

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 3 FEB 1989

APPLICATION NO (S) 981 /88(F)

W.P. NO (S) /

Applicant (s)

Shri S. Jogaiah  
To

v/s

The Chief Secretary, Govt. of Karnataka, Bangalore

1. Shri S. Jogaiah  
No. 12, Siddartha Layout  
Mysore - 11
2. Shri B.B. Mandappa  
Advocate  
115/3, Balappa Building  
Seshadripuram Circle  
Bangalore - 560 020
3. The Chief Secretary  
Govt. of Karnataka  
Vidhana Soudha  
Bangalore - 560 001
4. Shri S.M. Babu  
State Govt. Advocate  
C/o Advocate General (KAT Unit)  
Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Respondent (s)

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/STAN/INTERIM ORDER  
passed by this Tribunal in the above said application(s) on 31-1-89.

3-2-89

De. Deputy Registrar (JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED: the 31st day of January, 1989.

Present

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

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

APPLICATION NO.981 OF 1988(F)

S.Jogaiah, 51 years,  
Conservator of Forests,  
12, Siddartha Layout,  
Mysore-11. .. Applicant.

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

- vs. -

The State of Karnataka  
by its Chief Secretary to Govt.,  
Vidhana Soudha, Bengaluru-1. Respondent.

(Sri S.M.Babu, Government Advocate for respt.)

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

Order



ORDER

The applicant prays herein, that the Notification dated 23-6-1988(Annexure-A5), issued by the respondent, placing his services at the disposal of the Department of Animal Husbandry, Fisheries and Forests, under the State Government of Karnataka, on his repatriation from the Government of India and appointing him until further orders, as Conservator of Forests(CF), in the Karnataka State Forest Industries Corporation Ltd.,('Corporation' for short), with its headquarters at Shimoga, be quashed; that the respondent be directed to post him as CF, in any one of the three Forest Circles in Karnataka State, as indicated by him, in his letter dated 9-3-1988(Annexure-A3), addressed to the respondent, and that such other directions be issued, as appropriate in the circumstances of this case.

2. These are the facta probanda: The applicant entered the State Forest Service, in the State of Karnataka as Assistant CF in 1965, and was promoted as Deputy CF in that service, in 1971. He was appointed by promotion to the Indian Forest Service (IFS) in 1974, under Rule 4(2)(b) of the Indian Forest Service (Recruitment) Rules, 1966.

3. While he was working as Deputy CF, Mandya in Karnataka State, he was deputed to the Government of India and appointed as Lecturer in the State Forest Service College, Coimbatore, with effect from 2-6-1983.

On 27-5-1986 (Annexure A1), the Government of India, Ministry of Environment and Forests, selected him for appointment, to the post of Principal, Southern Forest Rangers' College, Coimbatore, in the pay-scale of Rs.1,800-2000.

4. On his request, to repatriate him to his parent cadre in the Karnataka State, the applicant was informed by the President, Forest Research Institute and Colleges, Dehra Dun, on 11-1-1988 (Annexure-A2), that his repatriation to the State, was approved by the competent authority and that he would accordingly be relieved on 30-4-1988 A.N., from the post of Principal, Southern Forest Rangers' College, Coimbatore.

5. Pursuant thereto, the applicant indicated to the respondent, by his letter dated 9-3-1988 (Annexure-A3), his option [in accordance with the instructions contained, in Memorandum dated 31st March, 1987 (Annexure A-4) from the Government of India, Ministry of Personnel, Public Grievances and Pensions], for being posted in any one of the three Forest Circles viz., Belgaum, Shimoga and Bellary, in Karnataka State, on repatriation to his parent State. The applicant states, that on his relief on 30-4-1988 A.N., as Principal of Southern Forest Rangers' College, Coimbatore, he reported for duty



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to the respondent on 2-5-1988 and was awaiting his actual posting in his parent State, according to the option indicated by him as above. He further states, that while he was on leave, the respondent, by his impugned Notification dated 23-6-1988 (Ann.A5), placed his services at the disposal of the Department of Animal Husbandry, Fisheries and Forests of the Karnataka State, with immediate effect, ~~and~~ until further orders, appointing him as CF, in the Corporation, with headquarters at Shimoga.

6. The applicant alleges, that though he had just returned from deputation from the Government of India after a period of 5 years, he has not been posted to any of the 3 Forest Circles in Karnataka State, according to the option indicated by him as above, on 9-3-1988, but on the contrary, has been again sent on deputation to the Corporation, in Karnataka State. He avers, that it is the policy of the Government of Karnataka, that an officer in the IFS cadre, should not be continued on deputation for a period of more than 5 years, whether with the Government of India, a State Undertaking, Corporation or Company. He submits, that according to the instructions contained in para 2(viii) of the Memorandum dated 31-3-1987 (Ann.A-4), from the Government of India, on completion of his tenure in a Training Institution, he was entitled to the benefit of three

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options

options, relating to his posting, on repatriation to his parent State, and the State should have issued orders of his posting accordingly, as far as possible. He, however alleges, that the State Government failed to do so, intentionally.

7. According to him, the post of CF, Bellary Circle, was vacant, even when he had reported for duty in his parent State, after repatriation from the Government of India, but the same was filled in, by appointing some other officer. He has cited various instances, where certain other forest officers, who had reverted to the parent State, on completion of their tenure on deputation with the Government of India, were favoured with postings according to their choice, but complains, that only he has been invidiously discriminated against. He has also quoted instances, of certain other forest officers of Karnataka State, who are said to have manoeuvred, to get their deputation to the Government of India cancelled, and yet succeeded in securing posting of their choice, in Karnataka State. He alleges, that only he was denied the facility of a posting according to the option indicated by him, even though he had proceeded on deputation to the Government of India, without demur and had completed the usual tenure. He asserts, that it is patent from the above, that he has been singled out by the State Government, for hostile discrimination, as compared to his colleagues.

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8. In the additional statement of facts filed by the applicant on 4-7-1988, he states inter alia, that he was sought to be posted by the respondent, to a non-existent, non-cadre post in the Corporation, as the State Government of Karnataka, has not as yet submitted any proposal to the Government of India, for the creation of a post of CF in the Corporation.

9. Aggrieved, the applicant has come before this Tribunal, for redress.

10. The respondent has filed his reply resisting the application. The applicant has reacted thereto with a rejoinder, stating among other things, that he should have been given the <sup>de off</sup> benefit of the "cooling period", on repatriation by the Government of India, to his parent State, on completion of his period of deputation and that it was obligatory on the State of Karnataka, to post him to a cadre post in the IFS, according to the option indicated by him on 9-3-1988(Ann.A3), and not on deputation again soon after, as has been now done.

11. The main plank, in fact, the leitmotiv of the argument of Shri B.B.Mandappa, learned

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Counsel

Counsel for the applicant, was, that the respondent had flagrantly disregarded the option indicated by his client, in his Letter dated 9-3-1988(Ann. A-3) in regard to his posting to his parent State, on repatriation from the Government of India, on completion of the tenure, on deputation to the Southern Forest Rangers' College, inspite of the specific instructions contained in para 2(viii) of the Memorandum dated 31-3-1987(Ann.A-4) of the Government of India, Ministry of Personnel, Public Grievances and Pensions(Department of Personnel and Training). The said para 2(viii) is reproduced below, for ready reference:

"On completion of the tenure in a training institution, each officer should be given the facility of three options relating to his next posting and the Department concerned would arrange for the posting according to the option exercised by the officer, as far as possible."

12. In order to buttress the above argument, Shri Mandappa relied on Memorandum dated 5-9-1985 (Ann.A-6), issued by the Department of Personnel and Administrative Reforms, Government of Karnataka/DPAR(K), for short/ on the policy regarding transfer of Government servants and in particular, on para 11 thereof, on the caption "Deputation", which is extracted below:

"Deputations: Subject to the special instructions contained hereafter in this para, this Official Memorandum shall, mutatis mutandis, apply to Government

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Servents

Servants, who are on deputation outside their parent departments, including Government, Semi-Government Institutions, Local Bodies and Co-operative Societies. A Government Servant should not be allowed to continue on deputation outside his parent department continuously for more than five years. It is often observed that a Government Servant transferred on deputation to another department of Government or to foreign service is, before completion of five years, posted to another deputation post and proposals are made thereafter to virtually treat the latter as a fresh deputation. To place the matter beyond doubt, it is clarified that the overall limit of 5 years for deputation outside the parent department applies irrespective of the number of deputation posts, held by the Government Servant. A Government Servant repatriated to the parent department from deputation should not be deputed again to any other Government or foreign service unless he has served for at least two years in his parent department."

13. Laying accent thereon, Shri Mandappa pleaded, that his client ought not to have been continued on deputation, out of his parent department for more than five years continuously and that this overall limit of five years, was regardless of the number of deputation posts held by him. He further argued, that his client having been repatriated to the parent Department, on completion of his period of deputation to the Government of India, he should not have been again deputed to any other Department or foreign service, unless he had served at least for two years in the parent Department, <sup>& off</sup> which was referred to as the "cooling/period", he

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said by the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) in its instructions, regarding deputation of officers (ostensibly to the Government of India).

