

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

OK
Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 24 OCT 1988

APPLICATION NOS. 730 to 766/88(F)

Applicants

Shri T.S. Sadashivaiah & 36 Ors

V/s

The Secretary, M/o Environment & Forests,
New Delhi & 5 Ors

To

1. Shri T.S. Sadashivaiah
Daily Casual Labourer (Research Asst)
2. Shri B. Beerrappa
Daily Casual Labourer (Lab Attender)
3. Shri T.M. Shivanne
Daily Casual Labourer (Lab Attender)
4. Shri Thimmarayappa
Daily Casual Labourer (Lab Attender/Graftor)
5. Shri R. Dayananda
Daily Casual Labourer (Lab Attender)
6. Shri L. Chandrashekhar Rao
Daily Casual Labourer (Lab Attender)
7. Shri B. Nagareja
Daily Casual Labourer (Lab Attender)
8. Shri S. Reyaz Sab
Daily Casual Labourer (Field Asst)
9. Shri P.V. Somashekhar
Daily Casual Labourer (Research Asst)
10. Kum M. Sujatha
Daily Casual Labourer (Research Asst)
11. Shri K.T. Chandrashekhar
Daily Casual Labourer (Technical Asst)
12. Shri A. Munivenkappa
Daily Casual Labourer (Watchman)
13. Shri Thimmaraya
Daily Casual Labourer (Mali)
14. Shri Narayanappa
Daily Casual Labourer (Mali)
15. Shri Baithayappa
Daily Casual Labourer (Mali)
16. Shri D. Venkatesha
Daily Casual Labourer (Mali/
Khalasi)
17. Shri Karinageppa
Daily Casual Labourer (Mali)
18. Shri Narayanaswamy
Daily Casual Labourer (Mali)
19. Shri B.C. Ramakrishna
Daily Casual Labourer (Mali)
20. Shri Chandrashekhar
Daily Casual Labourer (Mali)
21. Shri T.M. Rajanna
Daily Casual Labourer (Mali)
22. Shri Narayanappa
Daily Casual Labourer (Mali)

OK
24-10-88

23. Shri Kempaiah
Daily Casual Labourer (Mali)

24. Shri Narayanaswamy
Daily Casual Labourer (Mali)

25. Shri V. Krishna
Daily Casual Labourer (Mali)

26. Shri Thandavan
Daily Casual Labourer (Mali)

27. Shri Narasimhaiah
Daily Casual Labourer (Mali)

28. Shri Minivenkataramanappa
Daily Casual Labourer (Mali)

29. Shri M. Prabhakara
Daily Casual Labourer (Mali)

30. Shri S. Jayarama
Daily Casual Labourer (Driver)

(Sl Nos. 1 to 30 -

Sandal Research Centre
Malleswaram
Bangalore - 560 003)

31. Shri Mariyappa
Daily Casual Labourer (Watman/Mali)

32. Kum K.R. Kusuma
Daily Casual Labourer (Librarian)

33. Shri K. Kondaiah
Daily Casual Labourer (Watchman)

34. Shri T. Anthony Doss
Daily Casual Labourer (Carpenter)

35. Shri M. Lakkanna
Daily Casual Labourer (Lab Attender)

(Sl Nos. 31 to 35 -
Forest Research Laboratory
Malleswaram
Bangalore - 568 003)

36. Shri N. Chandrashekhar
Daily Casual Labourer (Technical Asst)

37. Shri M. David
Daily Casual Labourer (Mali)

(Sl Nos. 36 & 37 -
Minor Forest Products Research Unit
Malleswaram, Bangalore - 560003)

38. Shri S.K. Srinivasan
Advocate
No. 10, 7th Temple Road
15th Cross, Malleswaram
Bangalore - 560 003

39. The Secretary
Ministry of Environment & Forests
Dept. of Environment, Forests &
Wild Life
Parivaran Bhawan
CGO Complex, Lodhi Road
New Delhi - 110 003

40. The Director General
Indian Council of Forest Research & Education
Govt. of India
(PO) New Forests
Dehradun - 248 006

41. The Scientist - SF
Sandal Research Centre
Forest Research Laboratory Campus
Mallewaram
Bangalore - 560 003

42. The Head of Utilisation Research
Forest Research Laboratory
Mallewaram
Bangalore - 560 003

43. The Senior Research Officer
Minor Forest Products Research Unit
Forest Research Laboratory Campus
Mallewaram
Bangalore - 560 003

44. The Director
Institute of Wood Science &
Technology
Forest Research Laboratory Campus
Mallewaram
Bangalore - 560 003

45. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Enclosed herewith please find the copy of ORDER passed by this
Tribunal in the above said applications on 14-10-88.

Encl: As above

P. S. Srinivasan
SECTION OFFICER
(JUDICIAL)

Recd 38 Cents
Served in M/s
24-10-88
(S. S. Srinivasan)
Advocate for Appellant

*Issued
K. M. G. R.
24-10-88.*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 14th DAY OF OCTOBER, 1988

Present : Hon'ble Srf L.H.A.Rego Member (A)

Hon'ble Sri Ch.Ramakrishna Rao Member (J)

APPLICATION Nos. 730 to 766/88(F)

