

CENTRAL ADMINISTRATIVE TRIBUNAL  
ENAKULAM BENCH

O.A.No.170/2010

~~FRIDAY~~ this 12<sup>th</sup> day of November, 2010

CORAM:

HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Krishna Prasad,

S/o. Lakshmanan Pillai, Divisional Forest Officer,

Ranni,

Residing at V.R.A 70B, Vettamukku, Thirumala P.O.,

Thiruvananthapuram-6.

.. Applicant

By Advocate : Sri C.Rajendran

vs.

1. The Union of India, Represented by its Secretary,  
Ministry of Environmental and Forest  
Pariyavaran Bhavan, C.G.O. Complex,  
Lodhi Road, New Delhi.

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

3. The Principal Secretary,  
Forest, Government of Kerala,  
Secretariat, Thiruvananthapuram.

4. The Accountant General(A&E),  
Office of the Accountant General,  
State of Kerala, Thiruvananthapuram. .. Respondents

By Advocate: Sri M.K.Aboobacker, ACGSC (R1)

Sri N.K.Thankachan, GP(R2&3)

Sri P.Nandakumar(R4)

The Application having been heard on 03.11.2010, the Tribunal on 12.11.2010 delivered the following:-

ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN,JUDICIAL MEMBER:

Aggrieved by an order dated the 7<sup>th</sup> August,2009 issued by the Chief Secretary to the Government of Kerala, the applicant filed this O.A. with the following prayers:-

- "a. To call for the records leading to Annexure A9 and to quash/set aside the same.
- b. To regularize the service of the applicant for the period from 01/03/2008 to 23/01/2009, being the date of retirement and date of induction in IFS respectively.
- c. To direct the respondents to give the monetary benefits to the applicant for the intervening period commencing from 01/03/2008 to 23/01/2009 with 12% interest.
- d. To direct the respondents to the salary of the applicant as if he was in Indian Forest Service with effect from 01/01/2006.
- e. Award the cost of these proceedings."

2. The few facts which are necessary for the decision of the O.A. are as follows. While the applicant was working as the Divisional



Forest Officer in the State Forest Service, he became eligible to be included in the list of candidates for selection to the Indian Forest Service (IFS), Kerala Cadre for the year 2007. However, in spite of the inclusion of the name of the applicant in the proposed list sent by the State Govt. to be filled up for the vacancies which arose as on 1.1.2006, without any result, the applicant retired from service on 29.2.2008. The Applicant filed O.A.No.411/2007 for a direction to the Union Public Service Commission, the Govt. of India and the State Govt. to complete the procedural formalities for giving appointment to the applicant to IFS cadre. The said O.A. has been disposed of by this Tribunal directing the Union Public Service Commission to convene the Selection Committee Meeting within one month from the date of receipt of the proposal from the State Govt. and in any case before the end of the calendar year 2007. However, the selection was only completed and the applicant was appointed in the IFS cadre of the Kerala State as per the notification dated 23.1.2009. Since there was considerable delay in convening the Selection Committee Meeting, the applicant filed M.A.Nos. 341 and 808/2008. M.A.No.341/2008 was disposed of by this Tribunal observing that the respondents will expeditiously complete the rest of the



.4.

procedure so that the applicant, if selected, will be appointed. M.A.No.808/2008 was also disposed of by this Tribunal by directing the respondents to complete the further proceedings of selection and to give a posting to the applicant in the IFS cadre within the time frame fixed by this Tribunal. Finally by virtue of the notification dated 6.1.2009 the applicant was appointed vide G.O.(Rt) No.659/09/GAD dated 23.01.2009. Since there was considerable delay in giving appointment and a posting to the applicant the applicant filed a representation before the Chief Secretary to the Govt. of Kerala and as the applicant has already filed M.A.No.808/2008 for getting the monetary benefits for the intervening period from the date of the retirement of the applicant from State Forest Service till the date of appointment to the IFS cadre and as the same was disposed of by this Tribunal directing the respondents to take a decision in the matter regarding payment of monetary benefits to the applicant, the Chief Secretary, State of Kerala has passed an order dated 7<sup>th</sup> August, 2009, which is impugned in this O.A.

3. The O.A. has been admitted and notice has been ordered to the



respondents. On behalf of the respondents a reply statement has been filed justifying the impugned order. The stand taken in the reply statement is that though the applicant was appointed and posted as Divisional Forest Officer, Ranni on 23.1.2009 he is not entitled to claim the monetary benefits or regularization of the intervening period between his retirement from the State Forest Service and joining in the Indian Forest Service and the period can be only treated as dies non. The respondents also rely on Annexure R1 and R2 of the two clarification letters of the Ministry of Environment and Forests, Government of India by which it is stated that the intervening period cannot be regularized and the applicant is not entitled for the benefits which he claimed. Further it is stated that the two orders passed by this Tribunal in O.A.Nos. 589/2006 and 595/2006 are under challenge in W.P(C) Nos. 5791/2006 and 5888/2009.

4. We have heard the learned counsel appearing for the applicant and the Govt. Pleader appearing for the State Govt. The question raised in the O.A. has already been considered by this Tribunal in O.A.Nos.589/2006 and 595/2006. By the order dated 23<sup>rd</sup> July,2008

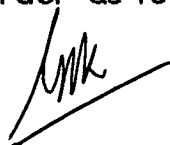


this Tribunal has allowed the O.As. granting the benefit of regularization of intervening period between the retirement from the Kerala State Forest Service and the appointment to the IFS cadre. Hence the counsel submits that the same yardstick can be adopted in the case of the applicant also. Apart from that the counsel submits that the above order passed by this Tribunal was on the basis of the judgment of the Apex Court given in Civil Appeal No.3648/2008 arising out of SLP No.21416/2007 of the Apex Court filed against the order passed by the Hon'ble High Court of Kerala in A.K.Salim's case. Further the counsel submits that the appointment of the applicant was delayed only because of the negligence, inaction and callous attitude of the respondents and there was no contribution at all from the applicant's side for that delay. Once the applicant had been selected for the post of 2006, the applicant ought to have been inducted with effect from the date of appearance of his name in the list for induction in the IFS cadre. Applying the above principle, the applicant is entitled for the reliefs. If so, according to the counsel for the applicant, Annexure A9 has to be quashed by this Tribunal and the O.A. may be allowed.

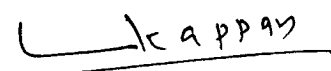
5. We have considered the case set up by the applicant and



the conclusions arrived at by this Tribunal in O.A.Nos. 585 and 595 of 2006. In the above cases, the same set of facts have been considered by this Tribunal and relied on the judgment of the Hon'ble High Court of Kerala in O.P.No.9476/2002. This Tribunal while considering the above Original Applications relied on the various decisions of the Hon'ble High Court of Kerala and arrived at a conclusion that the applicants therein are entitled for grant of their service regularization and consequential financial benefits. Applying the same principle, we feel that this Original Application has to be allowed. Accordingly we quash Annexure A9 order passed by the Chief Secretary and further we direct the respondents to pass appropriate orders allowing the intervening period between the retirement of the applicant from the State Forest Service to his appointment to the IFS cadre, namely between the period 1.3.2008 to 23.1.2009 as regularized for counting for monetary benefits and pension purpose. With the above directions the O.A. stands allowed without any order as to costs.



(K.GEORGE JOSEPH)  
MEMBER (A)



(JUSTICE K.THANKAPPAN)  
MEMBER(J)