14. In this connection, he referred to para-4 of the instructions, issued by the Government of India, Ministry of Home Affairs, in their Memo dated 29-12-1976, in respect of the Indian Police Service Officers, on deputation to the Government of India, on parity with the regulations prevalent, in the case of members of other Services, among which he said, the Indian Forest Service was one. The said para is reproduced below:

"4. The Prime Minister has further directed that a "cooling off" period of three years must elapse, between two spells of deputation of an IPS officer to the Government of India, as is being done in the case of members of other services."

15. In order to substantiate, that the deputation of his client to the Corporation, had the lineaments of "foreign service" and "deputation", Shri Mandappa drew our attention, to the standard terms and conditions of deputation of Forest Officers of the Karnataka State to the Corporation, as specified by the State Government and in particular, to Conditions Nos. 5, 8 and 12 respectively, relating to "Leave Salary and Pension Contribution", "Leave Travel Concession" and "Commencement and End of Deputation", which read thus:

**"5. LEAVE SALARY AND PENSION CONTRIBUTIONS:**

(a) Leave Salary and Pension contribution shall be paid annually by the employer within fifteen days from the end of each financial year or from the end of foreign service if the deputation or foreign service expires before the end of financial year, at the following provisional rates subject to adjustments and alterations at the final rates as may be fixed by the Accountant General, Karnataka, Bangalore, in accordance with Appendix II-A of P & T Compilation of the Government of India, FRs and SRs (Vol.2).

i) Pension contribution: 1/8th of pay admissible to the officer under the State Government.

ii) Leave Salary Contribution: 11% of pay admissible to the officer under the State Govt.

(b) The amounts of contributions are to be remitted by the employer to the Accountant General, Karnataka, Bangalore (by designation) by means of cheques/demand drafts which should invariably be crossed and should not be credited in cash. The date of receipt of such draft cheques in the office of the Accountant General, Karnataka, Bangalore, shall be treated as the date of discharge of the liability towards the contributions and therefore, the draft/cheque should be sent so as to reach the office of the Accountant General, Karnataka, Bangalore before the prescribed date.

(c) In the case the amount of contributions towards leave salary and pension are not credited to Government within the period specified in (a) above, interest must be paid by the employer to Government on the unpaid contributions, at the rate of two paise per day

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for

for Rs.100/- from the date of expiry of the said period of fifteen days upto the date on which the contribution is finally paid.

(d) The leave salary and pension contributions should be paid separately as they are creditable to different Heads of Accounts and no dues recoverable from Government, on any account, should be set against these contributions.

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8. LEAVE TRAVEL CONCESSION: The officer shall be entitled to leave travel concessions to the extent and on conditions available to other officers of his cadre under the State Government and liability on this account shall be borne by the employer.

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12. COMMENCEMENT AND END OF DEPUTATION:

The service under the employer shall commence on the date on which the officer handed over charge of his post under the Government or under another foreign employer, as the case may be, and ends on the date on which he shall be required compulsorily to retire from service under Rule 16(1) of the All India Services(Death-cum-retirement benefits) Rules, 1958 whichever is earlier."



16. Shri Mandappa stressed, that the above terms and conditions of deputation to the Corporation, read <sup>of caption:</sup> conjointly with para-12 under the "Deputations", in Annexure A-6, and the aforesaid Memo dated 20-12-1976 from the Government of India, Ministry of Home Affairs, made it abundantly clear, that his client could not have

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been, close on the heels of his return from Coimbatore, on completion of 5 years of the term of his deputation to the Government of India, again deputed to the Corporation. It was evident therefrom, he argued sedulously, that the respondent had intently violated the above guidelines/instructions, both of the Government of India and the State Government, by issuing the impugned order of posting of his client, to the Corporation.

17. Furthermore, Shri Mandappa alleged, that his client was invidiously discriminated against, in the matter of his impugned posting, on return from deputation to the Government of India, as compared to many of his colleagues, as evidence of which, he cited reference to paras 6(iii) and (iv) of the application. This, he asserted, was violative of the principle of equality enshrined in Articles 14 and 16(1) of the Constitution.

18. He next invoked the provisions of Rule 2 of the All India Services (Conditions of Service - Residuary Matter) Rules 1960 ['1960 Rules' for short], in an endeavour, to bring out, that until such time the Central Government framed regulations, in consultation with the State Government concerned, to regulate any matters relating to conditions of service of persons appointed to an All India Service, for which there was

no provision, in the rules made or deemed to have been made, under the All India Services Act, 1951, such matters would be regulated, as provided in the said Rule 2 of the 1960 Rules, as follows:

"2. Power of Central Government to provide for residuary matters.— The Central Government may, after consultation with the Government of the States concerned, make regulations to regulate any matters relating to conditions of service of persons appointed to an All India Service, for which there is no provision in the rules made or deemed to have been made under the All-India Services Act, 1951(61 of 1951); and until such regulations are made, such matters shall be regulated:

- (a) in the case of persons serving in connection with the affairs of the Union, by the rules, regulations and orders applicable to officers of the Central Services, Class I;
- (b) in the case of persons serving in connection with the affairs of a State by the rules, regulations and orders applicable to officers of the State Civil Services, Class-I subject to such exceptions and modifications as the Central Government may, after consultation with the State Government concerned, by order in writing, make;"

19. Shri S.M.Babu, learned Counsel for the respondent, urged at the outset, that the State Government, had unfettered power under Rule 6(2)(i) of the IFS(Cadre) Rules, 1966 [1966 Rules, for short], read with its relevant proviso, to depute a cadre officer, for service to the Corporation.

Rule 6 of the 1966 Rules, is reproduced below in its entirety, to help appreciate its true meaning and import:

**"6. Deputation of cadre officers.—**

(1) A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government.

(2) A cadre officer may also be deputed for service under,—

(i) a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, a municipal corporation or a local body, by the State Government on whose cadre he is borne; and

(ii) an international organisation, an autonomous body not controlled by the Government, or a private body, by the Central Government in consultation with the State Government on whose cadre he is borne:

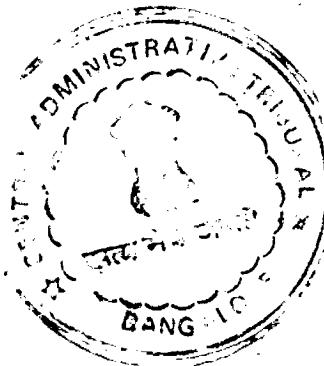
Provided that no cadre officer shall be deputed to any organisation or body of the type referred to in item (ii), except with his consent:

Provided further that no cadre officer shall be deputed under sub-rule(1) or sub-rule(2) to a post carrying a prescribed pay which is less than, or a pay scale, the maximum of which is less than the basic pay he would have drawn in the cadre post but for his deputation."

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20. Shri Babu therefore asserted, that the applicant could not, in the light of Rule 6(2)(i) ibid and the absolute power conferred on the State Government by virtue thereof, question his impugned posting, in an ex-cadre post in the Corporation.

21. Shri Babu sought to elaborate the peculiar circumstances, under which the applicant was required to be posted in an ex-cadre post, in the Corporation, on repatriation from the Government of India, on completion of his 5-year term of deputation thereto. According to the 1966 Rules, he explained, that to date, only 11 posts of CFs were encadred in the Karnataka State cadre of the IFS, as against which, 26 officers were in position. Such of the officers in the rank of CFs, who were in excess of the sanctioned cadre strength of 11, in conformity with the 1966 Rules, had to work, either against the Central or the State deputation reserve posts. Only one officer of the rank of CFs, from the Karnataka State, he said, was working at present, against the Central deputation reserve post, while the remaining officers of that rank, were serving against the State deputation reserve quota. As against the sanctioned strength of 18, in the State deputation reserve, he said, actually 23 officers were in position. Thus, he said, 5 officers who were juniormost and surplus, among whom is the applicant, are liable to be reverted



as Deputy CFs for want of posts. Yet, he submitted, ~~that~~ the State was gracious enough, in not taking this precipitate step, of jeopardising the career of these officers and had as an alternative, sought to accommodate them in ex-cadre posts, as in State-owned Boards and Corporations, till such time, the situation normalised.

22. In the process, Shri Babu affirmed, that the State Government had acted judiciously and had taken due care to see, that the cadre posts were filled in, strictly in accordance with seniority and merit. The allegation of the applicant, that he was flagrantly discriminated against, in this respect, was frivolous and unfounded, Shri Babu asserted, as none of his juniors, was appointed to a cadre post, overlooking his claim. Besides, he submitted, that the officers belonging to the Scheduled Caste/Tribe, were shown due concern and sympathy. He furnished relevant details to substantiate the foregoing. In this background, Shri Babu expressed, that it was unfortunate, that the applicant instead of being grateful to the State Government, for being gracious and sympathetic towards him, should on the contrary, accuse it unabashedly and without warrant.

23. Shri Babu affirmed, that the Memorandum dated 5-9-1985 (Ann.A-6), of the State Government

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relied upon by the applicant, in regard to guidelines on deputation, had no relevance, as they pertained only to the officers in the State, other than those belonging to the All India Service, in respect of whom, the instructions of the Government of India, he said, would be binding.

24. In order to substantiate the above, he produced a copy of the Memorandum dated 11-6-1985, issued by the DPAR(K) (a copy of which was furnished to Shri Mandappa), and invited our attention, in particular, to the following portions of paras 5, 6 and 8 therein :

"5. .... all the Secretaries to Government are requested to obtain a comprehensive list of -

(a) Officers and staff who are on deputation already for over 5 years; and

(b) Officers and staff who are on deputation between 3 and 5 years.

