

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1223/96

DATE OF DECISION: 8/10/2001

P. C. Thomas

Applicant

Shri R. Ramamurthy

Advocate for
Applicant.

Versus

Union of India, & 23 Ors.

Respondents.

Mr. V.S. Masurkar

Advocate for
Respondents, No. 1 to 6 & 24

Coram: Hon.ble J. Justice B.N. Singh Neelam, Vice chairman
Hon.ble J. N.P. Singh, Member (A)

1. To be referred to the Reporter or not? X
2. Whether it needs to be circulated to other Benches of the Tribunal? X
3. Library.

abp

(B.N. Singh Neelam)
Vice chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.1223/96

Dated this Thursday the 8th Day of November, 2001.

Hon'ble Shri Justice B.N. Singh Neelam, Vice Chairman
Hon'ble Shri M.P. Singh, Member (A).

Punnachalil Cherian Thomas,
residing at
B-21, Puru Coop. Society,
235/A, Lohagaon,
Pune - 411 032.

.. Applicant.

(By Advocate Shri R.Ramamurthy)

VERSUS

1. Union of India, through
the Secretary,
Ministry of Environment &
Forests, Krishi Bhavan,
New Delhi - 110 001.
2. The Secretary,
Ministry of Home Affairs,
North Block,
New Delhi - 110 011.
3. The Secretary,
Ministry of Personnel &
Administrative Reforms,
New Delhi - 110 001.
4. State of Maharashtra,
through the Chief Secretary,
Mantralaya, Mumbai-400032.
5. Principal Secretary,
Government of Maharashtra,
Revenue & Forest Department,
Mantralaya, Mumbai-400032.
6. Principal Chief Conservator
of Forests, Maharashtra State,
Jaika Bhavan, Nagpur-440001.
7. Shri K.A. Kate, IFS,
Conservator of Forests,
Working Plans,
University Campus,
Pune - 7.

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8. Shri M.B. Mankare, IFS,
Joint Director,
Social Forestry Circle,
Aurangabad-5.
9. Shri S.P. Kelkar, IFS
Regional Manager,
FDCM Ltd.,
North Chandrapur.
10. Shri P.P. Ghule, IFS
Regional Manager,
FDCM Ltd.,
South Chandrapur.
11. Shri A.R. Bapat, IFS
Conservator of Forests,
North Chandrapur.
12. Shri M.V. Joshi, IFS
Conservator of Forests,
South Chandrapur.
13. Shri S.D. Dakshindas, IFS
Joint Director,
Social Forestry Circle,
Kolhapur.
14. Shri V.T. Patki, IFS
Conservator of Forests,
Melghat Tiger Project,
Amravati, M.S.
15. Shri V.R. Sane, IFS
Officer on Special Duty,
Office of the Commissioner
of Cooperatives,
Central Building, Pune-1.
16. Shri S.D. Samant, IFS
Deputy Conservator of Forests,
Kolhapur-3.
17. Shri V.B. Sawarkar, IFS
Joint Director,
Wild Life Institute of India,
Dehradun, U.P.
18. Shri S.D. Sathe, IFS
C/o. Principal Chief Conservator
of Forests, Saika Building,
Nagpur-1.
19. Shri D.P. Sane, IFS
Assistant to Principal Chief
Conservator of Forests,
Jaika Building, Nagpur-1.

20. Shri V.G. Takalkar, IFS
Deputy Conservator of Forests,
Ahmednagar, M.S.
21. Shri S.R. Dorle, IFS
Divisional Manager,
FDCM Ltd.,
Nagpur.
22. Shri S.D. Elkunchiwar, IFS
Divisional Manager,
FDCM Ltd.,
Nagpur.
23. Shri NHN Shaikh, IFS
Deputy Conservator of Forests,
East Nasik Division,
Nashik-422 002.
24. The Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi - 110 001.

.. Respondents

(By Advocate Shri V.S. Masurkar for
Respondent nos. 1 to 6 and 24).

