

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
.....

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

Dated: 12 JUL 1988

APPLICATION NO 447 /87 (F)

W.P.No. \_\_\_\_\_

APPLICANT

Vs

RESPONDENTS

Shri C.H. Basappaavar  
To

The Secy, Dept of Personnel, New Delhi &  
2 Ors

1. Shri C.H. Basappaavar  
Conservator of Forests  
Dry Land Development Board  
Mysore
2. Shri B.B. Mandappa  
Advocate  
115/3, Balappa Building  
Seshadripuram Circle  
Bangalore - 560 020
3. The Secretary  
Department of Personnel &  
Cabinet Secretariat  
Ministry of Home Affairs  
North Block  
New Delhi - 110 001
4. The Chairman  
Special Selection Board for  
Indian Forest Service  
C/o Union Public Service Commission  
P.B. No. 186  
New Delhi - 110 003
5. The Chief Secretary  
Govt. of Karnataka  
Vidhana Soudha  
Bangalore - 560 001
6. Shri M.S. Padmarajiah  
Central Govt. Stng Counsel  
High Court Building  
Bangalore - 560 001
7. Shri S.M. Babu  
State Govt. Advocate  
C/o Advocate General (KAT Unit)  
Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAX/

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

on 8-7-88.

*Rd copy*

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(C.H. Basappaavar) Applicant.

Encl: as above.

for DEPUTY REGISTRAR  
(JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THE 8TH DAY OF JULY, 1988.

P r e s e n t:

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY,  
VICE CHAIRMAN

THE HON'BLE MR. L.H.A. REGO, MEMBER(A).

APPLICATION NO.447 OF 1987(F)

C.H.Basappaavar  
S/o Holiappa, 47 years,  
Conservator of Forests,  
Dry Land Development Board,  
Mysore. .. Applicant

(By Shri B.B.Mandappa, Adv. for the applicant)

-vs.-

1. The Secretary to Government  
of India, Deptt. of Personnel  
and Cabinet Secretariat,  
Ministry of Home Affairs,  
North Block, New Delhi.
2. The Chairman,  
Special Selection Board  
for Indian Forest Service  
C/o Union Public Service Commission,  
P.B.No.186, New Delhi.
3. The State of Karnataka  
by its Chief Secretary,  
Vidhana Soudha, Bangalore-1.

(By Shri M.S.Padmarajaiah, Sr.Standing Counsel for  
Central Government, for respondents 1 and 2;  
Shri S.M.Babu, Government Pleader, for R-3).

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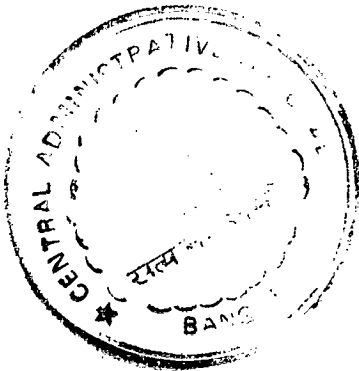
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This application coming on for hearing, The Hon'ble Mr. L.H.A. REGO, MEMBER(A), made the following:

O\_R\_D\_E\_R

The applicant prays herein, that the record of respondents(R) 1 and 2, pertaining to consideration of his case, for appointment by "initial recruitment" to the Indian Forest Service ('IFS' for short), pursuant to the Order dated 23-1-1987 made by this Tribunal, in Application No.725 of 1986, be quashed and that the respondents be directed, to consider his case for appointment by "initial recruitment" to the IFS, with effect from 1-10-1966, in accordance with the Indian Forest Service (Initial Recruitment) Regulations, 1966 ('Regulations' for short), and to grant him consequential relief.



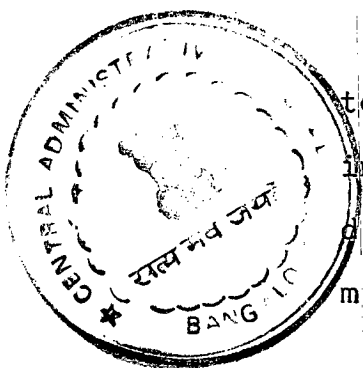
2. The background to this application is concisely as follows: The IFS was constituted with effect from 1-7-1966, as a new All-India Service in pursuance of Sec.2A, of the All India Services Act, 1951 ('Act' for short). In exercise of the power conferred by Sec.3 of the Act, various Rules and Regulations relating to the IFS, including "initial recruitment", were framed in consultation with the State Government and the Union Public Service Commission ('UPSC' for short). A separate cadre

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in the IFS, was constituted for the then State of Mysore, designated as the 'Mysore Cadre' (now designated as the 'Karnataka Cadre'), the strength of which, as on 1-7-1966, inclusive of the senior, junior and other posts was, 69. Initial recruitment to the IFS is governed by Rule 1 of the I.F.S. (Recruitment) Rules, 1966 ('Recruitment Rules' for short). The mode of recruitment to the IFS, is specified in Rule 4 of the Recruitment Rules. Rule 4(1) ibid, which relates to "initial recruitment" to the IFS and is pertinent to the case before us, reads thus:

"4. METHOD OF RECRUITMENT TO THE SERVICE -

- (1) As soon as may be after commencement of these rules, the Central Government may recruit to the service any person from amongst the members of the State Forest Service adjudged suitable in accordance with such regulations as the Central Government may make in consultation with the State Governments and the U.P.S.C."