The list at (a) may be reviewed and immediate action may be taken to repatriate the deputationists to the parent department. Where, however, it is considered absolutely necessary to continue any of them further, the list of such officers and staff may be approved in consultation with the DPAR. ....

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6. .... Where further continuance of their deputation beyond 3 years is found necessary, the administrative department may approve the continuance beyond 3 years but not



33. We have heard this case at length on 6, 18 and 24-1-1989, examined the relevant record placed before us and given due thought to the averments, pro and contra. Let us first examine the assertion of Shri Babu, as to whether the Government of Karnataka, had absolute power to depute the applicant to the Corporation, without ascertaining his willingness, in accordance with Rule 6(2)(i) of the 1966 Rules, read with its relevant proviso (vide para-19 above), on his repatriation to the parent State, on completion of his term of deputation at, Coimbatore, with the Government of India. A plain reading of that rule clearly reveals, that for the purpose of ascertaining the consent or not, of the cadre officer, who is deputed, deputation to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, on the cadre of which he is borne, is distinguished from deputation to an autonomous body not controlled by the Government or to an international organisation and it is only in respect of the latter, that the consent of the cadre officer proposed to be deputed, is a pre-requisite. The logical inference therefore is, that in the case of the former category, such prior consent is not necessary, provided, the cadre officer to be deputed, does not suffer loss of emoluments or a lower pay-scale, on account of this deputation, as compared to

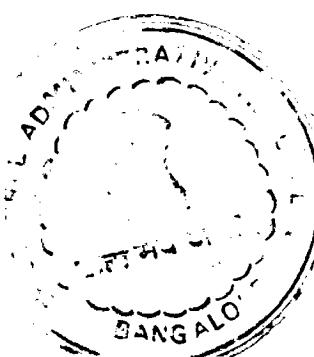
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the post from which, he is to be deputed, and he is deputed to a company, association or body of individuals, whether incorporated or not, <sup>of</sup> which is wholly controlled by the State Government, on the cadre of which he is borne.

34. The contention of Shri Mandappa, that according to Rule 419(a) of the KCSR (vide para 29 above), his client could not have been deputed on "foreign service", to the Corporation, without ascertaining his willingness, <sup>de</sup> prima facie ill-founded, as the relevant proviso to that rule, as pointed out by Shri Babu (para 30 above), clearly states, that the said Rule does not apply to a Government servant, transferred to the service of a body incorporated or not, which is wholly or substantially owned or controlled by the State Government.

35. Memorandum dated 5-9-1985(Ann. A6) issued by DPAR, Government of Karnataka, relied upon by Shri Mandappa, in regard to the policy of the State Government on "Deputation", as pointed out by Shri Babu, does not seem to relate to the All India Service Officers, as is apparent from its context, specially, para 16 and 18, which refer to the KCSR, as also to the Karnataka Civil Service (Conduct) Rules, 1966. Reliance of Shri Mandappa, on the 1960 Rules (para 18 above) is therefore patently misplaced, as specific instructions, in regard to



deputation

deputation

deputation of All India Service Officers, have been issued by DPAR(K), under their Memo dated 11-6-1985 (para 25 above), a copy of which has been produced by Shri Babu. A copy of the same was also furnished to Shri Mandappa. Besides, it is inconceivable, that the IFS which has <sup>de</sup> ~~new~~ been in existence for over two decades now, should yet be required, to be governed by the 1960 Rules, in regard to residuary matters of conditions of service.

36. It is evident from the foregoing, that the applicant was posted on 23-6-1988(Ann.A-5), in an existing ex-cadre post in the Corporation, as it was sanctioned by the State Government, on 20-6-1988(para 31 above), that the State Government could post him therein, under the 1966 Rules, without his prior consent, subject to the relevant proviso to Rule 6 ibid(paras 19 and 20 above); that the 1960 Rules, relied upon by Shri Mandappa, have no relevance; that his posting in the Corporation was within his parent State Government; that the Corporation wherein he was posted, was wholly or substantially controlled by the State Government and therefore, though his deputation to the Corporation constituted "foreign service", Rule 419(a) of the KCSR did not apply (paras 29 and 30 above); that the "cooling off period", referred to by Shri Mandappa (paras 13 and 14 above), actually relates to the period intervening

between

between two successive terms of deputation, to the Government of India and not to the period intervening between deputation to the Government of India and to a Corporation, within the parent State as in this case, and that in this background para 3(e) of the Memo dated 9-12-1987 (in the vernacular) of the Government of Karnataka, does not apply, specially, when the applicant himself had volunteered, to return to his parent State, on completion of his 5-year~~s~~ term of deputation at Coimbatore, to the Government of India (paras 27 to 28 above).

37. The plea of the applicant, that he should have necessarily been given a posting, by the respondent, in his parent State, in any of the three Forest Circles indicated by him, in his option, in his Letter dated 9-3-1988 (Ann.A-3), according to para 2(viii) of the instructions contained in Memo dated 31-3-1987 of the Government of India, Ministry of Personnel, Public Grievance and Pensions (Ann.A-4), and his complaint that the respondent intently denied him this option and posted him in the Corporation, estranging him from his parent Department in the State and severing him, from his legitimate forestry avocation and discipline, in which he had acquired requisite training and expertise, on the face of it, seems <sup>to be</sup> ~~to be~~ disingenuous, for the following reasons.

38. The applicant is less than truthful when he avers, that by his posting in the Corporation, he

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has been dissociated from his parent State and severed from his avocation and discipline of forestry. In the Corporation, the applicant is primarily concerned, with logging and processing of wood into furniture, as a forest industry, which activity falls within the realm of forest utilisation, which is one of the important <sup>4</sup> facts of forestry. Forestry is an eclectic science, covering the broad spectrum of silviculture, utilisation, management, research and education. We are informed, that the applicant has already worked for nearly a decade, in a territorial assignment, but has not had an occasion, to serve in specialised fields of forestry. His present assignment in the Corporation, gives him an ideal opportunity, to prove his merit and acumen, in the discipline of forest utilisation. The applicant, is thus in close touch with forestry and should have welcomed this opportunity, to help diversify his knowledge and experience, in a new field and more so, when he was posted to Shimoga, which was one of the three places indicated by him in his option. In fact, we are informed, that the applicant is now based in the metropolitan city of Bangalore. We are therefore surprised, as to why he is allergic to this posting. Actually, his option does not confer on him, an indefeasible right, to be posted to a place and that too, in a forestry discipline of his choice, as is evident from

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para 2(viii) of Annexure A-4, which clearly states, that the facility would be extended as far as possible (emphasis added).

39. The applicant cannot deny, that he was posted to one of the places of his choice, namely, Shimoga and later to a better place, namely, to the metropolis of Bangalore. Shri Babu explained to us, the rather precarious situation in regard to the existing complement of officers, of the rank of Conservators of Forests vis-a-vis the sanctioned cadre strength of IFS, in Karnataka State and the administrative ingenuity taken recourse to, by the State and more than ordinary sympathy shown to the officers concerned to stave reversions.

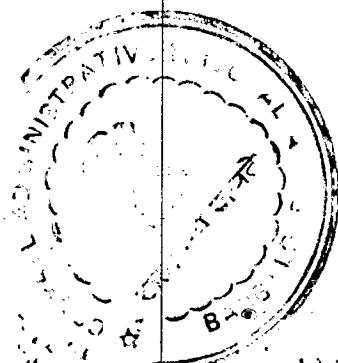
40. In this background, we must observe with regret, that the applicant obsessed with the merits of his case, on misconception, is making reckless averments, which lead us to infer, that he is dissimulating his true motives. He must remember, that the Tribunals are meant to dispense justice and not to dispense with justice.

41. The allegation of the applicant, that he has been flagrantly discriminated against, by posting him to the Corporation, in an ex-cadre post, regardless of his seniority, is a caricature

of truth, as verified by us from the records placed before us, by counsel for the respondent. We find therefrom, that no one who is junior to the applicant, has been posted in a cadre post and that the weaker communities in one of which, the applicant belongs, have been given due consideration. We are satisfied, that in the peculiar circumstances of the case, the respondent has acted, according to what is just and good-secundum sequum et bonum.

42. It ill-behoves the applicant, to whom more is granted than is just, to crave for more-  
cui plus licet quem par est plus vult quam licet.

43. In fine, we are convinced, that the application is wholly bereft of merit. We, therefore, dismiss the same, with no order however, as to costs.



Sd/-

(K.S.PUTTASWAMY) *21/1*  
VICE CHAIRMAN.

TRUE COPY

Sd/-

(L.H.A.REGO) *21.1.1989*  
MEMBER (A)!

