

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- 22 AUG 1994

APPLICATION NUMBER: 86/93

APPLICANTS:

RESPONDENTS:

Mr. A. Rangachary
To.

vs. Secretary, Indian Council of Forestry Research
and Education, Dehradun and others

- ① Sri. M. Narayanaswamy, Advocate, No. 844, upstairs
17th G. Main, 7th Block, Rajajinagar, Bangalore-10.
- ② Sri. M. S. Padmanabhaiah, Sr. CGSC
High Court Bldg, Bangalore-1

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 29-7-94

Issued on

22/08/94

RE

of

S. Shanmugam
22/8
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

SECOND FLOOR
COMMERCIAL COMPLEX
INDIRANAGAR
BANGALORE-560038.

dated: 22 AUG 1994

To

1. Sri. Sanjeev Malhotra,
All India Services
Law Journal, No.22,
Tagore Park, Near Model
Town, Delhi-110009.
2. M/s. Administrative Tribunal
Reporter, No.90, Bhagat Singh
Market, New Delhi-110001.
3. The Editor, Administrative
Tribunal Cases, C/o. Eastern
Book Company, No.34, Lalbagh,
Lucknow-226001.
- ~~4. The Editor, Administrative
Tribunal Law Times, 5835,
Jawahar Nagar, Kothapur Road,
Delhi-110007.~~
5. The Administrative Tribunals
Judgements, No.3857,
Sector-32-D, Chandigarh-160047.
6. M/s. Services Law
Reporter, No.108,
Sector-27-A,
Chandigarh.
7. The Chief Editor,
Weekly Law Notes,
Khanda Falsa, Jodhpur,
Rajasthan.
8. The Dy. Secretary,
Indian Law Academy,
Rajajipuram,
Lucknow-226017.
9. The Manager,
Swamys Publisher(P)
Limited, Post Box No.
2468, No.164, R.K. Mutt
Road, Raja Annamalaiपुरam,
Madras-600028.
(Sandhya Mansions)

Sir,

I am directed to forward herewith a copy each of the undermentioned Orders passed by a Bench of this Tribunal with a request for publication in the journals.

APPLICATIONS NO.

DATE OF THE ORDER

1. O.A.No.86 of 1993.....Dt:29th July, 1994.

Issued on

29/08/94

Bx.

of

Yours faithfully,

for *Se. Registrar* 26/8

DEPUTY REGISTRAR
JUDICIAL BRANCH.

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, Nungambakka, College Road, Madras-600 006.
3. The Registrar, Central Administrative Tribunal,
C.G.O. Complex, 234/4, A.J.C. Bose Road, Nizam Palace,
Calcutta-700 020.
4. The Registrar, Central Administrative Tribunal,
Gulistan Building, 4th Floor, Near Bombay Gymkhana,
Opp: B.M.C. ENT Hospital, Prescott Road, Fort, Bombay-400001.
5. The Registrar, Central Administrative Tribunal
S.C.O. 102/103, Sector 34-A, Chandigarh-22.
6. The Registrar, Central Administrative Tribunal,
23-A, Post Bag No. 013, Thorn Hill Road, Allahabad-211001.
7. The Registrar, Central Administrative Tribunal,
Rajgarh Road, Bhangarh, P.B. No. 58, GPO, Guwahati-781005.
8. The Registrar, Central Administrative Tribunal,
Kandemkulathil Towers, 5th & 6th Floor, Opp: Maharaja College,
M.G. Road, Ernakulam, Cochin-582001.
9. The Registrar, Central Administrative Tribunal,
Caravas Complex, 15, Civil Lines, Jabalpur-482001 (MP).
10. The Registrar, Central Administrative Tribunal, 88-A,
Sri Krishna Nagar, Patna-800 001 (Biher).
11. The Registrar, Central Administrative Tribunal,
No. 5-10-193, First Floor, H.A.C.A. Bhavan,
Opp: Public Gardens, Hyderabad-500 004.
12. The Registrar, Central Administrative Tribunal,
Fifth Floor, B.D. Patel House, Near Sardar Patel Colony,
Navjivan Post, Naranpura, Ahmedabad-380044.
13. The Registrar, Central Administrative Tribunal,
Fourth Floor, Rajaswa Bhawan, Cuttack-753002.
14. The Registrar, Central Administrative Tribunal,
No. 69, Patna, Post Box No. 619, Jodhpur-342006 (Rajasthan).
15. The Registrar, Central Administrative Tribunal,
C-42, Civil Lines, Bhat Vatika, Jaipur.
16. The Registrar, Central Administrative Tribunal,
No. 2, Moti Mahal, Rana Pratap Marg, Lucknow.

/e
P. S. Shrivastava
DEPUTY REGISTRAR
(JUDICIAL BRANCH)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

APPLICATION NO. 86/1993

DATED THIS THE TWENTYNINETH DAY OF JULY, 1994

Mr. Justice P.K. Shyamsunder, Vice Chairman

Mr. T.V. Ramanan, Member (A)

Mr. A. Rangachari
Aged 53 years
Technical Assistant Group-C
(Junior Carpenter)
Wood Property and Uses Dn(Workshop)
Institute of Wood Science and
Technology, Malleswaram
Bangalore - 560 003. ... Applicant

(By Shri M.N. Swamy, Advocate)

vs.