1. T.S.Sadashivaiah
Daily Casual Labourer(Research Asst.),
2. B.Beerappa,
Daily Casual Labourer(Lab attender),
3. T.M.Shivanna,
Daily Casual Labourer(Lab attender),
4. Thimmarayappa,
Daily Casual Labourer(Lab attender/Grafter),
5. R.Dayananda,
Daily Casual Labourer(Lab attender),
6. L.Chandrashekhar Rao,
Daily Casual Labourer(Lab attender),
7. B.Nagaraja,
Daily Casual Labourer(Lab attender),
8. S.Reyaz Sab,
Daily Casual Labourer(Field Asstt.),
9. P.V.Somashekhar,
Daily Casual Labourer(Research Asstt.),
10. Km.M. Sujatha,
Daily Casual Labourer(Research Asstt.),
11. K.T.Chandrashekhar,
Daily Casual Labourer(TA),
12. A.Munivenkatappa,
Daily Casual Labourer(Watchman),
13. Thimmaraya,
Daily Casual Labourer(Mali),
14. Narayanappa,
Daily Casual Labourer(Mali),
15. Baitheyappa,
Daily Casual Labourer(Mali),
16. D.Venkatesha,
Daily Casual Labourer(Mali/Khalasi),
17. Karimappa,
Daily Casual Labourer(Mali),



18. Narayanaswamy,
Daily Casual Labourer(Mali),
19. B.C.Ramakrishna,
Daily Casual Labourer(Mali),
20. Chandrashekhar,
Daily Casual Labourer(Mali),
21. T.M.Rajanna,
Daily Casual Labourer(Mali),
22. Narayanappa,
Daily Casual Labourer(Mali),
23. Kempaiah,
Daily Casual Labourer(Mali),
24. Sri Narayanaswamy,
Daily Casual Labourer(Mali),
25. V.Krishna,
Daily Casual Labourer(Mali),
26. Thandavan,
Daily Casual Labourer(Mali),
27. Narasimaiyah,
Daily Casual Labourer(Mali),
28. Munivenkataramanappa,
Daily Casual Labourer(Mali),
29. M.Prabhakara,
Daily Casual Labourer(Mali),

(Applicants 1 to 29 are working in
Sandal Research Centre, Malleswaram)
Bangalore.

30. Mariyappa,
Daily Casual Labourer(Watchman/Mali),
31. Km. R.Kusuma,
Daily Casual Labourer(Librarian),
32. K.Kondaiah,
Daily Casual Labourer(Watchman),
33. T.Anthony Doss,
Daily Casual Labourer(Carpenter),
34. M.Lakkanna,
Daily Casual Labourer(Lab attender),

(Applicants 30 to 34 are working in
Forest Research Laboratory, Malleswaram)
Bangalore.



35. N.Chandrashekhar,
Daily Casual Labourer(TA),
Minor Forest Products Research Unit,
3 Malleswaram,
Bangalore - 3.

36. M.David,
Daily Casual Labourer(Mali),
Minor Forest Products Research Unit,
Malleswaram,
Bangalore - 3.

37. S.Jayarama,
Daily Casual Labourer,(Driver),
Sandal Research Centre,
Malleswaram,
Bangalore - 3.

... Applicants

(Sri S.K.Srinivasan ... Advocate)

vs.

1. The Secretary to the Govt. of India, M/o Environment & Forests, Department of Environment, Forests & Wildlife, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi - 3.

2. The Director-General, Indian Council of Forestry Research & Education, Govt. of India, (PO) New Forests, Dehradun - 248 006.

3. The Scientist-SF, Sandal Research Centre, Forest Research Laboratory Campus, Malleswaram, Bangalore - 3.

4. The Head of Utilisation Research, Forest Research Laboratory, Malleswaram, Bangalore - 3.

5. The Senior Research Officer, Minor Forest Products Research Unit, Forest Research Laboratory Campus, Malleswaram, Bangalore - 3.

6. The Director, Institute of Wood Science & Technology, Forest Research Laboratory Campus, Malleswaram, Bangalore - 3.

... Respondents

(Sri M.S.Padmarajaiah ... Advocate)



These applications having come up before the Tribunal today, Hon'ble Sri Ch.Ramakrishna Rao Member (J) made the following :

O R D E R

These applications have been filed under Section 19 of the Administrative Tribunals Act, 1985. As the issues raised therein are practically the same, they are disposed of by a common order.

2. The salient facts giving rise to these applications are as follows: 30 applicants entered service as Daily Casual Labourers (DCL) in the Sandal Research Centre, Bangalore (SRC) (Respondent 3:R3); 5 as DCL in the Forest Research Laboratory, Bangalore (FRL) (Respondent 4:R4) and 2 in the Minor Forest Products Research Unit, Bangalore (MFPRU) (Respondent 5:R5) on various dates and in diverse roles during the period from 1979 to 1987. By and large, their names were in the list of candidates sponsored or registered with the Employment Exchange at the time of their appointment. They have been manning posts in Groups 'C' and 'D' such as Research/Technical Assistants, Typists, Laboratory Attenders, Khalasis etc. Inspite of their satisfactory and long service, they have been retained only as DCLs without being absorbed in the regular service of R3 to R5. The applicants, therefore, seek directions to the



respondents for regularising their services in the posts held by them or in the Institute of Wood Science and Technology (IWST) which was newly established under R6 by the Government of India at Bangalore (Respondent 1:R1). They also claim salary in accordance with the pay and allowances payable to regular employees in the respective units performing similar duties.

3. Interlocutory Application, (I.A.) III, was filed by the applicants after the original applications (O.As) were taken on file by the Registry for impleading IWST, as a respondent in the O.As. This IA was allowed by the Tribunal and accordingly IWST, has been impleaded as Respondent 6 (R. 6) in the OAs.

4. It is pertinent to recount here the genesis of the recent reorganisation of the forestry research set-up in the country. Forestry is an eclectic science, encompassing a wide gamut of allied scientific disciplines. Forests are an invaluable natural resource and asset of the country, which not only need to be preserved inviolate but administered and managed on scientific lines, so that they could perpetuate at the highest level of productivity, to cater to diverse needs of our people and of the country as a whole. They play a key-role in the socio-economic progress of our country, in providing a wide range of goods and services, the continuance and maintenance of which, at the desired level, is so essential for human welfare. These are the direct benefits which the forests confer on man, but there are



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indirect benefits too, like environmental protection, which though intangible, are of immense value to the nation, as the forests regulate stream-flow and therefore ground-water and are a bulwark against soil erosion. Thereby, they act as a safeguard against the ravages of flood and erosion, ensuring fertility of arable land and consequently rural prosperity. Forests also play a significant role in moderating climate. Thus in whatever forests fulfil, the touchstone and measure of their value, is human weal and satisfaction.