*By order of the Tribunal*  
DEPUTY REGISTRAR (J.D.) *21/1*  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

no provision, in the rules made or deemed to have been made, under the All India Services Act, 1951, such matters would be regulated, as provided in the said Rule 2 of the 1960 Rules, as follows:

"2. Power of Central Government to provide for residuary matters.— The Central Government may, after consultation with the Government of the States concerned, make regulations to regulate any matters relating to conditions of service of persons appointed to an All India Service, for which there is no provision in the rules made or deemed to have been made under the All-India Services Act, 1951(61 of 1951); and until such regulations are made, such matters shall be regulated:

- (a) in the case of persons serving in connection with the affairs of the Union, by the rules, regulations and orders applicable to officers of the Central Services, Class I;
- (b) in the case of persons serving in connection with the affairs of a State by the rules, regulations and orders applicable to officers of the State Civil Services, Class-I subject to such exceptions and modifications as the Central Government may, after consultation with the State Government concerned, by order in writing, make;"

19. Shri S.M.Babu, learned Counsel for the respondent, urged at the outset, that the State Government, had unfettered power under Rule 6(2)(i) of the IFS(Cadre) Rules, 1966 [1966 Rules, for short], read with its relevant proviso, to depute a cadre officer, for service to the Corporation.

VL

Rule

Rule 6 of the 1966 Rules, is reproduced below in its entirety, to help appreciate its true meaning and import:

**"6. Deputation of cadre officers.—**

(1) A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government.

(2) A cadre officer may also be deputed for service under,—

(i) a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, a municipal corporation or a local body, by the State Government on whose cadre he is borne; and

(ii) an international organisation, an autonomous body not controlled by the Government, or a private body, by the Central Government in consultation with the State Government on whose cadre he is borne:

Provided that no cadre officer shall be deputed to any organisation or body of the type referred to in item (ii), except with his consent:

Provided further that no cadre officer shall be deputed under sub-rule(1) or sub-rule(2) to a post carrying a prescribed pay which is less than, or a pay scale, the maximum of which is less than the basic pay he would have drawn in the cadre post but for his deputation."



20. Shri Babu therefore asserted, that the applicant could not, in the light of Rule 6(2)(i) ibid and the absolute power conferred on the State Government by virtue thereof, question his impugned posting, in an ex-cadre post in the Corporation.

21. Shri Babu sought to elaborate the peculiar circumstances, under which the applicant was required to be posted in an ex-cadre post, in the Corporation, on repatriation from the Government of India, on completion of his 5-year term of deputation thereto. According to the 1966 Rules, he explained, that to date, only 11 posts of CFs were encadred in the Karnataka State cadre of the IFS, as against which, 26 officers were in position. Such of the officers in the rank of CFs, who were in excess of the sanctioned cadre strength of 11, in conformity with the 1966 Rules, had to work, either against the Central or the State deputation reserve posts. Only one officer of the rank of CFs, from the Karnataka State, he said, was working at present, against the Central deputation reserve post, while the remaining officers of that rank, were serving against the State deputation reserve quota. As against the sanctioned strength of 18, in the State deputation reserve, he said, actually 23 officers were in position. Thus, he said, 5 officers who were juniormost and surplus, among whom is the applicant, are liable to be reverted

as Deputy CFs for want of posts. Yet, he submitted, that the State was gracious enough, in not taking this precipitate step, of jeopardising the career of these officers and had as an alternative, sought to accommodate them in ex-cadre posts, as in State-owned Boards and Corporations, till such time, the situation normalised.

22. In the process, Shri Babu affirmed, that the State Government had acted judiciously and had taken due care to see, that the cadre posts were filled in, strictly in accordance with seniority and merit. The allegation of the applicant, that he was flagrantly discriminated against, in this respect, was frivolous and unfounded, Shri Babu asserted, as none of his juniors, was appointed to a cadre post, overlooking his claim. Besides, he submitted, that the officers belonging to the Scheduled Caste/Tribe, were shown due concern and sympathy. He furnished relevant details to substantiate the foregoing. In this background, Shri Babu expressed, that it was unfortunate, that the applicant instead of being grateful to the State Government, for being gracious and sympathetic towards him, should on the contrary, accuse it unabashedly and without warrant.

23. Shri Babu affirmed, that the Memorandum dated 5-9-1985 (Ann.A-6), of the State Government

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relied

relied upon by the applicant, in regard to guidelines on deputation, had no relevance, as they pertained only to the officers in the State, other than those belonging to the All India Service, in respect of whom, the instructions of the Government of India, he said, would be binding.

24. In order to substantiate the above, he produced a copy of the Memorandum dated 11-6-1985, issued by the DPAR(K) (a copy of which was furnished to Shri Mandappa), and invited our attention, in particular, to the following portions of paras 5, 6 and 8 therein :

"5. .... all the Secretaries to Government are requested to obtain a comprehensive list of -

(a) Officers and staff who are on deputation already for over 5 years; and

(b) Officers and staff who are on deputation between 3 and 5 years.

The list at (a) may be reviewed and immediate action may be taken to repatriate the deputationists to the parent department. Where, however, it is considered absolutely necessary to continue any of them further, the list of such officers and staff may be approved in consultation with the DPAR. ....

xx                   xx                   xx  
xx                   xx                   xx

6. .... Where further continuance of their deputation beyond 3 years is found necessary, the administrative department may approve the continuance beyond 3 years but not



exceeding a total period of 5 years. In doing so, the administrative departments should make specific arrangement for withdrawing the services of officers from deputation within a total period of 5 years' deputation by providing, if necessary, a substitute, so as to ensure that no officer is continued on deputation beyond total period of 5 years. In the rare event of an administrative department deciding to continue an official on deputation for any period beyond maximum of 5 years, specific prior comments/concurrence of Department of Personnel & Administrative Reforms (Service Rules) should invariably be obtained.

7.                   xx                   xx                   xx  
                 xx                   xx                   xx

8. The review of the deputation of all the Government servants outside their parent department - so as to keep the period of deputation within 5 years - will be an annual exercise, which the Secretaries to Government should undertake in respect of all officers who are on deputation for more than 3 years.

25. Shri Mandappa placed before us, a copy of the Memo dated 9-12-1987, issued by the Government of Karnataka (a copy of which was also furnished to Shri Mandappa) in the vernacular (Kannada) and pinpointed specially, the concluding para 3(E) therein, which reads thus:

26. The quintessence of that paragraph is, that in very rare cases if any, Government servant is required to be continued on deputation beyond the period of 5 years, in public interest, & in that event, the opinion of the DPAR(K) should be obtained, before the expiry of the said period of deputation.

27. In the above context, Shri Mandappa submitted, that in case the Government of Karnataka desired to continue the applicant, on deputation at Coimbatore, beyond the usual period of deputation of 5 years, it could have done so, in compliance with para 3(e) of its aforesaid vernacular Memo dated 9-12-1987, but instead, it posted his client on deputation elsewhere, namely, in the Corporation, without ascertaining the willingness of his client and in gross disregard of the instructions in para 3(e) ibid. In fact, he urged, that the exceptional circumstance envisaged in para 3(e) ibid, did not arise, after the applicant was repatriated to his parent State, on completion of his term of deputation with the Government of India, at Southern Forest Rangers' College at Coimbatore.

28. Shri Babu countered the above argument of Shri Mandappa on the score, that the question of continuance of the applicant on deputation at Coimbatore, was not within the pale of the State



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Government

Government, but was legitimately within the domain of the Government of India and as such, there was no warrant for the State Government, to initiate any action in the matter, apart from the fact, that the applicant himself, was keen to revert to his parent State, on completion of the normal tenure of 5 years.

29. Seeking shelter under Rule 419(a) in Part VII, Chapter XXVI, "Foreign Service Rules", under the Karnataka Civil Service Rules, Volume I (Fourth Edition) (KCSR, for short), Shri Mandappa argued with vehemence, that no Government servant can be transferred to "foreign service", against his will. The said Rule is extracted below along with its relevant proviso:

"419(a) No Government servant may be transferred to foreign service against his will:

Provided that this sub-rule shall not apply to the transfer of a Government servant to the service of a body, incorporated or not, which is wholly or substantially owned or controlled by the Government."

30. Shri Babu sought to checkmate the above contention of Shri Mandappa, on the premise, that the very proviso, appearing immediately below Rule 419(a) ibid, made it amply clear, that the

ibid

said

said Rule, inter alia, did not apply to deputation of the applicant to the Corporation.

31. Refuting the contention of Shri Mandappa, that the applicant was posted as CF, on deputation to the Corporation, in a non-cadre and non-existent post, Shri Babu placed before us, the pertinent case papers of the DPAR(K), to show, that the Chief Minister had accorded his approval on 20-6-1988, to the creation of a post of CF, in the Corporation and of appointing the applicant therein. Shri Babu stated, that the applicant was posted as CF in the Corporation, by the State Government Notification dated 23-6-1988 (Ann.A5) We have perused the case papers and are satisfied, that the above statement of Shri Babu, is factual and correct.

32. He controveered the statement of Shri Mandappa, that his client, for no fault of his, had to suffer invidiously, the ordeal of "compulsory waiting", for as long a period of nearly 2 months (having been relieved from Coimbatore, on 30-4-1988 A.N.), till he was posted to the Corporation. Shri Babu clarified, that the case of the applicant was not a solitary one, in this case as there were other instances, like that of Shri S.N.Rai, who had to wait compulsorily, even for a longer period, for a posting in the parent State, on repatriation, from deputation to the Government of India, for contingent reasons of the like.