3. Regulations, regulating "initial recruitment" to the IFS in respective cadres, have been framed in accordance with the Recruitment Rules and are designated as "Indian Forest Service (Initial Recruitment) Regulations, 1966" ["Regulations" for short].

4. The applicant entered the Karnataka State Forest Service, as Assistant Conservator of Forests on 1-10-1961. By their Notification dated 7-4-1967,

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the then Government of Mysore, promoted him with immediate effect, as Deputy Conservator of Forests, in the State Government Service, without prejudice to the seniority of others and until further orders and posted him as Divisional Forest Officer, Rubber Plantation, Sullia, in a post newly created, pending concurrence of the State Public Service Commission. He was so promoted temporarily, as later clarified by the State Government by its Notification dated 11-4-1967. The State Public Service Commission however observed, in their Letter dated 6-11-1968, addressed to the State Government, that in view of the "strong adverse remarks" made against the applicant in his C.Rs. for the period from 1964 to 1966, in his capacity as Assistant Conservator of Forests, <sup>that</sup> ~~that~~ he would have to earn, at least two satisfactory reports subsequent to 1966, to consider him fit for promotion to the cadre of Deputy Conservator of Forests and that proposals for his promotion accordingly, be sent by the State Government. The State Public Service Commission after examining his service record, agreed to his promotion as Deputy Conservator of Forests, with effect from 29-10-1971.

5. The applicant alleges, that even though he fulfilled the conditions of eligibility specified in Regulation 4 of the Regulations, for consideration for appointment as an "initial recruit" to the IFS, in the junior scale of that service, his name was excluded

  
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from the Selection List, notified on 15-7-1967 in this behalf. He, therefore, filed Writ Petition No.1097 of 1968 in the High Court of Judicature, Karnataka, challenging the exclusion of his name from the Selection List. The respondents state, that the appointment of officers to the Karnataka cadre of the IFS, was made in accordance with the recommendations of the Special Selection Board ('Board' for short), which met at Bangalore in March 1967 and again in March 1968. These appointments however, were quashed by the then High Court of Mysore at Bangalore, by their Order dated 25-7-1969 in a series of Writ Petitions, inclusive of the aforementioned Writ Petition of the applicant, primarily on the ground, that the Chief Conservator of Forests of the State, who was also a candidate for selection to the IFS, was also a Member of the very Board, which deliberated on this selection, which it said, was violative of the principles of natural justice.



6. As a result, the provisions of the Regulations, relating to constitution of the Board were amended. The Board reconstituted accordingly, met at Bangalore in November 1970, and selected anew, in all 61 officers for 'initial recruitment' to the IFS and their appointment was notified in 1971.

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7. Among

7. Among the officers not considered suitable by the Board, for "initial recruitment", to the Karnataka Cadre of the IFS, eight of them, inclusive of the applicant, filed writ petitions in the Supreme Court. On 30-9-1974, the Supreme Court, on an assurance by the State Government, that the case of the petitioners would be reconsidered, permitted the matter to be withdrawn.

8. Pursuant to the above, the Board specially constituted for the purpose, examined the cases of the aforesaid eight officers, at its meeting held at New Delhi on 19-2-1976, when only four officers were considered suitable for "initial recruitment" to the IFS, but the name of the applicant did not feature therein.

9. The respondents aver, that the applicant and one other, had inter alia, represented to the State Government, that even though the adverse remarks in their annual confidential service record (ACR, for short), for certain years, were expunged by the State Government, these were not "pasted over", in their service record, according to the practice prescribed. The respondents admit this lapse and state, that it was rectified and that thereafter a meeting of Board was convened, at Bangalore, on 14-10-1976, to re-examine the case of both these officers, in the light of the adverse



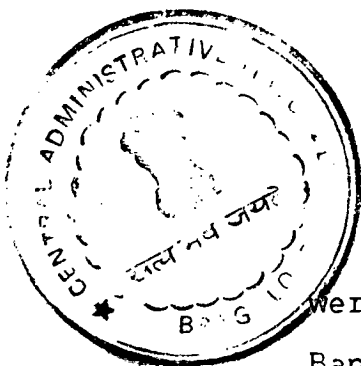
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remarks expunged. Even then, the respondents submit, that the Board saw no justification to consider the applicant as suitable for "initial recruitment", to the IFS.

