

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:621/90

Friday the 4th day of MAY 2001

CORAM: Hon'ble Shri B.N.Bahadur, Member(A)

Hon'ble Shri S.L. Jain, Member(J)

Sadashiv Balkrishna Kulkarni  
Residing at  
14, Rambaug Colony,  
Paud Road, Opposite  
Tulja Bhavani Mandir,  
Kothrud, Pune. ....Applicant.

By Advocate Shri S.S. Karkera

V/s

1. State of Maharashtra through  
Chief Secretary,  
Government of Maharashtra  
Mantralaya, Bombay.
2. State of Maharashtra through  
Secretary to the Government  
(Forests), Revenue and  
Forests Department  
Mantralaya, Bombay.
3. Union of India through  
Secretary to the Government  
of India, Ministry of  
Environment and Forests,  
Department of Environment,  
Forests & Wildlife,  
CGO Complex, Paryavaran Bhavan  
Lodi Road, New Delhi.
4. Principal Chief Conservator  
of Forests, Forest Department  
Maharashtra State, Jayaka Building  
Nagpur.
5. Shri V.K. Prabhu,  
Principal  
Chief Conservator of Forests  
M.S. Nagpur.
6. Shri V.K. Sarvate,  
Managing Director,  
Forests Development  
Corporation of Maharashtra Ltd.  
Nagpur.

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7. Shri R.L. Chaudhari  
Chief Conservator of  
Forests(Conservation)  
Maharashtra State,  
Nagpur.
8. Shri S.S. Parasnis  
Director  
Social Forestry,  
Central Building, Pune.
9. Shri R.B. Joshi,  
on deputation to  
Govt. of India,  
As Regional Chief  
Conservator of Forests.
10. Shri A.R. Maslekar  
On deputation  
to Govt. of India as  
Regional Chief  
Conservator of Forests.
11. Shri M.G. Sardar,  
Chief Conservator of  
Forests(Production)  
M.S. Nagpur.
12. Shri B.P. Desai  
Additional Chief  
Conservator of Forests  
Nature Conservation,  
M.S. Nagpur.
13. Shri K.K. Chavan  
Conservator of Forests  
Dhule Circle, Dhule.
14. Shri S.P. Narvane  
Joint Director  
Research & Education  
Social Forestry, Pune.
15. Shri A.N. Ballal  
Conservator of Forests  
Central Evaluation Unit  
Nagpur.
16. Shri B.M. Parab  
Regional Manager,  
Forest Development  
Corporation of Maharashtra  
Ltd., Chandrapur.
17. Shri D.V. Ghanekar,  
Conservator of Forests  
Head Quarters in the office  
of Principal Chief Conservator  
of Forests, M.S. Nagpur.

18. Shri R.B. Sule,  
Conservator of Forests  
Kolhapur Circle,  
Kolhapur.
19. Shri P.D. Ambasjar  
Conservator of Forests  
Nagpur Circle, Nagpur.
20. Shri Y.M. Kapgate  
Conservator of Forests  
North Chanda Circle  
Chandrapur.
21. Shri R.S. Gandle  
Conservator of Forests  
Pune Circle, Pune.
22. Shri S.K. Mitra  
Regional Director  
Forest Development Corpn.  
Maharashtra Ltd. Thane
23. Shri B.C. Pal,  
then Conservator of Forests  
Aurangabad Circle,  
Aurangabad.
24. Shri R.N. Indurkar  
Chief Conservator of Forests  
Nationalisation and Evaluation  
Nagpur.
25. Shri A.G. Reddi  
Chief Conservator of Forests  
Task Force, New P.M.T. Building  
Near Swargate, Pune.
26. Shri M.H. Khedkar  
Joint Secretary  
Revenue and Forests Department  
Mantralaya, Bombay.
27. Shri M.S. Parasnäs  
Conservator of Forests  
Amravati Circle, Amravati.
28. Shri Jagir Singh  
Conservator of Forests  
Nasik Circle, Nasik.
29. Shri M.K. Sharma  
Regional Manager  
Fire Fighting Force  
Forest Development Corpn.  
of Maharashtra Ltd.,  
Chandrapur.

... Respondents.

By Advocate Shri V.S. Masurkar.



O R D E R

{Per Shri S.L.Jain, Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 seeking the reliefs as under:

(a) Order the Respondents No. 2 to delete the contents in his order No. IFS.3088/CR 231/F-7 dated 2nd May 1969 pertaining to the applicant in Annexure -10.