33. We have heard this case at length on 6, 18 and 24-1-1989, examined the relevant record placed before us and given due thought to the averments, pro and contra. Let us first examine the assertion of Shri Babu, as to whether the Government of Karnataka, had absolute power to depute the applicant to the Corporation, without ascertaining his willingness, in accordance with Rule 6(2)(i) of the 1966 Rules, read with its relevant proviso (vide para-19 above), on his repatriation to the parent State, on completion of his term of deputation at Coimbatore, with the Government of India. A plain reading of that rule clearly reveals, that for the purpose of ascertaining the consent or not, of the cadre officer, who is deputed, deputation to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, on the cadre of which he is borne, is distinguished from deputation to an autonomous body not controlled by the Government or to an international organisation and it is only in respect of the latter, that the consent of the cadre officer proposed to be deputed, is a pre-requisite. The logical inference therefore is, that in the case of the former category, such prior consent is not necessary, provided, the cadre officer to be deputed, does not suffer loss of emoluments or a lower pay-scale, on account of this deputation, as compared to

Ad

the

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 3 FEB 1989

To

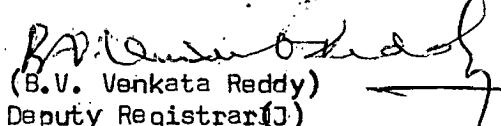
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Nagpur

Sir,

I am directed to forward herewith a copy of the undermentioned  
order passed by a Bench of this Tribunal comprising of Hon'ble  
Mr Justice K.S. Puttaswamy Vice-Chairman/~~Member~~(S)  
and Hon'ble Mr L.H.A. Rego Member (A) with a request  
for publication of the order in the journals.

Order dated 31-1-89 passed in A. No. 981/88(F).

Yours faithfully,

  
(B.V. Venkata Reddy)  
Deputy Registrar(I)

  
4/88  
K. M. N.  
3-2-89

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, AJC Bose Road, Nizam Palace, Calcutta - 700 020.
4. The Registrar, Central Administrative Tribunal, C.G.O. Complex(CBD), 1st Floor, Near Konkon 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 (M.P.).
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, Ahmadabad (Gujarat).
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak - 753 009 (Orissa).

Copy with enclosures also to :

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

Sd/-  
B.V. Venkata Reddy  
Registrar (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED: the 31st day of January, 1989.

Present

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

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

APPLICATION NO.981 OF 1988(F)

S.Jogaiah, 51 years,  
Conservator of Forests,  
12, Siddartha Layout,  
Mysore-11.

Applicant.

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

- 46 -

The State of Karnataka  
by its Chief Secretary to Govt.,  
Vidhana Soudha, Bengaluru-1. Respondent.

(Sri S.M.Babu, Government Advocate for respt.)

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

Order

ORDER

The applicant prays herein, that the Notification dated 23-6-1988(Annexure-A5), issued by the respondent, placing his services at the disposal of the Department of Animal Husbandry, Fisheries and Forests, under the State Government of Karnataka, on his repatriation from the Government of India and appointing him until further orders, as Conservator of Forests(CF) in the Karnataka State Forest Industries Corporation Ltd.,('Corporation' for short), with its headquarters at Shimoga, be quashed; that the respondent be directed to post him as CF, in any one of the three Forest Circles in Karnataka State, as indicated by him, in his letter dated 9-3-1988(Annexure-A3), addressed to the respondent, and that such other directions be issued, as appropriate in the circumstances of this case.

2. These are the facta probanda: The applicant entered the State Forest Service, in the State of Karnataka as Assistant CF in 1965, and was promoted as Deputy CF in that service, in 1971. He was appointed by promotion to the Indian Forest Service (IFS) in 1974, under Rule 4(2)(b) of the Indian Forest Service (Recruitment) Rules, 1966.

3. While he was working as Deputy CF, Mandya in Karnataka State, he was deputed to the Government of India and appointed as Lecturer in the State Forest Service College, Coimbatore, with effect from 2-6-1983.

On 27-5-1986 (Annexure A1), the Government of India, Ministry of Environment and Forests, selected him for appointment, to the post of Principal, Southern Forest Rangers' College, Coimbatore, in the pay-scale of Rs.1,800-2000.

4. On his request, to repatriate him to his parent cadre in the Karnataka State, the applicant was informed by the President, Forest Research Institute and Colleges, Dehra Dun, on 11-1-1988 (Annexure-A2), that his repatriation to the State, was approved by the competent authority and that he would accordingly be relieved on 30-4-1988 A.N., from the post of Principal, Southern Forest Rangers' College, Coimbatore.

5. Pursuant thereto, the applicant indicated to the respondent, by his letter dated 9-3-1988 (Annexure-A3), his option [in accordance with the instructions contained, in Memorandum dated 31st March, 1987 (Annexure A-4)] from the Government of India, Ministry of Personnel, Public Grievances and Pensions], for being posted in any one of the three Forest Circles viz., Belgaum, Shimoga and Bellary, in Karnataka State, on repatriation to his parent State. The applicant states, that on his relief on 30-4-1988 A.N., as Principal of Southern Forest Rangers' College, Coimbatore, he reported for duty

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to the respondent on 2-5-1988 and was awaiting his actual posting in his parent State, according to the option indicated by him as above. He further states, that while he was on leave, the respondent, by his impugned Notification dated 23-6-1988(Ann.A5), placed his services at the disposal of the Department of Animal Husbandry, Fisheries and Forests of the Karnataka State, with immediate effect, ~~and~~ until further orders, appointing him as CF, in the Corporation, with headquarters at Shimoga.

6. The applicant alleges, that though he had just returned from deputation from the Government of India after a period of 5 years, he has not been posted to any of the 3 Forest Circles in Karnataka State, according to the option indicated by him as above, on 9-3-1988, but on the contrary, has been again sent on deputation to the Corporation, in Karnataka State. He avers, that it is the policy of the Government of Karnataka, that an officer in the IFS cadre, should not be continued on deputation for a period of more than 5 years, whether with the Government of India, a State Undertaking, Corporation or Company. He submits, that according to the instructions contained in para 2(viii) of the Memorandum dated 31-3-1987 (Ann.A-4), from the Government of India, on completion of his tenure in a Training Institution, he was entitled to the benefit of three

options, relating to his posting, on repatriation to his parent State, and the State should have issued orders of his posting accordingly, as far as possible. He, however alleges, that the State Government failed to do so, intentionally.

7. According to him, the post of CF, Bellary Circle, was vacant, even when he had reported for duty in his parent State, after repatriation from the Government of India, but the same was filled in, by appointing some other officer. He has cited various instances, where certain other forest officers, who had reverted to the parent State, on completion of their tenure on deputation with the Government of India, were favoured with postings according to their choice, but complains, that only he has been invidiously discriminated against. He has also quoted instances, of certain other forest officers of Karnataka State, who are said to have manoeuvred, to get their deputation to the Government of India cancelled, and yet succeeded in securing posting of their choice, in Karnataka State. He alleges, that only he was denied the facility of a posting according to the option indicated by him, even though he had proceeded on deputation to the Government of India, without demur and had completed the usual tenure. He asserts, that it is patent from the above, that he has been singled out by the State Government, for hostile discrimination, as compared to his colleagues.

8. In the additional statement of facts filed by the applicant on 4-7-1988, he states inter alia, that he was sought to be posted by the respondent, to a non-existent, non-cadre post in the Corporation, as the State Government of Karnataka, has not as yet submitted any proposal to the Government of India, for the creation of a post of CF in the Corporation.

9. Aggrieved, the applicant has come before this Tribunal, for redress.

10. The respondent has filed his reply resisting the application. The applicant has reacted thereto with a rejoinder, stating among other things, that he should have been given the <sup>de off</sup> benefit of the "cooling period", on repatriation by the Government of India, to his parent State, on completion of his period of deputation and that it was obligatory on the State of Karnataka, to post him to a cadre post in the IFS, according to the option indicated by him on 9-3-1988(Ann.A3), and not on deputation again soon after, as has been now done.

11. The main plank, in fact, the leitmotiv of the argument of Shri B.B.Mandappa, learned

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Counsel

Counsel for the applicant, was, that the respondent had flagrantly disregarded the option indicated by his client, in his Letter dated 9-3-1988(Ann. A-3) in regard to his posting to his parent State, on repatriation from the Government of India, on completion of the tenure, on deputation to the Southern Forest Rangers' College, inspite of the specific instructions contained in para 2(viii) of the Memorandum dated 31-3-1987(Ann.A-4) of the Government of India, Ministry of Personnel, Public Grievances and Pensions(Department of Personnel and Training). The said para 2(viii) is reproduced below, for ready reference:

"On completion of the tenure in a training institution, each officer should be given the facility of three options relating to his next posting and the Department concerned would arrange for the posting according to the option exercised by the officer, as far as possible."

12. In order to buttress the above argument, Shri Mandappa relied on Memorandum dated 5-9-1985 (Ann.A-6), issued by the Department of Personnel and Administrative Reforms, Government of Karnataka DPAR(K), for short] on the policy regarding transfer of Government servants and in particular, on para 11 thereof, on the caption "Deputation", which is extracted below:

"Deputations: Subject to the special instructions contained hereafter in this para, this Official Memorandum shall, mutatis mutandis, apply to Government

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Servants

Servants, who are on deputation outside their parent departments, including Government, Semi-Government Institutions, Local Bodies and Co-operative Societies. A Government Servant should not be allowed to continue on deputation outside his parent department continuously for more than five years. It is often observed that a Government Servant transferred on deputation to another department of Government or to foreign service is, before completion of five years, posted to another deputation post and proposals are made thereafter to virtually treat the latter as a fresh deputation. To place the matter beyond doubt, it is clarified that the overall limit of 5 years for deputation outside the parent department applies irrespective of the number of deputation posts, held by the Government Servant. A Government Servant repatriated to the parent department from deputation should not be deputed again to any other Government or foreign service unless he has served for at least two years in his parent department."

13. Laying accent thereon, Shri Mandappa pleaded, that his client ought not to have been continued on deputation, out of his parent department for more than five years continuously and that this overall limit of five years, was regardless of the number of deputation posts held by him. He further argued, that his client having been repatriated to the parent Department, on completion of his period of deputation to the Government of India, he should not have been again deputed to any other Department or foreign service, unless he had served at least for two years in the parent Department, <sup>46 off</sup> which was referred to as the "cooling/period", he

He

said

said by the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) in its instructions, regarding deputation of officers (ostensibly to the Government of India).

14. In this connection, he referred to para-4 of the instructions, issued by the Government of India, Ministry of Home Affairs, in their Memo dated 29-12-1976, in respect of the Indian Police Service Officers, on deputation to the Government of India, on parity with the regulations prevalent, in the case of members of other Services, among which he said, the Indian Forest Service was one. The said para is reproduced below:

"4. The Prime Minister has further directed that a "cooling off" period of three years must elapse between two spells of deputation of an IPS officer to the Government of India, as is being done in the case of members of other services."

15. In order to substantiate, that the deputation of his client to the Corporation, had the lineaments of "foreign service" and "deputation", Shri Mandappa drew our attention, to the standard terms and conditions of deputation of Forest Officers of the Karnataka State to the Corporation, as specified by the State Government and in particular, to Conditions Nos. 5, 8 and 12 respectively, relating to "Leave Salary and Pension Contribution", "Leave Travel Concession" and "Commencement and End of Deputation", which read thus:

**"5. LEAVE SALARY AND PENSION CONTRIBUTIONS:**

(a) Leave Salary and Pension contribution shall be paid annually by the employer within fifteen days from the end of each financial year or from the end of foreign service if the deputation or foreign service expires before the end of financial year, at the following provisional rates subject to adjustments and alterations at the final rates as may be fixed by the Accountant General, Karnataka, Bangalore, in accordance with Appendix II-A of P & T Compilation of the Government of India, FRs and SRs (Vol. 2).

i) Pension contribution: 1/8th of pay  
admissible to  
the officer  
under the State  
Government.

ii) Leave Salary Contribution: 11% of pay  
admissible to.  
the officer  
under the  
State Govt.

(b) The amounts of contributions are to be remitted by the employer to the Accountant General, Karnataka, Bangalore (by designation) by means of cheques/demand drafts which should invariably be crossed and should not be credited in cash. The date of receipt of such draft cheques in the office of the Accountant General, Karnataka, Bangalore, shall be treated as the date of discharge of the liability towards the contributions and therefore, the draft/cheque should be sent so as to reach the office of the Accountant General, Karnataka, Bangalore before the prescribed date.

(c) In the case the amount of contributions towards leave salary and pension are not credited to Government within the period specified in (a) above, interest must be paid by the employer to Government on the unpaid contributions, at the rate of two paise per day

1d

for

for Rs.100/- from the date of expiry of the said period of fifteen days upto the date on which the contribution is finally paid.

(d) The leave salary and pension contributions should be paid separately as they are creditable to different Heads of Accounts and no dues recoverable from Government, on any account, should be set against these contributions.

xxx                   xxx                   xxx  
xxx                   xxx                   xxx

8. LEAVE TRAVEL CONCESSION: The officer shall be entitled to leave travel concessions to the extent and on conditions available to other officers of his cadre under the State Government and liability on this account shall be borne by the employer.

xx                   xx                   xx  
xx                   xx                   xx

12. COMMENCEMENT AND END OF DEPUTATION:

The service under the employer shall commence on the date on which the officer handed over charge of his post under the Government or under another foreign employer, as the case may be, and ends on the date on which he shall be required compulsorily to retire from service under Rule 16(1) of the All India Services(Death-cum-retirement benefits) Rules, 1958 whichever is earlier."

16. Shri Mandappa stressed, that the above terms and conditions of deputation to the Corporation, read <sup>of caption:</sup> conjointly with para-12 under the "Deputations", in Annexure A-6, and the aforesaid Memo dated 20-12-1976 from the Government of India, Ministry of Home Affairs, made it abundantly clear, that his client could not have

been

been, close on the heels of his return from Coimbatore, on completion of 5 years of the term of his deputation to the Government of India, again deputed to the Corporation. It was evident therefrom, he argued sedulously, that the respondent had intently violated the above guidelines/instructions, both of the Government of India and the State Government, by issuing the impugned order of posting of his client, to the Corporation.

17. Furthermore, Shri Mandappa alleged, that his client was invidiously discriminated against, in the matter of his impugned posting, on return from deputation to the Government of India, as compared to many of his colleagues, as evidence of which, he cited reference to paras 6(iii) and (iv) of the application. This, he asserted, was violative of the principle of equality enshrined in Articles 14 and 16(1) of the Constitution.

18. He next invoked the provisions of Rule 2 of the All India Services (Conditions of Service - Residuary Matter) Rules 1960 ['1960 Rules' for short], in an endeavour, to bring out, that until such time the Central Government framed regulations, in consultation with the State Government concerned, to regulate any matters relating to conditions of service of persons appointed to an All India Service, for which there was

no provision, in the rules made or deemed to have been made, under the All India Services Act, 1951, such matters would be regulated, as provided in the said Rule 2 of the 1960 Rules, as follows:

"2. Power of Central Government to provide for residuary matters.— The Central Government may, after consultation with the Government of the States concerned, make regulations to regulate any matters relating to conditions of service of persons appointed to an All India Service, for which there is no provision in the rules made or deemed to have been made under the All-India Services Act, 1951(61 of 1951); and until such regulations are made, such matters shall be regulated:

- (a) in the case of persons serving in connection with the affairs of the Union, by the rules, regulations and orders applicable to officers of the Central Services, Class I;
- (b) in the case of persons serving in connection with the affairs of a State by the rules, regulations and orders applicable to officers of the State Civil Services, Class-I subject to such exceptions and modifications as the Central Government may, after consultation with the State Government concerned, by order in writing, make;"

19. Shri S.M.Babu, learned Counsel for the respondent, urged at the outset, that the State Government, had unfettered power under Rule 6(2)(i) of the IFS(Cadre) Rules, 1966 [1966 Rules, for short], read with its relevant proviso, to depute a cadre officer, for service to the Corporation.

Rule 6 of the 1966 Rules, is reproduced below in its entirety, to help appreciate its true meaning and import:

**"6. Deputation of cadre officers.—**

(1) A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government.

(2) A cadre officer may also be deputed for service under,—

(i) a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, a municipal corporation or a local body, by the State Government on whose cadre he is borne; and

(ii) an international organisation, an autonomous body not controlled by the Government, or a private body, by the Central Government in consultation with the State Government on whose cadre he is borne:

Provided that no cadre officer shall be deputed to any organisation or body of the type referred to in item (ii), except with his consent:

Provided further that no cadre officer shall be deputed under sub-rule(1) or sub-rule(2) to a post carrying a prescribed pay which is less than, or a pay scale, the maximum of which is less than the basic pay he would have drawn in the cadre post but for his deputation."

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20. Shri Babu therefore asserted, that the applicant could not, in the light of Rule 6(2)(i) ibid and the absolute power conferred on the State Government by virtue thereof, question his impugned posting, in an ex-cadre post in the Corporation.

21. Shri Babu sought to elaborate the peculiar circumstances, under which the applicant was required to be posted in an ex-cadre post, in the Corporation, on repatriation from the Government of India, on completion of his 5-year term of deputation thereto. According to the 1966 Rules, he explained, that to date, only 11 posts of CFs were encadred in the Karnataka State cadre of the IFS, as against which, 26 officers were in position. Such of the officers in the rank of CFs, who were in excess of the sanctioned cadre strength of 11, in conformity with the 1966 Rules, had to work, either against the Central or the State deputation reserve posts. Only one officer of the rank of CFs, from the Karnataka State, he said, was working at present, against the Central deputation reserve post, while the remaining officers of that rank, were serving against the State deputation reserve quota. As against the sanctioned strength of 18, in the State deputation reserve, he said, actually 23 officers were in position. Thus, he said, 5 officers who were juniormost and surplus, among whom is the applicant, are liable to be reverted

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as Deputy CFS for want of posts. Yet, he submitted, ~~that~~ the State was gracious enough, in not taking this precipitate step, of jeopardising the career of these officers and had as an alternative, sought to accommodate them in ex-cadre posts, as in State-owned Boards and Corporations, till such time, the situation normalised.

22. In the process, Shri Babu affirmed, that the State Government had acted judiciously and had taken due care to see, that the cadre posts were filled in, strictly in accordance with seniority and merit. The allegation of the applicant, that he was flagrantly discriminated against, in this respect, was frivolous and unfounded, Shri Babu asserted, as none of his juniors, was appointed to a cadre post, overlooking his claim. Besides, he submitted, that the officers belonging to the Scheduled Caste/Tribe, were shown due concern and sympathy. He furnished relevant details to substantiate the foregoing. In this background, Shri Babu expressed, that it was unfortunate, that the applicant instead of being grateful to the State Government, for being gracious and sympathetic towards him, should on the contrary, accuse it unabashedly and without warrant.

23. Shri Babu affirmed, that the Memorandum dated 5-9-1985 (Ann.A-6), of the State Government

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relied

relied upon by the applicant, in regard to guidelines on deputation, had no relevance, as they pertained only to the officers in the State, other than those belonging to the All India Service, in respect of whom, the instructions of the Government of India, he said, would be binding.

24. In order to substantiate the above, he produced a copy of the Memorandum dated 11-6-1985, issued by the DPAR(K) (a copy of which was furnished to Shri Mandappa), and invited our attention, in particular, to the following portions of paras 5, 6 and 8 therein :

"5. .... all the Secretaries to Government are requested to obtain a comprehensive list of -

(a) Officers and staff who are on deputation already for over 5 years; and

(b) Officers and staff who are on deputation between 3 and 5 years.

The list at (a) may be reviewed and immediate action may be taken to repatriate the deputationists to the parent department. Where, however, it is considered absolutely necessary to continue any of them further, the list of such officers and staff may be approved in consultation with the DPAR. ....

xx                   xx                   xx  
xx                   xx                   xx

6. .... Where further continuance of their deputation beyond 3 years is found necessary, the administrative department may approve the continuance beyond 3 years but not

exceeding a total period of 5 years. In doing so, the administrative departments should make specific arrangement for withdrawing the services of officers from deputation within a total period of 5 years' deputation by providing, if necessary, a substitute, so as to ensure that no officer is continued on deputation beyond total period of 5 years. In the rare event of an administrative department deciding to continue an official on deputation for any period beyond maximum of 5 years, specific prior comments/concurrence of Department of Personnel & Administrative Reforms (Service Rules) should invariably be obtained.

.....

7.                   xx                   xx                   xx  
                 xx                   xx                   xx

8. The review of the deputation of all the Government servants outside their parent department - so as to keep the period of deputation within 5 years - will be an annual exercise, which the Secretaries to Government should undertake in respect of all officers who are on deputation for more than 3 years.

.....

25. Shri Mandappa placed before us, a copy of the Memo dated 9-12-1987, issued by the Government of Karnataka (a copy of which was also furnished to Shri Mandappa) in the vernacular (Kannada) and pinpointed specially, the concluding para 3(E) therein, which reads thus:

"(ಕ್ರ) ಅಡಿವಿರಳ್ಳ ದೀಕರಣಗ್ರಹಿ ಯಾವುದೇ ಒಬ್ಬ ನೀಕರಣನ್ನು ಸಾಧಿಸಿಕೊಂಡು ಅರ್ಪಣ್ಣಿಯಾದ ಕವಚ್ಯಂಗಗ್ರಹಣ ವಾರ ಮಂದು ವರ್ತಿತ ಹೀಗೆ ಕೂಡ ತುಂಬಾದಲ್ಲಿ ಅಂತಹ ದೀಕರಣಕ್ಕಾಗಿ ಬಗ್ಗೆ ಶಿಖಿಸಿದಿದ್ದಿ ಕ್ರಮ ಶಿಕ್ಷಣ ಸುಧಾರಣೆ ಐಳಾವಿಯ ಕಾರಣಕ್ಕಾಗಿ ಮಾನ್ಯ ಸಾಮಾನ್ಯ ವರ್ಗಾದಿವರ್ಣಿಯ ಶಿವಾದಿಯನ್ನು ತುರಂತ - ನೀಳ್ಯ ವ್ಯವಸ್ಥಿತ್ಯಾಗಾಗಿ ವಹಿಸುಕೊಳ್ಳಬೇಕು."

26. The quintessence of that paragraph is, that in very rare cases if any, Government servant is required to be continued on deputation beyond the period of 5 years, in public interest, <sup>“</sup>in that event, the opinion of the DPAR(K) should be obtained, before the expiry of the said period of deputation.

27. In the above context, Shri Mandappa submitted, that in case the Government of Karnataka desired to continue the applicant, on deputation at Coimbatore, beyond the usual period of deputation of 5 years, it could have done so, in compliance with para 3(e) of its aforesaid vernacular Memo dated 9-12-1987, but instead, it posted his client on deputation elsewhere, namely, in the Corporation, without ascertaining the willingness of his client and in gross disregard of the instructions in para 3(e) ibid. In fact, he urged, that the exceptional circumstance envisaged in para 3(e) ibid, did not arise, after the applicant was repatriated to his parent State, on completion of his term of deputation with the Government of India, at Southern Forest Rangers' College at Coimbatore.

28. Shri Babu countered the above argument of Shri Mandappa on the score, that the question of continuance of the applicant on deputation at Coimbatore, was not within the pale of the State

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Government, but was legitimately within the domain of the Government of India and as such, there was no warrant for the State Government, to initiate any action in the matter, apart from the fact, that the applicant himself, was keen to revert to his parent State, on completion of the normal tenure of 5 years.

29. Seeking shelter under Rule 419(a) in Part VII, Chapter XXVI, "Foreign Service Rules", under the Karnataka Civil Service Rules, Volume I (Fourth Edition) (KCSR, for short), Shri Mandappa argued with vehemence, that no Government servant can be transferred to "foreign service", against his will. The said Rule is extracted below along with its relevant proviso:

"419(a) No Government servant may be transferred to foreign service against his will:

Provided that this sub-rule shall not apply to the transfer of a Government servant to the service of a body, incorporated or not, which is wholly or substantially owned or controlled by the Government."

30. Shri Babu sought to checkmate the above contention of Shri Mandappa, on the premise, that the very proviso, appearing immediately below Rule 419(a) ibid, made it amply clear, that the

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said

said Rule, inter alia, did not apply to deputation of the applicant to the Corporation.

31. Refuting the contention of Shri Mandappa, that the applicant was posted as CF, on deputation to the Corporation, in a non-cadre and non-existent post, Shri Babu placed before us, the pertinent case papers of the DPAR(K), to show, that the Chief Minister had accorded his approval on 20-6-1988, to the creation of a post of CF, in the Corporation and of appointing the applicant therein. Shri Babu stated, that the applicant was posted as CF in the Corporation, by the State Government Notification dated 23-6-1988 (Ann.A5) We have perused the case papers and are satisfied, that the above statement of Shri Babu, is factual and correct.

32. He controverted the statement of Shri Mandappa, that his client, for no fault of his, had to suffer invidiously, the ordeal of "compulsory waiting", for as long a period of nearly 2 months (having been relieved from Coimbatore, on 30-4-1988 A.N.), till he was posted to the Corporation. Shri Babu clarified, that the case of the applicant was not a solitary one, ~~in this case~~ as there were other instances, like that of Shri S.N.Rai, who had to wait compulsorily, even for a longer period, for a posting in the parent State, on repatriation, from deputation to the Government of India, for contingent reasons of the like.

33. We have heard this case at length on 6, 18 and 24-1-1989, examined the relevant record placed before us and given due thought to the averments, pro and contra. Let us first examine the assertion of Shri Babu, as to whether the Government of Karnataka, had absolute power to depute the applicant to the Corporation, without ascertaining his willingness, in accordance with Rule 6(2)(i) of the 1966 Rules, read with its relevant proviso (vide para 19 above), on his repatriation to the parent State, on completion of his term of deputation at Coimbatore, with the Government of India. A plain reading of that rule clearly reveals, that for the purpose of ascertaining the consent or not, of the cadre officer, who is deputed, deputation to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, on the cadre of which he is borne, is distinguished from deputation to an autonomous body not controlled by the Government or to an international organisation and it is only in respect of the latter, that the consent of the cadre officer proposed to be deputed, is a prerequisite. The logical inference therefore is, that in the case of the former category, such prior consent is not necessary, provided, the cadre officer to be deputed, does not suffer loss of emoluments or a lower pay-scale, on account of this deputation, as compared to

the post from which, he is to be deputed, and he is deputed to a company, association or body of individuals, whether incorporated or not, ~~and~~ <sup>of</sup> which is wholly controlled by the State Government, on the cadre of which he is borne.

34. The contention of Shri Mandappa, that according to Rule 419(a) of the KCSR (vide para 29 above), his client could not have been deputed on "foreign service", to the Corporation, without ascertaining his willingness, ~~and~~ <sup>de</sup> prima facie ill-founded, as the relevant proviso to that rule, as pointed out by Shri Babu (para 30 above), clearly states, that the said Rule does not apply to a Government servant, transferred to the service of a body incorporated or not, which is wholly or substantially owned or controlled by the State Government.

35. Memorandum dated 5-9-1985(Ann. A6) issued by DPAR, Government of Karnataka, relied upon by Shri Mandappa, in regard to the policy of the State Government on "deputation", as pointed out by Shri Babu, does not seem to relate to the All India Service Officers, as is apparent from its context, specially, paras 16 and 18, which refer to the KCSR, as also to the Karnataka Civil Service (Conduct) Rules, 1966. Reliance of Shri Mandappa, on the 1960 Rules (para 18 above) is therefore patently misplaced, as specific instructions, in regard to

deputation

deputation

deputation of All India Service Officers, have been issued by DPAR(K), under their Memo dated 11-6-1985 (para 25 above), a copy of which has been produced by Shri Babu. A copy of the same was also furnished to Shri Mandappa. Besides, it is inconceivable, that the IFS which has ~~now~~ <sup>de</sup> been in existence for over two decades now, should yet be required, to be governed by the 1960 Rules, in regard to residuary matters of conditions of service.