10. The respondents further clarify, that five officers of the State Forest Service (exclusive of the applicant), who were found unsuitable for "initial - recruitment" to the IFS, at the meeting held by the Board in November 1970, filed writ petitions in the High Court of Judicature, Karnataka, in 1977, relying mainly on the judgment of the Supreme Court, on AIR 1978 S.C. 1214 (UNION OF INDIA -vs.- H.P. CHOTHIA). These writ petitions were allowed by the High Court in the following terms:

"Though non-compliance with the provisions of regulation 5(2)(b) of the (Initial - Recruitment) Regulations vitiated the selection, it appears just and proper having regard to the circumstances of the case, to grant limited relief to the petitioners, of directing the Union of India to reconsider only the cases of the petitioners for their names being included in the list of selected candidates with effect from 1-10-1966."



11. Pursuant thereto, cases of these officers, were examined by the Board, at its meeting held at Bangalore on 22-6-1981, when they were considered suitable for "initial recruitment" to the IFS and eventual appointment accordingly.

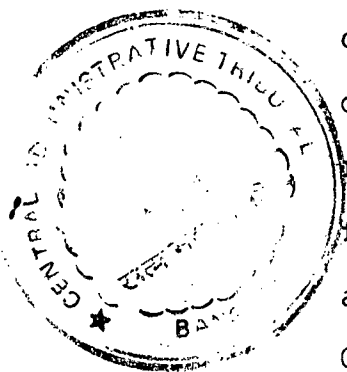
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12. The respondents cite another instance of one Shri B.R. Annaji Rao, who also sought relief as in the case of the above five officers, through Writ Petition No. 21466 of 1981. He too was considered suitable for initial recruitment, to the Karnataka Cadre of the IFS, by the Board, at its meeting held at Bangalore on 18-4-1986 and for appointment accordingly.

13. The applicant states, that he had submitted a written representation to R-1 on 5-5-1976 (Annexure-A4) requesting him to consider his case for appointment as "initial recruitment" to the IFS. He states, that he was under the apprehension, that when the Supreme Court permitted on 30-9-1974 (vide para 7 supra), the writ petitions to be withdrawn (inclusive of that of the applicant), on an undertaking furnished by the respondents, and his case was considered anew, by the Board on 19-2-1976, it was mainly influenced, by the adverse remarks in <sup>the</sup> ACRs, for the period from 1963 to 1966. He further alleges, that the State Government does not appear to have placed before the Board, a copy of its Order dated 23-10-1974, expunging the adverse remarks entered in his ACRs for the above period. Since there was no response to his above representation, the applicant states, that he filed Writ Petition No. 7123 of 1981 before the High Court of Judicature, Karnataka, seeking



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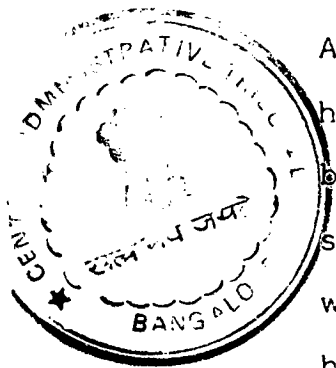
a writ in the nature of a mandamus, directing the respondents to consider his case, for appointment as "initial recruitment", to the IFS, with effect from 1-10-1966.

14. The above writ petition came to be transferred to the Bench of this Tribunal, on its constitution and was registered anew, as Application No.725 of 1986, which was heard by a Bench of this Tribunal, pronouncing <sup>the</sup> an Order on 23-1-1987 (Annexure-A5), directing the respondents, to consider the case of the applicant for "initial recruitment" to the IFS, with effect from 1-10-1966, in accordance with the Recruitment Rules and the Regulations and the law, within a period of two - months from the date of receipt of the order.

15. The Board had examined anew on 23-3-1987, the case of the applicant for "initial recruitment", to the IFS, in accordance with the Order passed by this Tribunal as above, but did not find the applicant suitable. Being under the impression, that the said Order of this Tribunal was not complied with, the applicant filed a Civil Contempt Application No.4 of 1987 before this Tribunal, which heard the matter and dropped the contempt proceedings by its Order dated 25-5-1987 (Annexure-A6), as it was satisfied, that the Order dated 23-1-1987 of this Tribunal was duly complied with by the respondents. The applicant however was given liberty, to challenge in a separate application his non-selection to the IFS; hence the present application.

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16. The respondents have filed their reply resisting the application.

17. Appearing for the applicant, Shri B.B. Mandappa, learned Counsel, contended, that the respondents did not apply their mind and acted with caprice and arbitrariness, in adjudging his client as not suitable for "initial recruitment" to the IFS, in flagrant discrimination, as compared to the officers who were selected (including those who had adverse remarks in their ACRs), which was violative of Articles 14 and 16(1) of the Constitution; that R1 and R2 took into account, the adverse remarks entered in his ACRs, for the period from 1963 to 1966, even though they were non est, having been expunged by the State Government by their Order dated 23-10-1974 and thus his case for consideration for "initial recruitment" to the IFS was vitiated and the decision arrived at by R1 and R2, to exclude him from the Selection List was perverse, as a person with reason and sanity could not have come to that decision; that even though it was mandatory, under Regulation 5(2) (b) of the Regulations, for the respondents, to record reasons precisely, for adjudging those considered not suitable for "initial recruitment" to the IFS, they glaringly, failed to do so; that there was no proper consideration of his case, by R1 and R2, on account of their failure to comply with the directions of this Tribunal in Application No.725 of 1986 of his client and with the principles

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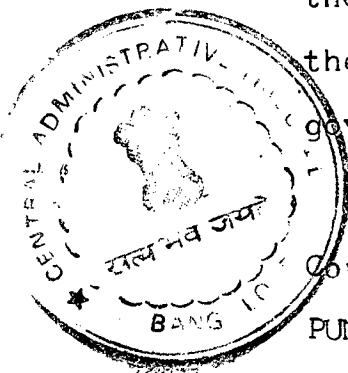
enunciated in AIR 1978 SC 1214 (U.O.I. vs. H.P.CHOTHIA);<sup>12</sup> and that R1 and R2 were prejudicial against his client, for taking recourse to the Court of Law now and again for redress, to which he was inevitably led.

18. Shri Mandappa called in aid, a string of Supreme Court decisions, to bolster his case. Relying on the decision of the Supreme Court in 1980 SCC (L&S) 129, (SWAMI SARAN SAKSENA v. STATE OF UTTAR PRADESH), he pleaded, that taking into account the fact, that the adverse remarks in the ACRs of his client, for the crucial period immediately preceding consideration of his selection for "initial recruitment" to the IFS, with effect from 1-10-1966, namely from 1963 to 1966, were expunged by the State Government by their Order dated 23-10-1974, there was no blemish in the service record of his client, for the relevant period and there was no evidence to show that the quality of his performance had deteriorated so abruptly, so as to disqualify him for "initial recruitment" to the IFS, as on 1-10-1966. He argued, though <sup>12</sup>if SAKSENA's case related to compulsory retirement, the analogy with the present case, was clear and therefore the principles of law enunciated in that case likewise governed the case before us.

19. Drawing support from the dicta of the Supreme Court in AIR 1987 SC 949 (BRIJ MOHAN SINGH v. STATE OF PUNJAB), that adverse entries in the ACRs, lose their

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significance, once an employee was promoted, Shri Mandappa canvassed, that proximate to the date, namely 1-10-1966, with effect from which his client was eligible to be "initially recruited" to the IFS, he was promoted as Deputy Conservator of Forests in the State Forest Service on 7-4-1967, with immediate effect. According to the ratio of the decision in BRIJ MOHAN SINGH's case, he pleaded, it was well settled, that adverse entries if any in the ACRs of an employee, lost their significance on or after his promotion to a higher post. He contended, that by virtue of the fact, that his client was promoted by the State Government on 7-4-1967, as Deputy Conservator of Forests, though in the State Forest Service, close to the date, namely 1-10-1966, when he was eligible for "initial recruitment" to the IFS, previous adverse entries if any, in his ACRs, lost their significance and in effect, were ipso facto effaced. In his client's case, however, he said, the situation was more conducive, in that the adverse entries in his ACRs for the relevant previous years, were expunged by the State Government and whatever were retained he contended, were not communicated to him.

20. He pin-pointed the further observation of the Supreme Court in para-9 of BRIJ MOHAN SINGH's case, that it was a well-settled principle in law, that in accordance with the rules of natural justice, an adverse entry in the ACR cannot be acted upon, to deny promotional opportunity



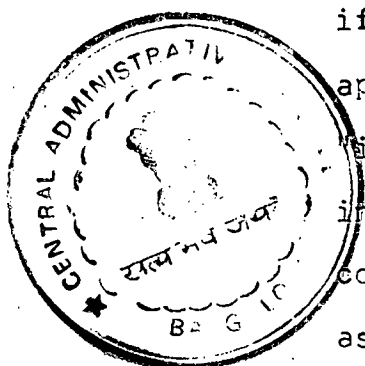
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opportunity to an employee, unless he is given reasonable opportunity to improve his work and conduct or, to explain the circumstances leading to the adverse entry. In this context, he argued, that some of the adverse entries retained in the ACRs of his client, for the period from 1963 to 1966, were not communicated to him, whereby he was denied reasonable opportunity to vindicate himself, which he said was violative of the principles of natural justice.