5. With this background in view, the Government of India, (GOI) is seen to have taken a decision in 1987, on the recommendations of a Committee of Experts, to set up five forest research institutes, under the aegis of the Indian Council of Forest Research and Education (ICFRE) in different regions of the country, in addition to the existing premier Forest Research Institute at Dehra Dun. On the recommendations of that Committee, the GOI decided by its Order dated 9.4.1987, to set up IWST at Bangalore. This Institute aims at carrying out research at the national level, in the realm of wood science and technology, including physical and chemical properties of forest produce, their uses, processing and substitution of wood, by alternate materials etc.

6. The GOI is said to have spelt out in the above Order, the details of areas of research, infra-structure



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organisation and method of formulation of schemes.

7. Annexure-A 27 to the application, furnishes ~~the~~ details of the background, organisation, areas of research and staffing of the IWST. The accompaniments thereto, indicate inter alia, the details of sanctioned posts of coordinated schemes, proposed to be attached to the IWST (from SRC, FRL and MFPRU i.e., the three quondam forest research units, existing at Bangalore), actual requirement of personnel, inclusive of research support and other staff.

8. Revamping and restructuring of the forest research organisational set-up within the country as above, entailed suitable adjustment and redeployment of staff in various cadres, with due regard to efficiency and economy. This necessitated curtailment/retrenchment of staff in some of the cadres. The applicants are among the personnel so affected who have come before us, for redress.

9. The thrust in the argument of Sri S.K.Srinivasan, learned counsel for the applicants, is, that his clients have not been absorbed in regular posts despite their long period of satisfactory service. He relies heavily on the decision of the Supreme Court in Daily R.C. Labour P&T Deptt Vs. Union of India A.I.R. 1987 SC 2342 wherein



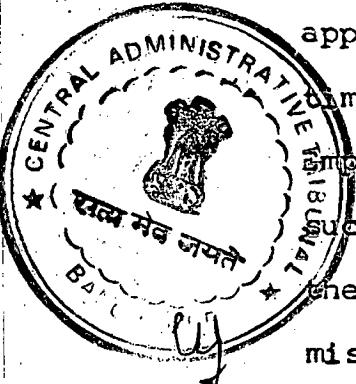
it was held :"There are several types of work such as road making, railway construction, house building, irrigation projects, communications etc. which have to be undertaken ~~xxxxxx~~ on a large scale. Development in these types of activities (even though they do not involve much foreign exchange) is not keeping pace with the needs of society. We are saying all this, only to make the people understand the need for better management of man-power (which is a decaying asset) the non-utilisation of which leads to the inevitable loss of valuable human resources. Let us remember the slogan: "Produce or Perish". It is not an empty slogan. We fail to produce more at our own peril. It is against this background that we say that non-regularisation of temporary employees or casual labour for a long period is not a wise policy. We, therefore, direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department".

Sri Srinivasan points out that the Supreme Court followed in Daily R.C. Labour P&T Department cited supra, an earlier decision in Dhirendra Chamouli Vs. State of U.P. (1986) 1 SCC 637, in which the Court directed the Nehru Yuva Kendras to absorb employees working in the Kendras and performing same duties as class IV employees and pay them at par with those



employees. In addition to these rulings of the Supreme Court, Sri Srinivasan calls in aid, the latest order of the Supreme Court in Civil W.P.No. 1351 of 87 passed on 10.3.1988, directing the Ministry of the Government of India therein, who is the same as R 1 herein, and other authorities, to absorb the petitioners, who were being continued as daily rated employees for more than 4 to 5 years, on regular basis. According to Sri Srinivasan, SRC has not been closed down and therefore it is possible to absorb them either in the SRC or in the IWST.

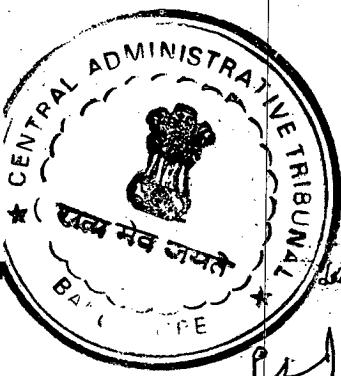
10. Sri M.S.Padmarajaiah, learned counsel for the respondents, refutes the contentions urged on behalf of the applicants and submits as follows : SRC was closed down on 1.7.1988 and its activities transferred to the Institute of Forest Genetics and Tree Breading, Coimbatore (IFGTB) and IWSTB. The Union Bank of India, Mall eswaram and all branches concerned were suitably instructed. According to the instructions issued by the Government of India from time to time, the casual daily labourers who have put in service for a minimum period of two years with atleast 206 days (previously 240 days) during each of the years (including broken periods of service) are eligible for consideration for regular appointment against Group D posts as may arise, from time to time, provided they were engaged through the Employment Exchange and they fulfil the other conditions such as age limits, educational qualifications etc....Further, according to the existing instructions, it is not permissible to appoint daily wage labourers against vacancies



in Group C posts. They are ~~now~~ eligible for regularisation against Group D posts only as and when they arise, from time to time in accordance with the Government instructions. They have not been appointed against regular posts and their services being purely casual in nature, they could be terminated at any time. The judgement of the Supreme Court dated 10.3.1988 is being implemented in so far as it relates to the Forest Research Institute, Dehra Dun (FRI) and to the Indira Gandhi National Forest Academy, Dehra Dun (IGNFA) who were respondents in that case. They have, however, sought certain clarifications from the Supreme Court for implementing the judgement and the clarifications are still awaited.

