

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 12-10-87

APPLICATION NO 539 /87 (T)

W.P.No. 456/85

APPLICANT

Vs

RESPONDENTS

Shri Manjunatha Ramachandra Karki
To

**The State of Karnataka by its Chief Secy,
& 4 Ors**

1. **Shri Manjunatha Ramachandra Karki**
Deputy Conservator of Forests
Shimoga
2. **Shri H. Srinivasa Rao**
Advocate
64, Kumara Park West
Bangalore - 560 020
3. **The Chief Secretary**
Govt. of Karnataka
Vidhana Soudha
Bangalore - 560 001
4. **The Secretary**
Ministry of Agriculture
Department of Agriculture & Co-operation
New Delhi - 110 001
5. **The Secretary**
Union Public Service Commission
Dholpur House
Shahajahan Road
New Delhi - 110 003
6. **The Secretary**
Govt of Karnataka
Department of Agriculture & Co-operation
Vidhana Soudha
Bangalore - 560 001
7. **The Chief Conservator of Forests (General)**
Aranya Bhavan
Malleswaram
Bangalore - 560 003
8. **Shri M.S. Padmarajaiah**
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001
9. **Shri S.M. Babu**
Govt. of Karnataka Pleader
C/o Karnataka Administrative Tribunal
Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/

~~XXXXXX ORDER~~ passed by this Tribunal in the above said application

on 28-9-87

RECEIVED 8 copies 13/10/87

Diary No. 1292/12/87

Date: 13-10-87

SECTION OFFICER
(JUDICIAL)

Encl: as above.

Received copy
12/10/87
(M.R. Karki)

9c

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 28TH DAY OF SEPTEMBER, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego,

.. Member(A)

APPLICATION NUMBER 539 OF 1987

Manjunatha Ramachandra Karki,
(M.R.Karki), S/o R.M.Karki,
32 years, Deputy Conservator of Forests,
Shimoga.

.. Applicant.

(By Sri H.Srinivasa Rao, Advocate)

v.

1. The State of Karnataka
by its Chief Secretary to Government,
Vidhana Soudha, Bangalore-1.
2. The Government of India,
by its Secretary to Ministry of Agriculture,
Department of Agriculture and Co-operation,
New Delhi-110 001.
3. The Union Public Service Commission,
by its Secretary, Dholpur House (Shahajan Road),
New Delhi 110 011.
4. The Secretary to Government of Karnataka,
Department of Animal Husbandary,
Fisheries and Forest Department,
Vidhana Soudha, Bangalore-1.
5. The Chief Conservator of forests
(General), Aranya Bhavan,
Malleswaram, Bangalore-3.
6. B.T.Kulkarni,
Deputy Conservator of Forests,
Working Plans Division,
Belgaum.
(Respondent No.6 deleted)

.. Respondents.

(By Sri M.S.Padmarajaiah, Standing Counsel)

This application coming on for hearing this day, Vice-Chairman made the following:



ORDER

This is a transferred application and is received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the Act').

2. On 24-2-1975 the applicant joined service as an Assistant Conservator of Forests ('ACF') on probation in the Karnataka Forest Service ('KFS') of Karnataka Government ('KG'). On 5-3-1977, the applicant completed his probation and has been confirmed as ACF from 1-1-1978. He has been promoted as Deputy Conservator of Forests ('DCF') from 17-7-1980 and is working in that capacity ever since then.

3. As a member of the Karnataka Forest Service, the applicant was eligible for appointment by promotion to the Indian Forest Service ('IFS') as on 1-1-1982 under the Indian Forest Service (Appointment by Promotion) Regulations, 1963 ('Regulations') made under the Rules and the All India Service Act, 1951. But, before 1-1-1982 the Selection Committee ('SC') constituted thereto, under Regulation 3 of the Regulations, did not meet and make any recommendations for vacancies that existed or anticipated as on 1-1-1982. We are, however, informed by Sri S.M.Babu, learned High Court Government Pleader appearing for respondents 1, 4 and 5 that no one was selected and appointed to the IFS from the KFS in the calendar year 1982, which fact is not disputed by others also. We, therefore, unhesitatingly accept this statement of Sri Babu.

4. For various reasons, which are not very necessary to notice, the SC, did not also meet before 1-1-1983 for making recommendations for vacancies that existed or anticipated as on that date under the Regulations. But, a SC constituted under the Regulations actually

met on 9-12-1983 and recommended the inclusion of Sriyuths B.J.-Kulkarni, M.N.Jayakumar and K.Yenkantappa in the IFS from the KFS, on the basis that the maximum number of State Forest Service Officers to be included in the 'Select List' of that year or on that occasion was 'three'. In the assessment list or consideration list accompanying the same, the applicant who was junior to one Sri K.Yenkantappa, the last of the three in the Select List, was graded as 'Good' and was not included in the Select List. The Select List prepared by the SC has been approved by the Union Public Service Commission ('UPSC') and on the basis of the same, the three officers included in the Select List were appointed to IFS in due course.

5. On 10-1-1985 the applicant approached the High Court in Writ Petition No.456 of 1985 for a mandamus to include his name in the Select List for the year 1983-84 and for other consequential reliefs, which on transfer has been registered as Application No.539 of 1987.

6. The applicant has urged that the SC had not correctly ascertained the number of substantive vacancies anticipated in the course of the period 12 months, commencing from the date of preparation of the list and if such ascertainment had been correctly made, then his name should have been included in the Select List prepared by the SC on 9-12-1983.