21. Shri Mandappa sought to fortify his above contention, by relying on the decision of the Supreme Court in 1975 SCC(L & S) 274 (PARVEZ CADIR v. UNION OF INDIA), which related to ~~like~~<sup>the</sup> circumstances of "initial recruitment" to the IFS, as in the instant case. Referring to para-14 of that judgment, he asserted, that notwithstanding the fact, that the communicated adverse remarks in the ACRs of his client, for the period from 1963 to 1966, were later expunged by the State Government, by their Order dated 23-10-1974, adverse entries if any, later than the date namely 1-10-1966, when the applicant was first eligible to be considered for "initial recruitment" to the IFS, could not be taken into account. Shri Mandappa stated, that he was constrained to draw our pointed attention to this aspect, as he apprehended, that the respondents had denied "initial recruitment" to the IFS, to his client even at a later stage, on the basis of the adverse

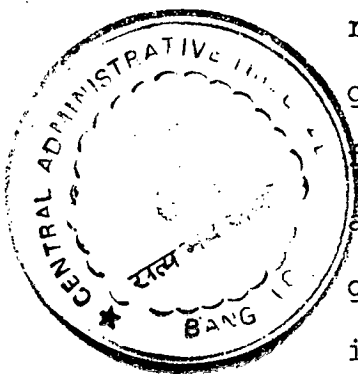
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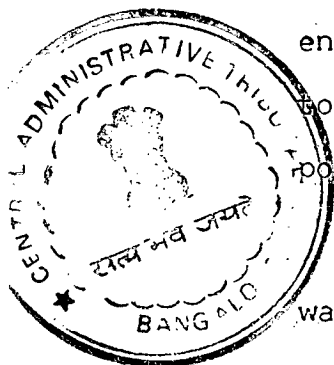
remarks in his ACRs, which were not relevant to the date, when he was eligible for such recruitment. He invited our attention, also to paras 17, 18 and 20 of the judgment, to bring home his contention that certain adverse entries in the ACRs of his client, for the period from 1963 to 1966, which was crucial to the date namely, 1-10-1966, when he was first eligible for "initial recruitment" to the IFS, were not communicated to him and he was given no opportunity to explain his case, which he iterated was violative of the canons of natural justice.

22. Dwelling on the ruling of the Supreme Court in 1974 SCC ( L & S ) 5 [UNION OF INDIA v. M.L.CAPOOR), particularly in paras 27 and 28 thereof, Shri Mandappa alleged, that the Board was terse and laconic, in its proceedings, when the case of his client was first examined at its meeting held in 1967, to consider him for "initial recruitment" to the IFS. The Board, he said, had not given cogent reasons, as to why his client was excluded from the Select List and the proceedings thereof, he alleged, were cryptic and smacked of "rubber stamp reasons given mechanically", borrowing the phraseology used in the above judgment of the Supreme Court. It was evident therefrom, he said, that the Board had not applied its mind, to show that there was a rational nexus between the facts considered and the conclusion reached and consequently he submitted, the mandatory provisions of the Regulations were not complied with.



23. Concluding, Shri Mandappa submitted, that his client suffered from travesty of justice, in not being "initially recruited" to the IFS, with effect from 1-10-1966 on account of the above lapses and lacunae, in the action of the respondents and therefore, urged redress.

24. Shri M.S. Padmarajaiah, learned Senior Government Standing Counsel for R-1 and R-2, while iterating rebuttal of the various contentions, in the reply of these respondents, submitted, that the Karnataka IFS Cadre was first constituted with effect from 1-10-1966 under the IFS (Cadre) Rules, 1966 and under the IFS (Fixation of Cadre Strength) Regulations, 1967, and more than two decades had since elapsed, he said. At this distance of time, he contended, it was virtually infeasible to fit in the applicant in one of the junior posts (in case he succeeded in this application), within the cadre strength then fixed, as it would amount to displacing or dislodging one of the incumbents rightfully appointed to that cadre by "initial recruitment", at that long point of time. There was no provision, he said, to enlarge now with retrospective effect, the cadre strength to help accommodate the applicant in one of these junior posts, in the event of his succeeding in this application.



25. The next point urged by Shri Padmarajaiah was, that the power to select the incumbents for initial recruitment to the IFS, was vested in the Board under

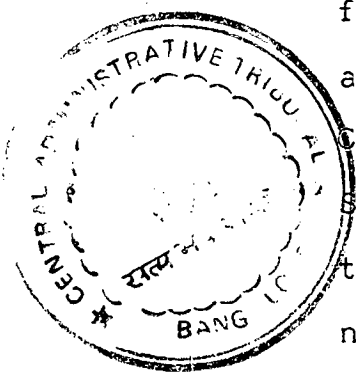
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the Regulations, and this Tribunal in the light of the ratio of the decision in AIR 1988 SC 1069 (U.P.S. COMMISSION v. HIRANYALAL DEV), could not arrogate to itself this function he said. In case the applicant succeeded in this application, the right course for the Tribunal was, to direct the Board to reconsider the merits of the applicant, he pleaded. He also referred to the ruling in AIR 1968 SC 1113 (STATE OF MYSORE v. SYED MAHMOOD) wherein, he said, the same principles were stated.