ORDER (Oral)

{ Per : Justice B.N. Singh Neelam, Vice Chairman }

Heard Shri Ramesh Ramamurthy, learned counsel for the applicant Shri P.C. Thomas filing this O.A. being aggrieved by the order dated 17.11.1995, a copy of which is filed and marked as Exhibit 'A', by which his representation dated 30.5.1994 is rejected by the Deputy Secretary to Government, Revenue & Forests Department, State of Maharashtra. By looking into the records it transpires that after the completion of pleadings when the matter was kept in sine-die list subsequently before fixing the matter for final hearing notices were served to the respondents and that was being received by all the respondents except Respondent Nos.9,10,11 and 15 and in

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this context it is submitted that the applicant does not want to press the matter seeking any relief from Respondent Nos. 9 ~~10~~ 11 & 15 to whom notices are not served and that way the matter is taken up for hearing. Mr. V.S. Masurkar, learned counsel representing Respondent Nos. 1 to 6 and 24 is present and in this connection written statement is filed on behalf of the State of Maharashtra as well as Central Government. The matter so raised at the time of admission relating to this matter being hit by limitation is kept open for being heard at the time of final hearing and in that light both side lawyers argued on the point of limitation first. It is submitted on behalf of the applicant that there was 2 departmental proceedings so going on against the applicant which was concluded in 1984 and the applicant thereafter ^{was} included in the seniority list for appointment by promotion to the IFS with effect from 30.10.1979 which was considered belatedly and it is right from the beginning that the several representations were so filed and in this connection a reference is made to Exhibits V/1 to V/5 and the last representation so filed on 30.5.1994 which is so rejected on 17.11.1995 (Exhibit 'A'). It is also pointed out that by looking into Exhibit 'A' it will transpire that a cryptic order is so passed by State of Maharashtra disposing of the representation assigning no ground for such rejection which cannot be said to be a speaking order rather at the face of

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it, is liable to be set aside, and hence question of this O.A. being time barred does not arise, as ^{this} each O.A. is filed within a year i.e. on 15.11.1996 from the date of the order (Annexure 'A').

2. The otherside lawyer on the other hand submitted that Notification dated 15.10.1987 was so passed by the Ministry of Environment, Forests & Wildlife, Government of India, New Delhi and the applicant is virtually aggrieved by that order and that way State Government had no jurisdiction as to consider the said representation dated 30.5.1994 which is rightly rejected on 17.11.1995 vide Exhibit 'A'. It is also pointed out that the applicant is challenging induction of his name belatedly but in any way the applicant was aggrieved, he would have come earlier ^{by} ~~for~~ placing the matter before the proper authority i.e. respondent no.1 and the present O.A. is thus time barred and liable to be dismissed. In support of this contention the learned counsel for the respondent particularly referred to para 3 of written statement so filed on behalf of Respondent No.1 on 21.7.1997, in which it has been incorporated that any representation regarding seniority in the IFS is to be considered by the Government of India and therefore applicant's contention that the rejection of his representation by the State Government has given a fresh cause of action can be said to be meaningless. On behalf of the respondents a

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reference is made to para 7 and 8 of written statement so filed on behalf of State of Maharashtra on 19.6.1997 that the applicant's grievance date backs to 1979 and hence this Tribunal has no jurisdiction to entertain the matter and the grievance are baseless and hence liable to be dismissed.

3. After hearing both the side lawyers, we have carefully gone through the records and contents of the O.A. with that of the written statement so filed on behalf of the respondents i.e. State of Maharashtra as well as Central Government. As regards point of limitation it transpires that good numbers of representations were so filed by the applicant (Exhibit V/1 to V/5) and at the same time, while filing last representation of 30.5.1994 through proper channel i.e. through State Government, a copy of that was also sent to Respondent No.1 and in such circumstances the ground so taken on behalf of the respondents that without entering into the merit of the matter the O.A. is liable to be rather dismissed does not hold good. Further by looking into Exhibit 'A' which is a order so passed by

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the State of Maharashtra on 17.11.1995, in our considered opinion it cannot be said to be a speaking order and if the stand so taken by the respondents that the representation was rather addressed to the wrong forum which should have rather been incorporated in the order under challenge (Exhibit 'A') which is not done so. We have also found that since the copy of the said representation was also sent to the Central Government in such circumstance there would have been in normal course expectation of some correspondence between State Government and Central Government prior to the disposal of the ^{representation} ~~matter~~ seeking instructions or clarification.

4. Consequently, in the light of facts and circumstance discussed above also as to meet the justice, we hereby set aside the order under challenge dated 17.11.1995 passed by the State Government rejecting the representation dated 30.5.1994 with a direction to the State Government as to forward the said representation to the Ministry of Environment & Forests, Department of Environment, ^{Gr t} Forests & Wildlife, New Delhi for consideration and ^{to} dispose of the said representation,

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, a copy of which at initial stage was also forwarded to Respondent No.1 for information and needful, within a period of 3 months from the date of receipt of copy of this order by passing a speaking order in this regard.

5. The O.A. is thus stands disposed of accordingly. Parties to bear their own costs.


(M.P. Singh)
Member (A)


(B.N. Singh Neelam)
Vice Chairman.

H.