7. In their reply, respondents 1, 4 and 5 admit that the calculation of vacancies made by the SC on 9-12-1983 was erroneous and that on noticing that error, they had moved the UPSC and Government of India, to rectify that error and make appropriate additions, corrections and rectifications as the circumstances justified, but they had declined to do so.



8. In their separate reply, respondents 2 and 3, without disputing that respondents 1, 4 and 5 had apprised them of the mistake which had crept in the number of vacancies ascertained by the SC on 9-12-1983, have urged that that mistake cannot be corrected by them, as they had no power to review, under the Act, the Rules and the Regulations.

9. Sri H.B.Datar, learned Senior Advocate appearing for the applicant, contends that on the very admission made by respondents 1, 4 and 5 or the State Government and even otherwise, there was an imperative duty on the SC, the UPSC and Government of India to re-examine the case of his client and then initiate all necessary steps for inclusion of his name in the Select List for 1983 and make an appointment to IFS under the Regulations.

10. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for respondents 2 and 3 and Sri Babu, appearing for respondents 1, 4 and 5, sought to support the exclusion of the applicant from the Select List prepared by the SC on 9-12-1983.

11. On the number of vacancies for which it had to make selection, the SC in its proceedings dated 9-12-1983 had observed thus:

"The Committee were informed that the maximum number of State Forest Service Officers which can be included in the Select List is 3. This number has been determined in pursuance of the provisions of Regulation 5(1) of the Indian Forest Service (Appointment by Promotion) Regulations, 1966".

On this basis, the SC selected and included the names of Sriyuths B.J.Kulkarni, M.N.Jayakumar and K.Yenkantappa who were also senior to the applicant and who were graded as 'Good'. In its proceedings of that date, the SC graded the applicant, who is junior to Shri Yenkantappa but senior to one Sri M.C.Srinivasa Murthy, as 'Good'.



12) In ascertaining the vacancies under Regulation No.5 which is the very first and important step in the preparation of the 'Select List', the SC is normally guided by the figures supplied by the concerned State Government.

13. Before or on 9-12-1983, the Karnataka State Government expressed that the number of vacancies for which the SC had to make its recommendations as on that day, was only three. But, some time after the SC had completed its proceedings and had made its recommendations, it found that it had made a mistake on the same and, therefore, requested the UPSC and its limb the SC and the Government of India to rectify the mistake and take necessary steps in that regard. But, the UPSC and the Government of India declined to take any steps on the same, on the ground, that they had no power of review under the Act, the Rules and the Regulations.

14. We are of the view, that the Government of Karnataka was not asking the UPSC and its limb the SC and Government of India to review or re-examine their earlier decisions. On the other hand, it was only asking them to rectify an obvious error or mistake that had materially affected the proceedings of the SC and the UPSC.

15. For correcting an obvious mistake or error in any kind of proceeding, judicial, quasi-judicial or administrative, there need not be an express conferment of power on the authority by law. We are of the view that such a power is concomitant of every authority conferred with any power and exercises such power under any written or unwritten law. The power to correct a mistake is inherent in every authority. On this view, the UPSC, its limb the SC and Government of India were bound to examine the case pleaded by Karnataka



Government, which is also the case of the applicant and initiate appropriate steps for correction/rectification of the Select List prepared on 9-12-1983.

16. What was the correct number of vacancies as on 9-12-1983 for making recommendation under Regulation No.5 of the Regulations must necessarily be first ascertained by the SC and then recommendations for the inclusion of eligible and suitable officers made under the Regulations. We must necessarily leave all that to be done by the SC, a limb of the UPSC in the first instance.

17. We have earlier noticed that the applicant had been graded as 'Good' on 9-12-1983. When re-determining the number of vacancies and considering the case of the applicant and others, if any, that grading must necessarily stand and cannot be altered.

18. We cannot predict on the outcome of the exercise to be undertaken by the SC and the UPSC. But, if in the new exercise, the applicant is included in the Select List of 9-12-1983, the same is approved by the UPSC and he is duly appointed to the IFS, for any of the vacancies that arose on the appointments of Sriyuths Kulkarni, Jayakumar and Yenkantappa, then it is necessary for the respondents to extend to him all such consequential benefits inclusive of monetary benefits to which he is entitled from such date he is appointed to the IFS.

19. In the light of our above discussion, we make the following orders and directions:

- (a) We direct the UPSC - respondent-3 and its limb the Selection Committee to first correctly ascertain the number of vacancies under Regulation No.5 of the Regulations as on 9-12-1983 or for the year 1983-84 on the materials already supplied or to be supplied by the Karnataka State



[Handwritten signature]

Government in the preparation of the Select List to the IFS from the KFS and then take all necessary steps for inclusion of eligible and suitable officers under the Regulations. But, in so doing, the selection of Sriyuths B.J.Kulkarni, M.N.Jayakumar and K.Yenkantappa, their appointments and the grading of the applicant shall not be disturbed.

- (b) We further direct respondents 1 to 4, to extend to the applicant all such consequential benefits inclusive of monetary benefits to which he is entitled if he is selected and appointed from any earlier date under the Regulations.
- (c) We direct respondents 1 to 4, to comply with the directions contained in para (a) supra, with all such expedition as is possible in the circumstances of the case and in any event within a period of four months from the date of receipt of our order.

20. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-

VICE-CHAIRMAN.

28/9/87

Sd/-

MEMBER (A).

28-9-87

- True Copy -

SECTION OFFICER 12/10
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE