

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.402/99

Wednesday, this the 6th day of October, 1999.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR J.L.NEGI, ADMINISTRATIVE MEMBER

1. N.Shamsuddin,
S/o M.N.Ravuthar,
Assistant Conservator for Forest,
Divisional Forest Office,
Timber Sales Division,
Perumbavoor.
2. P.P.John,
S/o P.S.Pyli,
Assistant Conservator of Forest,
Divisional Forest Office,
Palakkad. - Applicants

By Advocate Mr P.V.Mohanan

Vs

1. Union of India represented by
its Secretary,
Ministry of Environment and Forest,
C.G.O.Complex, New Delhi.
2. The Union Public Service Commission,
represented by its Secretary,
Shajahan Road,
New Delhi.
3. The Selection Committee for selection to the
Indian Forest Service Constituted under
Regulation 3 of IFS(Appointment by Promotion)
Regulation 1966, represented by
its Chairman,
Union Public Service Commission,
New Delhi.
4. State of Kerala represented by
its Chief Secretary to Government,
Thiruvananthapuram. - Respondents

By Advocate Mr S.K.Balachandran, ACGSC for R.1 to 3

By Advocate Mr C.A.Joy,G.P. for R-4.

The application having been heard on 6.10.99, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

The applicants seeks to direct the respondents to convene the Selection Committee forthwith for preparation of list of suitable officers for selection to the 17 posts in the cadre of Indian Forest Service(for promotion post) under Section 5 of the Indian Forest Service(Appointment by Promotion) Regulation, Rules 1966 and to consider the names of first and second applicants in the list of officers to be sent up to the Selection Committee for selection to Indian Forest Service by treating their regularised service in the cadre of Assistant Conservator of Forest with effect from 28.5.81 and 17.11.84 respectively.

2. When the O.A. was taken up, the learned counsel appearing for the applicant submitted that the relief sought to direct the respondents to convene the Selecton Committee forthwith for preparation of list of suitable officers for selection to the 17 posts in the cadre of Indian Forest Service(for promotion post) under Section 5 of the Indian Forest Service(Appointment by Promotion) Regulation, Rules 1966 need not be considered in this O.A. in the light of the order passed by this Bench of the Tribunal in O.A.1638/98 and connected O.As.

3. The learned counsel appearing for the applicants submitted that the applicants apprehend that the 4th respondent will not strictly adhere to the 3rd Proviso to Rule 5(2) of Indian Forest Service(Appointment by Promotion) Regulations, 1966 and without strict adherence to it if the service of the applicants counted, they will not get any opportunity for being considered for conferment of Indian Forest Service during their tenure.

4. The learned counsel appearing for the 4th respondent submitted that the 4th respondent will strictly comply with the third Proviso to Rule 5(2) of Indian Forest Service(Appointment by Promotion) Regulations, 1966 while sending the list of eligible officers.

5. The learned counsel appearing for the applicants brought to our notice the rulings in M.T.Philip Vs State of Kerala and others(O.P.No.14317/96) and S.Gopinath Vs State of Kerala and others,(O.P.No.19644/96) and submitted that on the basis of these rulings, the 4th respondent has issued A-10 order. It is also brought to our notice by the learned counsel for the applicants that provisions of the 3rd proviso to Rule 5(2) of the Indian Forest Service(Appointment by Promotion) Regulation, Rules and the 3rd proviso to Rule 5(2) of the Indian Police(Appointment by Promotion) Regulation, 1955 are practically identical. That being the position, while preparing and sending the list of eligible officers in compliance with the provisions of the third Proviso to Rule 5(2) of IFS(Appointment by Promotion) Regulation, 1966, the 4th respondent shall also bear in mind A-10 order issued by it.

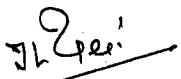
6. The learned counsel appearing for the applicant submitted that the 1st applicant is due to retire on 30.11.99 from his present post as he was born on 3.11.44 though by mistake in the O.A., it is stated that he was born on 3.11.45. From A-8 the provisional seniority list prepared by the 4th respondent, it is seen that the 1st applicant was born on 3.11.44.

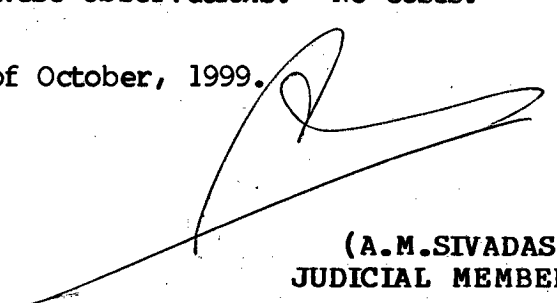
7. Since the first applicant has got only short period to retire from the State service, it is made clear that if the exercise

of appointment by promotion to the Indian Forest Service is not completed before his retirement, his retirement will not stand in the way of considering him, if he is otherwise eligible and qualified.

8. The O.A. is closed with these observations. No costs.

Dated, the 6th of October, 1999.


(J.L. NEGI)
ADMINISTRATIVE MEMBER


(A.M. SIVADAS)
JUDICIAL MEMBER

trs/71099

List of Annexures referred to in the Order:

1. A-8: True copy of order No.D2-13907/98 dated 10.7.98 issued by the Chief Conservator of Forests.
2. A-10: True copy of order No.70895/A2/97 Home dated 10.11.97 issued by the 4th respondent.