26. Shri S.M. Babu, learned Counsel appearing for R-3, namely, the State of Karnataka, restated with emphasis, the various aspects brought out in his reply. He clarified, that the Board had taken due cognizance of expunction of the adverse remarks in the ACRs of the applicant, for the relevant years, while examining his case for "initial recruitment" to the IFS, when it met on 27-3-1987, but yet he was not found suitable. The mere fact, that he was promoted as Deputy Conservator of Forests in 1967 and later as Conservator of Forests in 1981 in the State Forest Service, did not ipso facto, confer a right on him, to be "initially recruited" to the IFS, he said, the nature of these two services being widely disparate. The Board, he explained, took all relevant aspects into consideration, including the service record of the applicant and found him unsuitable for inclusion in the IFS, at its initial constitution.



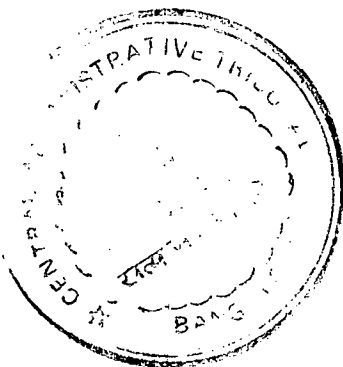
27. We heard this matter at length, on 27-6-1988 and ~~28-6~~<sup>29</sup>-6-1988 and examined carefully the relevant record placed before us. The fate of this application hinges mainly, on the effect of the adverse remarks relating to the period from 1963 to 1966, some of which were expunged by the State Government far too belatedly, on 23-10-1974, on the representation of the applicant and the rest retained in his pertinent ACRs but not communicated to him. Let us juxtapose these remarks to facilitate comparison at a glance and study of their impact. The following is the picture:

Reporting Year	Adverse remarks	
	Retained but not communicated.	Expunged.
(1)	(2)	(3)
1963	Not upto the mark in the discharge of his duty. Tactless. Should improve in his behaviour. Easy-going and inexperienced. He is of doubtful integrity.	Very unreliable. Irresponsible and requires to be watched carefully.
1964	Needs supervision. Should evince more interest in the works. He had to be pulled up several times during the year, for showing better interest and to prove himself trustworthy. Not ripe for promotion.	Appears to be of doubtful integrity.
1965	Not very tactful. Wanting impartiality in his relations with the public and the subordinates, with whom he comes in contact. He has to develop a sense of duty in working.	Does not appear reliable.
1966	Should take responsibility in works. Should show considerable improvement.	Shirks responsibility. Does not appear reliable.



28. The above adverse remarks against the applicant, during the above 4 years' period, were recorded not by one and the same Reporting and Reviewing Officer, but by as many as 3 different Reporting and 2 different Reviewing Officers. Perusing the files, we notice, that the applicant was prima facie answerable, for various lapses and irregularities. Even beyond that period, the applicant did not show any sign of rectitude in his conduct and performance, and had to be censured by the Government on 19-9-1970, for serious irregularities, as proposed by the State Vigilance Commission. His appeal in this regard to the Governor of Karnataka on 21-4-1975, came to be rejected on 2-8-1975.

29. The applicant is seen to have represented to the State Government, as late as on 15-10-1973 and 15-1-1974, to expunge the adverse remarks communicated to him in respect of the above four years. The Secretary of the Administrative Department in his Note dated 16-10-1974, put up to the then State Minister for Forests (Shri K.H. Patil), did not recommend expunction of these adverse remarks, for the cogent reasons stated by him therein, but on the contrary, pointedly indicated to the Minister, that the matter would need to be carefully examined, only whereafter, a further Note would be submitted.



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30. Notwithstanding the above Note of the Secretary, the State Minister for Forests without scrutinising as required, the pertinent ACRs of the applicant, for the relevant period and the material that led to the adverse remarks entered therein, presto, and in a palpably cavalier manner, recorded his minute on the file on 18-10-1974, as under, in response to the Secretary's Note:

"26) I have carefully gone through the representation of Shri Basappanavar, DFO and also various notes put up by the office. It could be seen from the noting of the Secretary that he has not agreed to the requests of the officer. I would have also agreed with the views of the Secretary. Since I am closely in touch with all the Officers during my regime as a Minister, I have been observing the hard work coupled with honest work of each officer.