36. It is evident from the foregoing, that the applicant was posted on 23-6-1988(Ann.A-5), in an existing ex-cadre post in the Corporation, as it was sanctioned by the State Government, on 20-6-1988(para 31 above), that the State Government could post him therein, under the 1966 Rules, without his prior consent, subject to the relevant proviso to Rule 6 ibid(paras 19 and 20 above); that the 1960 Rules, relied upon by Shri Mandappa, have no relevance; that his posting in the Corporation was within his parent State Government; that the Corporation wherein he was posted, was wholly or substantially controlled by the State Government and therefore, though his deputation to the Corporation constituted "foreign service", Rule 419(a) of the KCSR did not apply (paras 29 and 30 above); that the "cooling off period", referred to by Shri Mandappa (paras 13 and 14 above), actually relates to the period intervening between

between two successive terms of deputation, to the Government of India and not to the period intervening between deputation to the Government of India and to a Corporation, within the parent State as in this case, and that in this background ~~the~~ para 3(e) of the Memo dated 9-12-1987 (in the vernacular) of the Government of Karnataka, does not apply, specially, when the applicant himself had volunteered, to return to his parent State, on completion of his 5-year term of deputation at Coimbatore, to the Government of India (paras 27 to 28 above).

37. The plea of the applicant, that he should have necessarily been given a posting, by the respondent, in his parent State, in any of the three Forest Circles indicated by him, in his option, in his Letter dated 9-3-1988 (Ann.A-3), according to para 2(viii) of the instructions contained in Memo dated 31-3-1987 of the Government of India, Ministry of Personnel, Public Grievance and Pensions (Ann.A-4), and his complaint that the respondent intently denied him this option and posted him in the Corporation, estranging him from his parent Department in the State and severing him, from his legitimate forestry avocation and discipline, in which he had acquired requisite training and expertise, on the face of it, seems <sup>to be</sup> ~~to be~~ disingenuous, for the following reasons.

38. The applicant is less than truthful when he avers, that by his posting in the Corporation, he

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has

has been dissociated from his parent State and severed from his avocation and discipline of forestry. In the Corporation, the applicant is primarily concerned, with logging and processing of wood into furniture, as a forest industry, which activity falls within the realm of forest utilisation, which is one of the important <sup>4</sup> facts of forestry. Forestry is an eclectic science, covering the broad spectrum of silviculture, utilisation, management, research and education. We are informed, that the applicant has already worked for nearly a decade, in a territorial assignment, but has not had an occasion, to serve in specialised fields of forestry. His present assignment in the Corporation, gives him an ideal opportunity, to prove his merit and acumen, in the discipline of forest utilisation. The applicant, is thus in close touch with forestry and should have welcomed this opportunity, to help diversify his knowledge and experience, in a new field and more so, when he was posted to Shimoga, which was one of the three places indicated by him in his option. In fact, we are informed, that the applicant is now based in the metropolitan city of Bangalore. We are therefore surprised, as to why he is allergic to this posting. Actually, his option does not confer on him, an indefeasible right, to be posted to a place and that too, in a forestry discipline of his choice, as is evident from

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para

para 2(viii) of Annexure A-4, which clearly states, that the facility would be extended as far as possible (emphasis added).

39. The applicant cannot deny, that he was posted to one of the places of his choice, namely, Shimoga and later to a better place, namely, to the metropolis of Bangalore. Shri Babu explained to us, the rather precarious situation in regard to the existing complement of officers, of the rank of Conservators of Forests vis-a-vis the sanctioned cadre strength of IFS, in Karnataka State and the administrative ingenuity taken recourse to, by the State and more than ordinary sympathy shown to the officers concerned to stave reversions.

40. In this background, we must observe with regret, that the applicant obsessed with the merits of his case, on misconception, is making reckless averments, which lead us to infer, that he is dissimulating his true motives. He must remember, that the Tribunals are meant to dispense justice and not to dispense with justice.

41. The allegation of the applicant, that he has been flagrantly discriminated against, by posting him to the Corporation, in an ex-cadre post, regardless of his seniority, is a caricature

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of

of truth, as verified by us from the records placed before us, by counsel for the respondent. We find therefrom, that no one who is junior to the applicant, has been posted in a cadre post and that the weaker communities to one of which, the applicant belongs, have been given due consideration. We are satisfied, that in the peculiar circumstances of the case, the respondent has acted, according to what is just and good-secundum sequum et bonum.

42. It ill-behoves the applicant, to whom more is granted than is just, to crave for more-  
cui plus licet quam par est plus vult quam licet.

43. In fine, we are convinced, that the application is wholly bereft of merit. We, therefore, dismiss the same, with no order however, as to costs.

Sd/-

(K.S.PUTTASWAMY)  
VICE CHAIRMAN.

Sd/-

(L.H.A.REGO) 21.1.989  
MEMBER (A).

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RJ-Subodh  
DEPUTY REGISTRAR (JULY 312)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

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

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 22 MAR 1989

REVIEW APPLICATION NO (X) \_\_\_\_\_ 9  
IN APPLICATION NO. 981/88(F) \_\_\_\_\_ / 89  
W.P. NO (S) \_\_\_\_\_ /

Applicant (a)

Respondent (s)

Shri S. Jogaiah, IFS V/s The Chief Secretary, Govt. of Karnataka,  
To Bangalore

1. Shri S. Jogaiah, IFS  
General Manager  
Karnataka State Forest Industries Corporation  
No. 32/2, Crescent Road  
Bangalore - 560 001
2. Shri M. Narayanaswamy  
Advocate  
844 (Upstairs), V Block  
Rajajinagar  
Bangalore - 560 010

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 (X) on 20-3-89.

*For [Signature]*  
DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

DATED THIS THE 20TH DAY OF MARCH, 1989

PRESENT: HON'BLE SHRI JUSTICE K.S.PUTTASWAMY...VICE-CHAIRMAN  
HON'BLE SHRI L.H.A. REGO ...MEMBER (A)

REVIEW APPLICATION NO.9/89

1. Shri S. Jogaiah,  
S/o late Nanjaiah,  
Aged 52 years,  
Conservator of Forest,  
Now working as General Manager,  
Karnataka State Forest Industries  
Corporation,  
No.32/2, Cresent Road,  
Bangalore

...APPLICANT

(Shri M. Narayanaswamy.....Advocate)

Vs.

State of Karnataka represented  
by its Chief Secretary,  
Vidhana Soudha,  
Bangalore-1.

...RESPONDENT

This application having come up for  
hearing before this Tribunal to-day, Hon'ble Shri  
Justice K.S. Puttaswamy, Vice-Chairman, made the  
following :-

O R D E R

In this application made under  
Section 22(3) (f) of the Administrative Tribunals  
Act of 1985 (Act), the applicant has sought for  
a review of our order made on 31.1.1989 dismissing

his Application No. 981/88.

2. In Application No. 981/88, the applicant had inter alia challenged an order made by Government of Karnataka (GOK) posting him to the Karnataka State Forest Industries Corporation Limited (Corporation), which was resisted by that Government. On an examination of the contentions urged by both sides in that application, we have upheld the order of Government of Karnataka and dismissed the application. Hence this application.

3. Shri M. Narayanaswamy, learned counsel for the applicant contends that in upholding the order of Government of Karnataka, we have overlooked the duty cast on that Government and our order therefore suffers from a patent error to justify a review under Section 22(3) (f) of the Act.

4. In upholding the order of Government of Karnataka we have not overlooked any aspect much less the aspect urged by Shri Narayanaswamy which has no application to decide the power of that Government, in transferring and posting a civil servant including a member of the Indian Forest Service. We see no merit in this contention of Shri Narayanaswamy and we therefore

reject the same.

5. Shri Narayanaswamy next contends that the observations made by us against the applicant at para 40 of our order were totally uncalled for and the same discloses a patent error to justify a review under the Act.

6. We must read the observations made at para 40 of our order in the context of the entire order made by us. When so done, we do not think that they were uncalled for as urged by the applicant. Even assuming that to be so, then also the same does not constitute a patent error to justify a review under Section 22(3) (f) of the Act read with order 47 Rule 1 of the CPC.

7. As all the contentions urged for the applicant fail, this application is liable to be rejected. We, therefore, reject this application at the admission stage without notice to the respondent.

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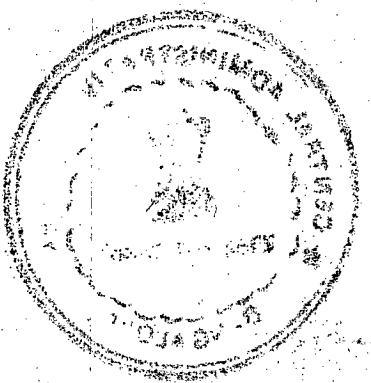
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(VICE-CHAIRMAN)

20/2/89

Sd/-

(MEMBER) (A)



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