(b) Order the Respondents No.2 to issue Corrigendum to his order No. 3078/116679/F-7 dated 30th March 1981 and incorporate the name of the applicant below Shri A.J. Madan and above Shri V.K. Prabhu to grant him the promotion and appointment in Selection Grade over Senior Time Scale with effect from 12th July 1977 appearing on pages 151 to 153 of Annexure -15.

(c) Order the Respondent No.2 to grant the promotion of Conservator of Forests with effecdt from 3rd June 1978.

(d) Order the Respondent No.2 to pay the difference in emoluments and the interest at 10% for the delayed payment from 30th March 1981, the date on he issued the Government Resolutions No. IFS-3078/-116679/F-7 dated 30th March 1981.

(e) Order the Respondent No.2 to pay the difference in emoluments and the interest at 10% from 3rd June 1978 due to putting on the works of Conservator of Forests due to physical inability of Shri M.D. Joshi.

(f) Order the Respondent No.2 to pay the cost of Rs.3817/- for cyclostyling and stationary and fees of the Advocate required for filing this application.

(g) Grant any other relief that this Honourable Court may deem fit in the facts and circumstances of the case.

2. On perusal of page 5 of the OA,particulars of the OA against which the application is made, the Government Resolution No. IFS 3088/CR 231/F-7 dated 2.5.1989 which pertains to promotion and appointment into Selection Grade of the Indian Forest Service. The applicant's name has been shown at serial No. 13 purporting his appointment in the Selection Grade with effect

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from 4.6.1983 vice Shri Jagir Singh promoted to the Super Time Scale of the IFS with effect from 4.6.1983. The applicant is entitled for appointment in the Selection Grade with effect from its inception on 12.7.1977 and should have been shown at serial No.4 below Shri A.J. Madan and above Shri V.K. Prabhu in the Resolution No. IFS-3078/116679/F -7 dated 30.3.1981 of the Revenue and Forests Department of Government of Maharashtra by issuing a corrigendum after deciding his representations.

3. The applicant's case in brief is that from 1.4.1954 to 31.3.1956 he was under Training in the forestry subject at the Forest Research Institute and College at Dehradun. He was selected to the post of Assistant Conservator of Forests by the Forest Department of the then Hyderabad State Government. After completing the training successfully, the applicant was appointed as Liaison Officer, Forest Department, Government of Hyderabad, on which post he worked from 4.4.1956 to 31.10.1956. After Reorganisation of States on 1.11.1956 his services were transferred to Maharashtra State. In December 1962 the applicant was promoted as Divisional Forest Officer and he worked in that capacity at various<sup>m</sup> places. The applicant was inducted into Indian Forest Service in September 1968 vide notification No. 5/3/68-AIS-IV dated 27.2.1969 of the Government of India, Ministry of Home Affairs (Annexure 1). In June 1983 the applicant was promoted as Conservator of Forests vide order No. AFO-1083/3069-F-J dated 9.6.1983 issued by the Government in Revenue and Forests Department (Annexure 2). Further details

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regarding his promotion in September 1983 to the post of Conservator of Forests vide Resolution No. AFO/1024/75746/CR.24/F-7 dated 29.10.1984 (Annexure 3), promotion to the post of Additional Chief Conservator of Forests vide order No. AFO-1085/CR-18/F-7 dated 13.5.1985 (Annexure 4), promotion to the post of Chief Conservator of Forests (Production) vide order No. Adm/Estt/6553 dated 1.6.1985 (Annexure 5), Chief Conservator of Forests (Conservation) vide order No. AFO-1085/CR-32/F-7 dated 1.7.1985 (Annexure 6) and additional charge of the post of Principal Chief Conservator of Forests vide order No. AFO-1987/CR-33/F-7 dated 6.11.1987 (Annexure 7).

4. The grievance of the applicant is that Government of Maharashtra, General Administrative Department vide Resolution dated 13.6.1974 has constituted a board for the purpose of effecting promotions to class I and of higher status and the said board is known as 'Establishment Board' which was set up on the recommendations of the Administrative Reforms Commission. The said board consists of six members. The Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms, New Delhi vide notification No. 16017/1/77-SIS(IV) dated 12.9.1977 introduced a stage of Selection Grade over the Senior Time Scale in the Indian Forest Service bearing the pay scale of Rs. 1650-75-1800 (Annexure 9). In pursuance of the said notification the respondents granted Selection Grade to number of Divisional Forest Officers with effect from 12.7.1977 (Annexure 15). The Respondent No.2 appointed the applicant in

the Selection Grade of the Indian Forest Service with effect from 4.6.1983 vide Resolution No. IFS 3088/CR-231/F-7 dated 2.5.1989 (Annexure 10), showing the appointment of the applicant to the Selection Grade with effect from 4.6.1983.

