

Central Administrative Tribunal, Lucknow Bench, Lucknow  
Original Application No. 287 of 2007

This the 17<sup>th</sup> day of July, 2007

HON'BLE SHRI JUSTICE KHEM KARAN, VICE CHAIRMAN  
HON'BLE SHRI A.K. SINGH, MEMBER (A)

Inder Pal Singh, aged about 45 years son of Shri Amrik Singh,  
Resident of B-89, Subhash Nagar, Lucknow.

...Applicant

By Advocate: Shri Sandeep Dixit.

Versus

1. Union of India through the Secretary, Ministry of Environment, New Delhi.
2. Union Public Service Commission, through its Chairman, New Delhi.
3. The State of U.P., through its Principal Secretary, Department of Forests, Babu Bhawan, Civil Secretariat, Lucknow.
4. Principal Chief Conservator of Forests, 17, Rana Pratap Marg, Lucknow.

...Respondents.

By Advocate Shri Sudeep Seth for State of U.P.

Shri S.P. Singh for Union of India

Shri A.K. Vishwakarma B/h for Sri A.K. Chaturvedi  
For U.P.S.C.

Order

BY HON'BLE SHRI JUSTICE KHEM KARAN, V.C.

The applicant is a member of U.P. State Forest Service and by now he has put in 23 years of service. He is aggrieved of order dated 30.6.2007 (A-1), by which the State Government has posted one Pankaj Mishra (also a member of State Forest Service) as Divisional Forest Officer, Jyotiba Phula Nagar. He has prayed for quashing of the said order and in the alternative for



directing the State Govt. to post him as Divisional Forest Officer or Dy. Director.

2. His case, in brief, is that under the provisions contained in Indian Forest Service (Recruitment ) Rules, 1966 and the Indian Forest Service (Appointment by Promotion) Regulations, 1966, and notified cadre strength of Indian Forest Service, 60 posts of IFS are to be filled in by promotion from members of State Forest Service, but no such promotion has taken place since 1966 onward. He alleges about 45 posts of this promotion quota are lying vacant and have not been filled in by regular promotion, in spite of clear cut directions dated 13.10.2004 (A-5) of this Tribunal in O.A. No. 497 of 2003 on Prakash Singh and another Vs. Union of India and others and letter dated 9.11.2005 (A-6) of Union Public Service Commission. According to him, this has led to giving officiating charge of Divisional Forest Officers (Posts in the cadre of Indian Forest Service) to members of State Forest Service , till regular selection is so made and in the same sequence, Chief Conservator of Forests, U.P. gave him posting as D.F.O., Jyotiba Phule Nagar, vide his order dated 23.9.2006 ( A-7). He says, he took charge of the said post on 23.9.2006 and continued discharging functions as such till 30.6.2006, when the Govt. posted Shri Pankaj Mishra as Divisional Forest Officer Jyotiba Phule Nagar. According to him Shri Pankaj Mishra ,is also a member of State Forest Service , so the Govt. should not have

<sup>substituted</sup>  
one stop gap/ adhoc arrangement by another such arrangement ,

especially when 45 vacancies of promotions quota are there and the applicant, too, should have been allowed to continue there or on any post of promotion quota.

3. Shri Sudeep Seth, appearing for State of U.P., Shri S.P. Singh appearing for Union of India and Shri A.K. Vishwakarma b/h for Sri A.K. Chaturvedi appearing for the Commission, have stated that the process of regular promotion is held up, because of the pending litigation in one forum or the other. According to Shri Sudeep Seth, the applicant has no legal right to claim his officiating or adhoc posting as Divisional Forest Officer or as Dy. Director, because those posts are in I.F.S. cadre. He has also argued that posting order dated 30.6.2007, in favour of Shri Pankaj Mishra, cannot be interfered with for two reasons, one Shri Mishra has not been arrayed as respondent and second, applicant does not say that Shri Mishra is junior to him. According to him, it is for the State Govt. to decide whether such officiating charge is to be given on any post, if promotion quota.

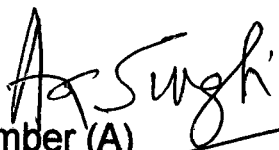
4. Parties counsel agreed for final disposal of this O.A. at admission stage. We are of the view that the members of State Forest Service, who are waiting for over a decade for their promotion to Indian Forest Service, have reason to be dissatisfied. But the difficulty appears to be that the way for such promotion is held up owing to pending litigation. IF in the circumstances, the Govt., with a view to carry on the affairs of the department, smoothly makes some temporary or adhoc arrangement, by



asking members of State Forest Service, to discharge the functions of Divisional Forest Officer or Dy. Director, the same may not be faulted. There is no reason to apprehend that the Govt. will not be guided by rule of seniority etc.

5. We find no good grounds to quash the impugned order dated 30.6.2007 (A-1) as it is never the case of the applicant and that Shri Pankaj Mishra, is junior to him. But we are inclined to accept his request for directing the State of U.P to consider his posting as officiating or adhoc Divisional Forest Officer or Dy. Director, on any of the vacant posts of promotion quota.

6. We therefore, dispose of this O.A. at admission stage with the hope that in posting the members of State Forest Service, on the vacant posts of Divisional Forest Officer or Dy. Director, of promotion quota by way of officiating/ adhoc / temporary arrangement, the State Govt. shall adhere to widely accepted rule of seniority and in case any junior to the applicant is given a chance, his case shall also be considered. No order as to costs.

  
Member (A)

  
17.7.2007  
Vice Chairman

HLS/-