27) Sri Basappanavar is one of the youngest officer, who has got good future. In this case the nature of the offence alleged is too small and did not amount to censure. In any case, it has been censured by Government long back. This lapse of time has already tortured his mental condition and this itself is sufficient punishment. No more punishment, in my view, is necessary. More over his work is appreciable one and this has forced me to withdraw the censure awarded in 1970 and also to expunge the adverse remarks for the years 1963-66.

28) Accordingly, I expunge the adverse remarks for the years 1963-66 and also the censure awarded by Government.

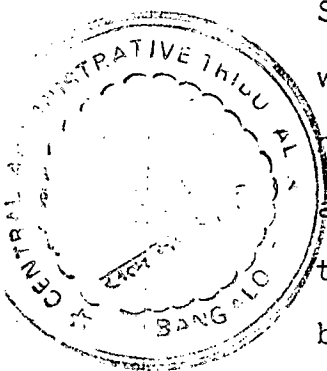
29) Secretary, F & F will please issue orders accordingly."



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31. The very tenor of the Minister's minute, is revealing. It passes our comprehension, as to how the State Minister for Forests, who was not at the helm, in the concerned Ministry, when the adverse remarks in question, came to be entered in the ACRs of the applicant, for a period spanning eight to eleven years in the past, and had no opportunity whatsoever, to oversee the performance of the applicant for that period, could have come to the conclusion, and that too, within a matter of minutes, that these adverse remarks were without warrant and expunged the same. This was done by the Minister even regardless of the fact, that different Reporting and Reviewing Officers, had entered those remarks objectively, <sup>de</sup> and <sup>is</sup> without awaiting a further note from the Administrative Secretary, after due scrutiny, as indicated by the latter. The Minister even went to the extent of erasing the punishment of censure, which was awarded to the applicant in 1970, as proposed by the State Vigilance Commission and agreed to by the State Government. The Minister, however, resiled, when the Administrative Secretary brought to his notice the ineptitude, of expunging this punishment and the adverse remarks relating thereto. Certainly, the State Minister could not have acted in this brusque manner, in expunging the adverse remarks in question, against the applicant and adjudge his performance, for the period relating to as long as

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over



over a decade in the past, in the case of some of the ACRs, when the Minister was nowhere on the scene, unless by telepathy and divine prescience!

32. There must be the strongest deterrent against those who cut corners and indulge in sharp practice, taking recourse to sycophancy, lest fawning servitors, should seriously erode the norms of fairness and efficiency and in the final analysis, the very morality and discipline in administration, to the detriment of service interests of civil servants of proven merit, integrity and acumen.

33. In the light of what we have expatiated above, we have no hesitation in coming to the conclusion, that the State Minister acted in a bizarre fashion, in expunging the above adverse remarks in the ACRs of the applicant, for the pertinent years, regardless of the evidence on record and the prescribed rules and procedure. These adverse remarks were communicated to the applicant. Taking into account his belated representation dated 15-10-1973 and 15-1-1974 thereon and the relevant material placed before us and also the fact, that these adverse remarks were entered by different Reporting and Reviewing Officers and therefore, were not tainted with bias or malice, we are satisfied, that these adverse remarks did not call for expunction. In the result, they would continue to remain ineffaced in the pertinent ACRs of the applicant i.e. for the Reporting Years 1963 to 1966.



34. If that be the case, the prayer of the applicant to direct the respondents to consider him anew, for appointment by "initial recruitment" to the IFS, falls to the ground, as the respondents found him unsuitable for such appointment, on more than one occasion, even otherwise. In this context, we do not deem it necessary, to go into the <sup>or other</sup> questions urged by both sides.

35. The State Public Service Commission did not accord its approval, to the promotion of the applicant, as Deputy Conservator of Forests with effect from 11-4-1967, even on a temporary basis, on account of his adverse service record and had pointedly observed on 16-11-1969, that he should earn at least two satisfactory ACRs. The Commission ultimately agreed to his promotion as Deputy Conservator of Forests with effect from 29-10-1971 i.e., nearly five years from the date viz., 1-10-1966, with effect from which the applicant has prayed for his appointment by "initial recruitment" to the IFS. We cannot overlook this material aspect, while considering the prayers <sup>of</sup> of the applicant.

36. In view of the above facts and analysis, we find, that the application is bereft of merit and therefore, dismiss the same, with no orders however, as to costs.

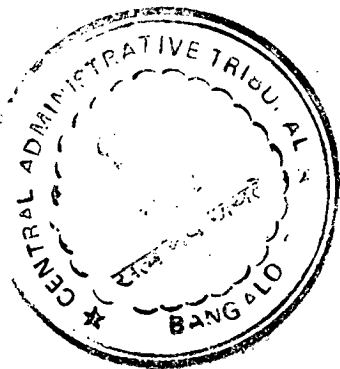
sd/-

(K.S. PUTTASWAMY)  
VICE CHAIRMAN.

sd/-

(L.H.A. REGO)  
MEMBER(A).