5. The applicant has further clarified by stating the fact that Shri L.S. Lulla, the then Special Secretary, Revenue and Forest Department, Mantralaya, Bombay vide D.O. No. CPF 1377/127487-F-7 dated 17.8.1977 communicated to the applicant adverse entry while reviewing his confidential reports for the year 1976-77 (Annexure 11). The applicant represented against the same. The respondent No.2 vide D.O. No. CPF/1377/141350-F-7 dated 10.9.1979 expunged the adverse remarks. It is further mentioned in the said letter that the impact of these decisions would be taken into account in due course by the authorities concerned (Annexure 12). The respondents failed to promote the applicant as per his turn and also failed to give Selection Grade with retrospective effect from 12/7.1977 as per his entitlement. He was not granted the Conservator's promotion and the Selection grade due to three warnings as detailed in OA page 11 to 22.

6. The applicant has filed Writ Petition 2836 of 1980 before Hon'ble High Court of Judicature at Bombay which came for hearing on 12.11.1981 and was withdrawn. The grievance of the applicant in this respect is that when the Writ Petition came for hearing on 12.11.1981 he could not remain present as the advocate did not inform the date of hearing and the applicant was away on tour in

Interior when the writ petition came up for hearing. The advocate withdrew the writ petition without the consent of the applicant and further informed that the Hon'ble High Court permitted to withdraw the petition with liberty to file the same, if necessary after reconsideration. It is worth mentioning that such a permission does not find place in the order passed by the Hon'ble High Court of Judicature at Bombay.

7. The claim of the applicant is resisted by the respondents on several grounds amongst which is that the case of the applicant is barred by limitation. The OA is filed on 22.7.1990 after more than a year from the date of the Resolution. The OA is not maintainable. It is further stated that the Establishment Board in its meeting held on 25.8.1980 and 21.5.1981 considered the applicant for promotion to the selection but the applicant was not found suitable on the basis of his confidential reports. The applicant was found suitable for promotion to the selection grade in 1982. It is further stated that the applicant's representation, though not required to be considered on account of delay and laches but after due consideration representation was rejected. It was noticed that as Divisional Forest Officer at Abad in 1977 was responsible for checking muster rolls which contained glaring mistakes and omissions. The applicant was given warning by the then Chief Conservator of Forests vide letter dated 2.12.1977. In the year 1979 and 1980 while he was the Divisional Forest Officer, Nanded Division failed to maintained measurement books in proper forms by filling in the quantities stocked etc. and for accepting the offers in auction

sails below the upset price when it was mandatory to seek approval of the Conservator of Forests. An enquiry (fact finding enquiry) was conducted regarding mismanagement of the Nanded Forest Division and a warning was issued on 27.3.1980. Further the respective warning was removed from his confidential report. There was also a short fall of 53810 Agave suckers under the scheme for minor forests produce (Agave) in Akharga, which resulted in a loss to the Government for which the applicant was responsible. The applicant failed to carry out the inspection with adequate vigilance hence warned by letter dated 15.10.1980. The appointment to the selection grade was closed in 1983 and the representation was made after six years and therefore no question of any reply to it arises.

8. On perusal of page 5 of the OA in which the applicant claims that the application is within limitation prescribed under Section 21 of the Administrative Tribunals Act 1985. We have to examine whether such claim of the applicant is justifiable on the averments made in the pleadings. As stated above the Writ Petition by the applicant before Hon'ble High Court Judicature at Bombay was disposed of on 12.11.1981. The copy of the order is on record. No liberty was provided to the applicant to file fresh OA. Further the respondents states that the OA suffers from delay and laches as the applicant has filed the OA on 20.7.1990 against the order dated 2.5.1989. The prescribed period for filing the OA is of one year and there is no prayer for condonation of delay.

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9. Considering the fact that the OA is barred by limitation the matter also suffers from delay and laches, the OA is liable to be dismissed as barred by time and is dismissed accordingly with no order as to costs.

*PLJ* —

(S.L.Jain)  
Member(J)

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*B.N.Bahadur*

(B.N. Bahadur)  
Member(A)