11. Sri Padmarajaiah brings to our notice, that applicants in A.Nos. 759 to 765 of 1988 and 731, 737 and 743 of 1988, and four others aggregating to 14 are being regularised. There is a possibility of regularising 4 more. The case of the others would be considered in due course, on the basis of the Government instructions applicable to such absorption.

12. We have considered the rival contentions carefully. The issue whether SRC is still in existence pales away into significance because some of its activities have been

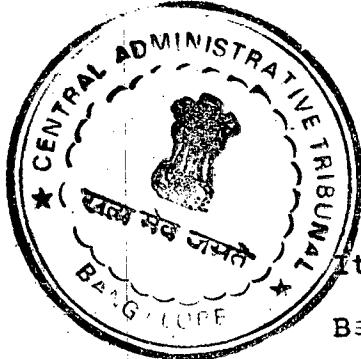


transferred to IGNFA while others have been transferred to IWST. It is likely that SRC may still be functioning to facilitate transfer of its activities to other organisations; but that by itself may not justify the inference, that SRC is existing in its pristine form. Consequently, the applicants are eligible for being absorbed in the same capacity as they have been working in SRC, in IWST or in any appropriate unit under the aegis of ICFRE depending on the availability of the posts and the need for their services.

13. We are clearly of the view that in considering the names of applicants for regularisation or absorption, respondents need not necessarily absorb or regularise only those who were sponsored by the Employment Exchange. We are saying this because the Supreme Court in Union of India & ors v. Hargopal and ors, 1987 3 SCC 308 has observed :

" 4. It is evident that there is no provision in the Act which obliges an employer to make appointments through the agency of the Employment Exchanges. Far from it, Section 4(4) of the Act, on the otherhand, makes it explicitly clear that the employer is under no obligation to recruit any person through the Employment Exchanges to fill in a vacancy merely because that vacancy has been notified under Section 4(1) or Section 4(2).....

It has also been laid down in a decision of the Principal Bench of this Tribunal in Kamini Nath Sharma v. Union of India ATR 1988(1) CAT 84, to which one of us



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(Ch.Ramakrishna Rao) was a party, that the termination of service of the applicants therein on the technical ground that their names were not sponsored by the Employment Exchange is not fatal to regularisation of their appointment and the doctrine of 'promissory estoppel' would also come into play. We, therefore, hold, that the respondents should consider the regularisation of the services of the applicants irrespective of sponsoring of their names by the Employment Exchange.

14. Turning to the ruling of the Supreme Court dated 10.3.1988, Sri Padmarajaiah contends that creation of posts of DCLs is beset with financial implications and regularisation of persons employed as DCLs as directed by the Supreme Court is limited to their absorption in the posts actually existing. In the order dated 10.3.1988 Supreme Court has stated: "It is not disputed that the petitioners have been working in the Establishment for more than 4 to 5 years. This gives us the impression that there is regular need for this employment. Though this is the position, petitioners are being continuing as daily-rated employees. We do not think this should be permitted particularly when the wage of daily-rated employees is about half of regular employees. We direct the opposits-party-respondent to absorb the petitioners on regular basis." From the language and tenor of that order, it appears that



regularisation or absorption of DCLs is to be accomplished regardless of the existence of posts, because of the need for employment of DCLs for more than 4 to 5 years. However, Sri Padmarajaiah says that R1 has taken steps to obtain clarification of the Order dt. 10.3.1988 by the Supreme Court and the same is awaited. Be that as it may, the simple question in the present case is, how best the respondents should regularise or absorb the applicants. Since absorption of 14 applicants is taking place and 4 more is very likely, the problem survives only in respect of 19 others.

15. In this connection Sri Srinivasan invites our attention to the fact, that the requirement of Group C posts in the IWST is 45 and only 11 are in position, leaving 34 posts vacant vide Office Order dated 30.3.1988 issued by R1. Some of the applicants possess post-graduate degrees and are highly qualified for being considered for Group C posts. Sri Padmarajaiah submits that though qualified, they may not necessarily fit into the job-requirements of Group C posts in IWST.

16. In our view, it will be expedient for the respondents to appoint a Screening Committee for determining as to whether any of the applicants deserve to be appointed to Group C posts. If it is found that some of the applicants can be appointed to Group C posts, they may be absorbed in such posts, without raising any techni-



cal objections.

17. To sum up: (i) Respondents shall regularise or absorb the applicants in the appropriate posts in IWST or any other unit under ICFRE, on an All India canvas, without making a fetish of technicalities such as age-limit, and sponsoring through Employment Exchange taking duly into account their educational qualifications, experience in relevant forestry discipline and their merit and acumen (ii) Respondents shall also examine the claims of the applicants, who possess qualifications in advanced studies and practical experience, in the relevant forestry disciplines for appointment to Group C posts in the IWST or in any appropriate post in any other unit under the ICFRE on an All India canvas by setting up a Screening Committee for the purpose. This shall be done within six months from the date of receipt of this order.



18. In the result, the applications are disposed of on the lines indicated above. No order as to costs.

Sd/-

(CH. RAMAKRISHNA RAO)
MEMBER (J)

TRUE COPY

Sd/-

(L.H.A. REGO) 14-10-1988
MEMBER (A)

24/10/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 4 NOV 1988

To

1. Shri Sanjeev Malhotra
All India Law Journal
Hakikat Nagar, Mal Road
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2. Administrative Tribunal Reporter
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4. The Editor
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(Kolhapur Road)
Delhi - 110 007
5. M/s All India Reporter
Congressnagar
Nagpur

Sir,

I am directed to forward herewith a copy of the under mentioned order passed by a Bench of this Tribunal comprising of Hon'ble

Mr. Ch. Remakrishna Rao

Vice-Chairman/Member (J)

and Hon'ble Mr. L.H.A. Ruge

Member (A) with a

request for publication of the order in the journals.