For Deputy Registrar (JUL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE



TRUE COPY

8/7/88

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex.(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 9 SEP 1988

REVIEW APPLICATION NO. 68 /88  
IN APPLICATION NO. 447/87(F)  
W.P. NO. /

Applicant(s)

Shri C.H. Basappaavar  
To

1. Shri C.H. Basappaavar  
Conservator of Forests  
Dry Land Development Board  
Mysore
2. Shri B.B. Mandappa  
Advocate  
115/3, Balappa Building  
Seshadripuram Circle  
Bangalore - 560 020

Respondent(s)

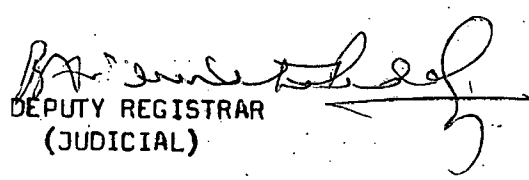
V/s

The Secretary, Department of Personnel &  
Cabinet Secretariat, New Delhi & 2 Ors

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/INTERIM ORDER  
Review  
passed by this Tribunal in the above said application(s) on 29-8-88.

Encl : As above

  
DEPUTY REGISTRAR  
(JUDICIAL)



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYNINETH DAY OF AUGUST, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy .. Vice Chairman

Hon'ble Shri L.H.A. Rego .. Member (A)

REVIEW APPLICATION NO. 68/1988

Shri C.H. Basappaannavar  
S/o Holiappa  
Conservator of Forests  
Dry Land Development Board  
Mysore.

.. Applicant

(Shri B.B. Mandappa, Advocate)

Vs

1. The Secretary to Government  
of India  
Department of Personnel & Cabinet  
Secretariat  
Ministry of Home Affairs  
North Block  
New Delhi.
2. The Chairman  
Special Selection Board  
for Indian Forest Service  
C/o. Union Public Service  
Commission  
P.B. No.186  
New Delhi.
3. The State of Karnataka by its  
Chief Secretary  
Vidhana Soudha  
Bangalore-560 001.

.. Respondents

This application having come up  
for hearing before the Tribunal today, Hon'ble Vice  
Chairman made the following:-

ORDER

In this application made under Section  
22(3) (f) of the Administrative Tribunals Act, 1986 (Act),  
the applicant has sought for a review of our Order made  
on 8.7.1988 dismissing the original Application No.447  
of 1987.

.....2/-



2. In A. No.447/87, the applicant, had sought for annulling the proceedings of the Union Public Service Commission and Government of India in not inducting him as an initial recruit from 1.10.1986 into the Indian Forest Service (IFS) in pursuance of an earlier order made in his favour in Application No.725/1986. On an examination of the contentions urged therein we have dismissed the same.

3. Shri B.B. Mandappa, learned counsel, for the applicant contends that (1) we have overlooked the earlier directions made in A.No.725/86 and (2) we have illegally interfered with an order of the Government expunging the adverse remarks which was not in challenge, and both of them constitute a mistake or an error apparent on the face of the record, to justify a review under the Act.

4. In A.No.725/86, there was a direction to the authorities to reconsider the case of the applicant and in compliance/<sup>of</sup>that order, only the case of the applicant had been reconsidered, and he was not been found fit for induction into the IFS as an initial recruit. In reaching our conclusions, we have not overlooked the earlier directions made by this Tribunal in A.No.725/86. From this, it follows that the first ground urged by Shri Mandappa does not constitute an error apparent on the face of the record to justify a review.

5. In the course of our order, we have taken exception to an order made by Government expunging

the adverse remarks against the applicant. We have done so, to sustain the findings of the authorities in not inducting the applicant into the IFS from 1.10.1966. But that does not constitute a mistake or an error apparent on the face of the record, to justify a review under Section 22(3)(f) of the Act r/w O.47 R.1 CPC.

6. We will also assume that our order is erroneous on everyone of the grounds urged for the applicant. But then also we cannot reexamine them as if we are a court of appeal and reach a different conclusion.

7. On any view of the matter, the application for review has no merit. We, therefore, reject this application for review at the admission stage, without notices to the respondents.

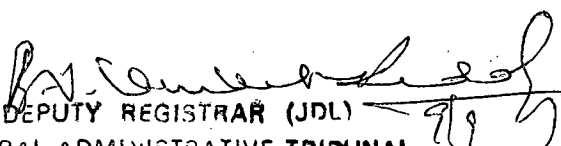


mr.

Sd/-  
VICE CHAIRMAN 29/11

Sd/-  
MEMBER (A) V 29.8.88

TRUE COPY

  
DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE