directing the respondents to appoint the applicant by promotion to IFS from the recast list of 2002 from the date of his entitlement with all consequential benefits including arrears of pay and allowances without any more delay ;
3. to grant such other reliefs which this Hon'ble Tribunal may deem fit, proper and just in the circumstances of the case ;
4. to award costs to the applicant.

It is alleged in the application that as by Annexure A-7 order the Hon'ble High Court of Kerala has held that M.R.Vijayashimhan was not eligible to be included in the select list of 2000, the applicant is entitled to be considered in the place of Patric Gomez for inclusion in the select list of 2002. The respondents do not contest the eligibility of the applicant

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for being considered for inclusion in the select list in place of Patric Gomez because his name had been included in the zone of consideration below Patric Gomez. In the additional reply statement filed by the respondents 2 & 3 it has been stated that the applicant's name has been considered by the Review Committee which met on 24.5.04 and the minutes of the Committee has been forwarded to the Central Government on 8.6.04. It is stated that the list has to be considered and approved by the U.P.S.C. and then only any order of appointment from the list would be issued.

2. We have perused the materials on record and have heard the learned counsel on either side. Now that the applicant's name has been considered for inclusion in the select list for the year 2002 and the minutes of the Committee has been forwarded to the Central Government, what remains is approval of the list and consequent orders of appointment to the I.F.S. from the list. Since the applicant in this case is to superannuate from the State Forest Service on 30.6.2004 the learned counsel of the applicant submits that appropriate direction be issued to the respondents to issue orders regarding appointment on the basis of the select list prepared by the Review Committee, before 30.6.04 and the interest of the applicant may be protected. Learned counsel appearing for the Union Government and the U.P.S.C. submitted that the select list will have to be approved by the UPSC and then only appointment from the list can be made observing the procedural formalities and therefore it may not be possible to issue orders before 30.6.2004.

3. The controversy in this case has narrowed down

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considerably as the applicant's name has been considered for inclusion in the list against vacancies of the year 2002 and the minutes of the committee has been forwarded to the UPSC with the comments of the State Government. Since the contents of the list has not been made known it cannot be now said whether the applicant's name has been included or not. However, under the circumstances taking note of the fact that the applicant is to retire from the State Forest Service on 30.6.2004 and that his interests if involved should be safeguarded, we are of the considered view that it would be appropriate if the O.A. is disposed of with proper direction regarding further action on the select list.

4. In the result the application is disposed of directing the respondents to finalise the further formalities on the select list prepared by the Review Committee pertaining to the vacancies of the year 2002 as early as possible and if the applicant's name has been placed in the select list and approved for appointment to issue order of appointment if practicable before 30.6.2004. We also declare and direct that, if the applicant's name has been included in the select list and is approved, and if order of appointment could not be issued before 30.6.2004, as the procedural delay should not be allowed to cause detriment to the applicant appointment should not be denied to him only for the reason that he ceased to be a member of the State Forest Service after 30.6.2004. No costs.

(Dated the 22nd day of June 2004)

H. P. DAS

ADMINISTRATIVE MEMBER

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A. V. HARIDASAN
VICE CHAIRMAN