Order dated 14-10-88

passed in A.Nos 750 to 766/88(F).

Q filed
it refd
u-11-88

Yours faithfully,

[Signature]
(XXXXX VENKATESWARA REDDY)
DEPUTY REGISTRAR (J)

87C

Copy with enclosures forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi - 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I. Compounds, Nungambakkam, Madras - 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O. Complex, 234/4, A.J.C. Bose Road, Nizam Palace, Calcutta - 700 020.
4. The Registrar, Central Administrative Tribunal, C.G.O. Complex (CBD), 1st Floor, Near Konkan Bhavan, New Bombay - 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad - 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O. 102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shillong Road, Guwahati - 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floors, Opp. Maharaja College, M.G. Road, Ernakulam, Cochin - 682 001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur (MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M. Enterprises, Shri Krishna Nagar, Patna - 1 (Bihar).
11. The Registrar, Central Administrative Tribunal, C/o Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad (Gujarat).
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak - 753 001 (Orissa).

Copy with enclosures also to :

1. Court Officer (Court I)
2. Court Officer (Court II)

AP [Signature]
(EXXXXXXXKARXXXXXX)
for DEPUTY REGISTRAR (J)

9c.

g fm
L. m/s
u-11-88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 14th DAY OF OCTOBER, 1988

Present : Hon'ble Sri L.H.A. Rego Member (A)
Hon'ble Sri Ch. Ramakrishna Rao Member (J)

APPLICATION Nos. 730 to 766/88(F)

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Daily Casual Labourer (Lab attender),
7. B. Nagaraja,
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Daily Casual Labourer (Field Asstt.),
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Daily Casual Labourer (Research Asstt.),
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Daily Casual Labourer (Research Asstt.),
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24. Sri Narayanaswamy,
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25. V.Krishna,
Daily Casual Labourer(Mali),
26. Thandavan,
Daily Casual Labourer(Mali),
27. Narasimaiyah,
Daily Casual Labourer(Mali),
28. Munivenkataramanappa,
Daily Casual Labourer(Mali),
29. M.Prabhakara,
Daily Casual Labourer(Mali),

(Applicants 1 to 29 are working in
Sandal Research Centre, Malleswaram)
Bangalore.

30. Mariyappa,
Daily Casual Labourer(Watchman/Mali),
31. Km. R.Kusuma,
Daily Casual Labourer(Librarian),
32. K.Kondaiah,
Daily Casual Labourer(Watchman),
33. T.Anthony Doss,
Daily Casual Labourer(Carpenter),
34. M.Lakkanna,
Daily Casual Labourer(Lab attender),

(Applicants 30 to 34 are working in
Forest Research Laboratory, Malleswaram)
Bangalore.

35. N.Chandrashekhar,
Daily Casual Labourer(TA),
Minor Forest Products Research Unit,
Malleswaram,
Bangalore - 3.

36. M.David,
Daily Casual Labourer(Mali),
Minor Forest Products Research Unit,
Malleswaram,
Bangalore - 3.

37. S.Jayarama,
Daily Casual Labourer,(Driver),
Sandal Research Centre,
Malleswaram,
Bangalore - 3.

... Applicants

(Sri S.K.Srinivasan ... Advocate)

vs.

1. The Secretary to the Govt. of India, M/o Environment & Forests, Department of Environment, Forests & Wildlife, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi - 3.

2. The Director-General, Indian Council of Forestry Research & Education, Govt. of India, (PO) New Forests, Dehradun - 248 006.

3. The Scientist-SF, Sandal Research Centre, Forest Research Laboratory Campus, Malleswaram, Bangalore - 3.

4. The Head of Utilisation Research, Forest Research Laboratory, Malleswaram, Bangalore - 3.

5. The Senior Research Officer, Minor Forest Products Research Unit, Forest Research Laboratory Campus, Malleswaram, Bangalore - 3.

6. The Director, Institute of Wood Science & Technology, Forest Research Laboratory Campus, Malleswaram, Bangalore - 3. ... Respondents

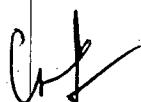
(Sri M.S.Padmarajaiah ... Advocate)

These applications having come up before the Tribunal today, Hon'ble Sri Ch.Ramakrishna Rao Member (J) made the following :

O R D E R

These applications have been filed under Section 19 of the Administrative Tribunals Act, 1985. As the issues raised therein are practically the same, they are disposed of by a common order.

2. The salient facts giving rise to these applications are as follows: 30 applicants entered service as Daily Casual Labourers (DCL) in the Sandal Research Centre, Bangalore (SRC) (Respondent 3:R3); 5 as DCL in the Forest Research Laboratory, Bangalore (FRL) (Respondent 4:R4) and 2 in the Minor Forest Products Research Unit, Bangalore (MFPRU) (Respondent 5:R5) on various dates and in diverse roles during the period from 1979 to 1987. By and large, their names were in the list of candidates sponsored or registered with the Employment Exchange at the time of their appointment. They have been manning posts in Groups 'C' and 'D' such as Research/Technical Assistants, Typists, Laboratory Attenders, Khalasis etc. Inspite of their satisfactory and long service, they have been retained only as DCLs without being absorbed in the regular service of R3 to R5. The applicants, therefore, seek directions to the



respondents for regularising their services in the posts held by them or in the Institute of Wood Science and Technology (IWST) which was newly established under R6 by the Government of India at Bangalore (Respondent 1:R1). They also claim salary in accordance with the pay and allowances payable to regular employees in the respective units performing similar duties.

3. Interlocutory Application, (I.A.) III, was filed by the applicants after the original applications (O.As) were taken on file by the Registry for impleading IWST, as a respondent in the O.As. This IA was allowed by the Tribunal and accordingly IWST, has been impleaded as Respondent 6 (R. 6) in the OAs.

4. It is pertinent to recount here the genesis of the recent reorganisation of the forestry research set-up in the country. Forestry is an eclectic science, encompassing a wide gamut of allied scientific disciplines. Forests are an invaluable natural resource and asset of the country, which not only need to be preserved inviolate but administered and managed on scientific lines, so that they could perpetuate at the highest level of productivity, to cater to diverse needs of our people and of the country as a whole. They play a key-role in the socio-economic progress of our country, in providing a wide range of goods and services, the continuance and maintenance of which, at the desired level, is so essential for human welfare. These are the direct benefits which the forests confer on man, but there are



indirect benefits too, like environmental protection, which though intangible, are of immense value to the nation, as the forests regulate stream-flow and therefore ground-water and are a bulwark against soil erosion. Thereby, they act as a safeguard against the ravages of flood and erosion, ensuring fertility of arable land and consequently rural prosperity. Forests also play a significant role in moderating climate. Thus in whatever forests fulfil, the touchstone and measure of their value, is human weal and satisfaction.

5. With this background in view, the Government of India, (GOI) is seen to have taken a decision in 1987, on the recommendations of a Committee of Experts, to set up five forest research institutes, under the aegis of the Indian Council of Forest Research and Education (ICFRE) in different regions of the country, in addition to the existing premier Forest Research Institute at Dehra Dun. On the recommendations of that Committee, the GOI decided by its Order dated 9.4.1987, to set up IINST at Bangalore. This Institute aims at carrying out research at the national level, in the realm of wood science and technology, including physical and chemical properties of forest produce, their uses, processing and substitution of wood, by alternate materials etc.

6. The GOI is said to have spelt out in the above Order, the details of areas of research, infra-structure

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organisation and method of formulation of schemes.

7. Annexure-A 27 to the application, furnishes ~~4~~ details of the background, organisation, areas of research and staffing of the IWST. The accompaniments thereto, indicate inter alia, the details of sanctioned posts of coordinated schemes, proposed to be attached to the IWST (from SRC, FRL and MFPRU i.e., the three quondam forest research units, existing at Bangalore), actual requirement of personnel, inclusive of research support and other staff.

8. Revamping and restructuring of the forest research organisational set-up within the country as above, entailed suitable adjustment and redeployment of staff in various cadres, with due regard to efficiency and economy. This necessitated curtailment/retrenchment of staff in some of the cadres. The applicants are among the personnel so affected who have come before us, for redress.

9. The thrust in the argument of Sri S.K.Srinivasan, learned counsel for the applicants, is, that his clients have not been absorbed in regular posts despite their long period of satisfactory service. He relies heavily on the decision of the Supreme Court in Daily R.C. Labour P & T Deptt Vs. Union of India A.I.R. 1987 SC 2342 wherein

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it was held :"There are several types of work such as road making, railway construction, house building, irrigation projects, communications etc. which have to be undertaken ~~Maxxum~~ on a large scale. Development in these types of activities (even though they do not involve much foreign exchange) is not keeping pace with the needs of society. We are saying all this, only to make the people understand the need for better management of man-power (which is a decaying asset) the non-utilisation of which leads to the inevitable loss of valuable human resources. Let us remember the slogan: "Produce or Perish". It is not an empty slogan. We fail to produce more at our own peril. It is against this background that we say that non-regularisation of temporary employees or casual labour for a long period is not a wise policy. We, therefore, direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department".

Sri Srinivasan points out that the Supreme Court followed in Daily R.C. Labour P&T Department cited supra, an earlier decision in Dhirendra Chamouli Vs. State of U.P. (1986) 1 SCC 637, in which the Court directed the Nehru Yuvaka Kendras to absorb employees working in the Kendras and performing same duties as Class IV employees and pay them at par with those

employees. In addition to these rulings of the Supreme Court, Sri Srinivasan calls in aid, the latest order of the Supreme Court in Civil W.P.No. 1351 of 87 passed on 10.3.1988, directing the Ministry of the Government of India therein, who is the same as R 1 herein, and other authorities, to absorb the petitioners, who were being continued as daily rated employees for more than 4 to 5 years, on regular basis. According to Sri Srinivasan, SRC has not been closed down and therefore it is possible to absorb them either in the SRC or in the IWST.

10. Sri M.S.Padmarajaiah, learned counsel for the respondents, refutes the contentions urged on behalf of the applicants and submits as follows : SRC was closed down on 1.7.1988 and its activities transferred to the Institute of Forest Genetics and Tree Breading, Coimbatore (IFGTB) and IWSTB. The Union Bank of India, Mall eswaram and all branches concerned were suitably instructed. According to the instructions issued by the Government of India from time to time, the casual daily labourers who have put in service for a minimum period of two years with atleast 206 days (previously 240 days) during each of the years (including broken periods of service) are eligible for consideration for regular appointment against Group D posts as may arise, from time to time, provided they were engaged through the Employment Exchange and they fulfil the other conditions such as age limits, educational qualifications etc....Further, according to the existing instructions, it is not permissible to appoint daily wage labourers against vacancies

in Group C posts. They are ~~xxx~~ eligible for regularisation against Group D posts only as and when they arise, from time to time in accordance with the Government instructions. They have not been appointed against regular posts and their services being purely casual in nature, they could be terminated at any time. The judgement of the Supreme Court dated 10.3.1988 is being implemented in so far as it relates to the Forest Research Institute, Dehra Dun (FRI) and to the Indira Gandhi National Forest Academy, Dehra Dun (IGNFA) who were respondents in that case. They have, however, sought certain clarifications from the Supreme Court for implementing the judgement and the clarifications are still awaited.

11. Sri Padmarajaiah brings to our notice, that applicants in A.Nos. 759 to 765 of 1988 and 731, 737 and 743 of 1988, and four others aggregating to 14 are being regularised. There is a possibility of regularising 4 more. The case of the others would be considered in due course, on the basis of the Government instructions applicable to such absorption.

12. We have considered the rival contentions carefully. The issue whether SRC is still in existence pales away into significance because some of its activities have been ⁴

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transferred to IGNFA while others have been transferred to IWST. It is likely that SRC may still be functioning to facilitate transfer of its activities to other organisations; but that by itself may not justify the inference, that SRC is existing in its pristine form. Consequently, the applicants are eligible for being absorbed in the same capacity as they have been working in SRC, in IWST or in any appropriate unit under the aegis of ICFRE depending on the availability of the posts and the need for their services.

13. We are clearly of the view that in considering the names of applicants for regularisation or absorption, respondents need not necessarily absorb or regularise only those who were sponsored by the Employment Exchange. We are saying this because the Supreme Court in Union of India & ors v. Hargopal and ors, 1987 3 SCC 308 has observed :

" 4. It is evident that there is no provision in the Act which obliges an employer to make appointments through the agency of the Employment Exchanges. Far from it, Section 4(4) of the Act, on the otherhand, makes it explicitly clear that the employer is under no obligation to recruit any person through the Employment Exchanges to fill in a vacancy merely because that vacancy has been notified under Section 4(1) or Section 4(2)....."

It has also been laid down in a decision of the Principal Bench of this Tribunal in Swaminath Sharma v. Union of India ATR 1988(1) CAT 84, to which one of us

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(Ch.Ramakrishna Rao) was a party, that the termination of service of the applicants therein on the technical ground that their names were not sponsored by the Employment Exchange is not fatal to regularisation of their appointment and the doctrine of 'promissory estoppel' would also come into play. We, therefore, hold, that the respondents should consider the regularisation of the services of the applicants irrespective of sponsoring of their names by the Employment Exchange.

14. Turning to the ruling of the Supreme Court dated 10.3.1988, Sri Padmarajaiah contends that creation of posts of DCLs is beset with financial implications and regularisation of persons employed as DCLs as directed by the Supreme Court is limited to their absorption in the posts actually existing. In the order dated 10.3.1988 Supreme Court has stated: "It is not disputed that the petitioners have been working in the Establishment for more than 4 to 5 years. This gives us the impression that there is regular need for this employment. Though this is the position, petitioners are being continuing as daily-rated employees. We do not think this should be permitted particularly when the wage of daily-rated employees is about half of regular employees. We direct the opposits-party-respondent to absorb the petitioners on regular basis." From the language and tenor of that order, it appears that

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regularisation or absorption of DCLs is to be accomplished regardless of the existence of posts, because of the need for employment of DCLs for more than 4 to 5 years. However, Sri Padmarajaiah says that R1 has taken steps to obtain clarification of the Order dt. 10.3.1988 by the Supreme Court and the same is awaited. Be that as it may, the simple question in the present case is, how best the respondents should regularise or absorb the applicants. Since absorption of 14 applicants is taking place and 4 more is very likely, the problem survives only in respect of 19 others.

15. In this connection Sri Srinivasan invites our attention to the fact, that the requirement of Group C posts in the IWST is 45 and only 11 are in position, leaving 34 posts vacant vide Office Order dated 30.3.1988 issued by R1. Some of the applicants possess post-graduate degrees and are highly qualified for being considered for Group C posts. Sri Padmarajaiah submits that though qualified, they may not necessarily fit into the job-requirements of Group C posts in IWST.

16. In our view, it will be expedient for the respondents to appoint a Screening Committee for determining as to whether any of the applicants deserve to be appointed to Group C posts. If it is found that some of the applicants can be appointed to Group C posts, they may be absorbed in such posts, without raising any techni-



cal objections.

17. To sum up: (i) Respondents shall regularise or absorb the applicants in the appropriate posts in IWST or any other unit under ICFRE, on an All India canvas, without making a fetish of technicalities such as age-limit, and sponsoring through Employment Exchange taking duly into account their educational qualifications, experience in relevant forestry discipline and their merit and acumen (ii) Respondents shall also examine the claims of the applicants, who possess qualifications in advanced studies and practical experience, in the relevant forestry disciplines for appointment to Group C posts in the IWST or in any appropriate post in any other unit under the ICFRE on an All India canvas by setting up a Screening Committee for the purpose. This shall be done within six months from the date of receipt of this order.

18. In the result, the applications are disposed of on the lines indicated above. No order as to costs.

TRUE COPY

Sd/-

(CH. RAMAKRISHNA RAO)
MEMBER (J)

Sd/-

(L.H.A. REGO) 14-10-1988
MEMBER (A)

COMMERCIAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 9 AUG 1990

CONTEMPT

PETITION (CIVIL) NO. (S)

17 to 27

/90

IN APPLICATION NOS. 730, 734, 738 to 740, 748, 756, 758, 762,
W.P. NO (S) 764 & 766/88(F)

Applicant (s)

Shri T.S. Sadashivaiah & 10 Ors
To

1. Shri T.S. Sadashivaiah
2. Shri P.V. Somasekhar
3. Kum. M. Sujatha
4. Shri K.T. Chandrasekhar
5. Shri Narasimhaiah
6. Shri M. Prabhakara
7. Shri T. Anthony Das
8. Shri N. Chandrasekhar
9. Shri S. Jayarama

(Sl Nos. 1 to 9 -

Group 'D' Staff
Institute of Arid Zone Forest Research
Jodhpur (Rajasthan)

10. Shri R. Dayananda

11. Shri B.C. Ramakrishna

(Sl Nos. 10 & 11 -

Institute of Rain and Moist
Deciduous Forest Research
Jorhat
Assam)

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY/INTERIM ORDER~~
passed by this Tribunal in the above said application (s) on 1-8-90.


for DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

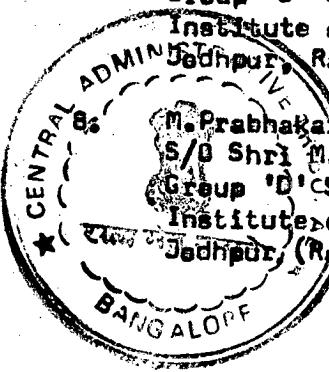
DATED THIS 01ST DAY OF AUGUST, 1990

PRESENT

HON'BLE SHRI L.H.A. REGO : MEMBER (A)
HON'BLE SHRI J.NARSIMHA MURTHY : MEMBER (J)

CONTEMPT PETITION(CIVIL) NOS. 17 to 27/1990

1. TS Sadashivaiah,
S/o Shri N.Sreenivasachar,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan)
2. R.Dayananda,
S/o Shri Raja Rao Sindhe,
Institute of Rain and Moist
Deciduous Forest Research,
Jorhat, Assam
3. PV Somasekhar,
S/o Shri P.Venkataramaiah,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan)
4. Kum. M.Sujatha,
D/o Shri MK Krishnamgrthy,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan)
5. KT Chandrasekhar,
S/o Shri KT Thimmaiah,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan)
6. BC Ramakrishna,
S/o Shri Chikkaramaiah,
Group 'D' Staff,
Institute of Rain and Moist Dissiduous
Forest Research, Jorhat, Assam.
7. Narasimhaiah,
S/o Shri Nyathappa,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur, Rajasthan.
- M.Prabhakara,
S/o Shri M.Muniyellappa,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan)



9. T.Anthony Dass,
S/O Shri C.Theresanathan,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan)

10. N.Chandrasekhar,
S/O Shri N.Gopala Rao,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan)

11. S.Jayarama,
S/O Shri Sennappa,
Group 'D' Staff,
Institute of Arid Zone Forest Research,
Jodhpur (Rajasthan) Complainants/
Applicants

(Dr MS Nagaraja, Advocate)

Versus

1. Shri Mahesh Prasad,
Secretary to Govt. of India,
Ministry of Environment and Forests,
Department of Environment, Forest and
Wild Life,
Parivaran Bhavan, CGO Complex,
Lodhi Road, New Delhi - 110 003

2. Shri RV Singh,
Director General
Indian Council of Forestry Research,
and Education,
Govt. of India, P.O. New Forests,
DEHRADUN - 248 006

3. Dr UV Srinivasan,
Director,
Institute of Wood Science & Technology,
Mallewaram, Bangalore - 560 003 Accused/
Respondents

Shri MS Padmarajaiah, Advocate)

This petition coming on for hearing today,

The Hon'ble Shri L.H.A. Rego, Member (A), made the following

ORDER

The petitioners in this common Contempt Petition
pray for initiation of proceedings against the alleged contemnors for
wilful disobedience of the orders of this Tribunal on their original
applications. We propose to hear these contempt petitions and pass a
common order thereon.

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The respondents have filed their reply
resisting the contempt petition.

3.

Dr. MS Nagaraja, learned counsel for the
contempt petitioners, alleged, that the orders passed by this Tribunal
on 14-10-1990, in the original applications have not yet been complied
with in letter and spirit by the alleged contemnors, even though a
year and 9 months had since elapsed and therefore, urged, that
contempt proceedings be initiated against them so as to ensure that
relief was granted to them without further loss of time.

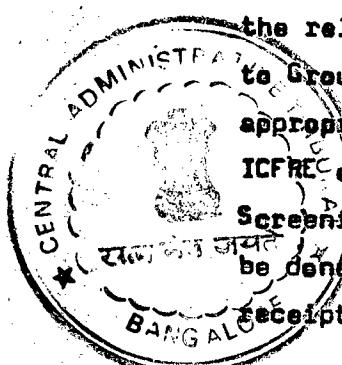
4.

Shri MS Padmarajaiah, learned Senior Central
Government Standing Counsel, files a memo today to show that our orders
in the original application have been duly complied with. He also
files a copy of the Memorandum dated 27-07-1990 issued by the second
respondent, to show compliance with the second part of our directions.
A copy each of these memoranda have been furnished by him today, to
Dr. Nagaraja.

5.

The operative part of our Judgement in
Applications Nos 730 to 766/88(F) dated 14-10-1990 reads as under:-

"To sum up: (i) Respondents shall regularise
or absorb the applicants in the appropriate
posts in IWST or any other unit under ICFRE,
on an All India canvas, without making a
fetish of technicalities such as, age, limit,
and sponsoring through Employment Exchange
taking duly into account their educational
qualifications, experience in relevant
forestry disciplines and their merit and acumen
(ii) Respondents shall also examine the claims
of the applicants, who possess qualifications in
advanced studies and practical experience, in
the relevant forestry disciplines for appointment
to Group C posts in the IWST or in any ~~anywhere~~
appropriate post in any other unit under the
ICFRE on an All India canvas by setting up a
Screening Committee for the purpose. This shall
be done within six months from the date of
receipt of this order."



6. Reading the operative part of the Judgement with para 2 of the reply of the alleged contemnor along with the Memorandum filed today, by Shri Padmarajaiah, which have been taken on record, we are satisfied, that both the components of our direction in the Judgement in the original application have been complied with, by the alleged contemnor in letter as well as in spirit. If so, the contempt petitions do not survive.

7. We, therefore, discharge the notice of contempt on the alleged contemnor and drop the contempt proceedings against them, with liberty to the petitioners to approach the appropriate forum anew, in accordance with law, in case they are yet aggrieved.

These contempt petitions are disposed of accordingly, with no order however as to costs.

Sd -

MEMBER (A) 1-8-90

Sd -

MEMBER (J)

TRUE COPY

APRIL 9/8/90
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL LL.C.H
BANGALORE