1. The Secretary
Indian Council of Forestry Research
and Education, New Forest P.O.,
Dehradun - 248 006.
2. The Director-General
Indian Council of Forestry research
and Education, New Forest P.O.,
Dehradun - 248 006.
3. The Director
Institute of Wood Science and
Technology, F.R.L. Campus
Malleswaram, Bangalore-3.
4. The Government of India
rep. by its Secretary
Ministry of Environment and
Forest, New Delhi.
5. Mr. B.G. Gayakwad
Research Assistant Grade-II
Institute of Wood Science and
Technology, Malleswaram
Bangalore-560 003.
6. Mr. A. Anthony peter
Research Assistant Grade-II
Institute of Wood Science and
Technology, Malleswaram
Bangalore-3. ... Respondents

(By Shri M.S. padmarajaiah, S.C.G.S.C. for
R-1 to 4)

O R D E R

(Mr. T.V. Ramanan, Member(A))

In this application made Under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the 'Act'), the applicant has sought the following reliefs;

- " (i) Quash by the issue of an appropriate order or direction as the case may be, the order No.1-11/92-IUST/2826 dated 30.11.1992 of the Director of Wood Science and Technology, Bangalore (respondent-3) (Vide Annexure-C) promoting respondents-5 and 6 as Research Assistant Grade-II (Workshop), with a further direction directing the respondents in particular the 3rd respondent to consider the case of the applicant for promotion as against one of the two upgraded posts of Research Assistant Grade-II in the scale of pay of Rs 1200-2040 with effect from 16.11.1992, the date on which respondents-5 and 6 are promoted, with all consequential benefits to the applicant, in the interest of justice and equity;
- (ii) pass such other orders just and expedient in the circumstances of the case including the award of costs, in the interest of justice and equity. "

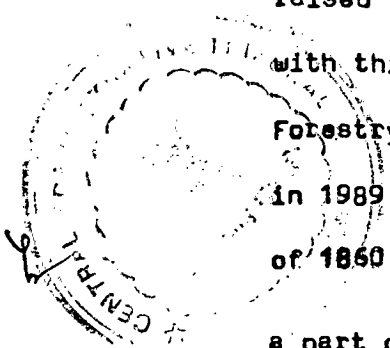
2. The case of the applicant is that he alone is a Technical Assistant, Group-C in the scale of pay of Rs 900-1500 in the workshop unit of the Institute of Wood Science and Technology, Bangalore (IUST for short) under the administrative control of Respondents (R for short) 1 to 4. There are other Technical Assistants, Group-C also in IUST including R-5 & 6 but they are not working in the workshop unit and so when 2 posts of Technical Assistant (Workshop) in IUST were upgraded by an order issued by R-1 on 6th March, 1992 to Research Assistants, Grade-II in the pay scale of Rs 1200-2040, it was only the applicant, who was working as Technical Assistant (Workshop) and not R-5 & 6

who were not working in the workshop, who should have been considered for fitment as Research Assistant, Grade-II in the pay scale of Rs 1200-2040. On the other hand, both R-5 & 6 were considered and promoted against the upgraded posts. (Annexure-C)

2. R-1 to 4 have denied the submissions made by the applicant and have stated that not only the applicant but R-5 & 6 ^{were} holding the posts of Technical Assistant (Workshop) in the pay scale of Rs 900-1500 designated as such by an order dated 8/9 March, 1989 issued by the Ministry of Environment & Forests, New Delhi. Although 9 such posts ^{stand} sanctioned to IUST, at the relevant point of time only 3, viz., the applicant and R-5 & 6 were holding the posts of Technical Assistant (Workshop) and so they were considered by a Departmental Promotion Committee (DPC for short) for being fitted in against the 2 upgraded posts of Research Assistant in the pay scale of Rs 1200-2040. The DPC cleared R-5 & 6 for promotion against the 2 upgraded posts, having found them suitable for such promotion. Hence, the order at Annexure-C.

3. We have heard the learned counsel for the applicant and the learned Senior Central Government Standing Counsel for the respondents.

4. At the very outset the Standing Counsel raised the question of jurisdiction of this Tribunal to deal with this application. According to him the Indian Council of Forestry Research and Education (ICFRE for short) established in 1989 is now a Society under the Societies Registration Act of 1860 with effect from 12.3.1991. As such, IUST, which is a part of the ICFRE is no more a department of the Central Government since 12-3-1991. Further, the applicant stands absorbed by the ICFRE with effect from 1.4.1993 on his option



since then
and the applicant is working in IwST as its employee.
Since ICFRE is not one of the Societies notified under
sub-Section (2) of Section 14 of the Act, the Tribunal
has no jurisdiction to entertain the application made
by one of its employees and so the application is
liable to be dismissed in limine.

5. Learned Counsel for the applicant
disputed this contention and drew our attention to
the case of R. Muralikrishna Vs. Union of India and
Others (O.A. No.158/1991) decided by this Tribunal on
7.4.1992. In that case also Union of India, ICFRE and
IwST, inter alia, were respondents. According to the
learned counsel for the applicant, the objection raised
by the respondents therein regarding jurisdiction was
negatived and so the question of dismissal of this
application in limine on the ground of jurisdiction
should not arise.

6. We have considered the objection raised
on behalf of R-1 to 4 that this Tribunal has no jurisdic-
tion to entertain this application. It is admitted on
both sides that the applicant was absorbed in the ICFRE
on 1.4.1993 and continued to work in IwST as its own
employee, that is, an employee of the Society with effect
from that date by exercise of option. This application
was filed before this Tribunal on 19.1.1993 when the
applicant was a Government servant, i.e., holding a civil
post under the Union but working in IwST which became a
Society with effect from 12.3.1991. The relief sought
relates to the impugned order dated 30th November, 1992
(Annexure-C) by which R-5 and R-6 were promoted as
Research Assistants, Grade-II against 2 posts of Technical

Assistant (Workshop) upgraded. It is significant to note here that the application was filed at a time when the applicant had not been absorbed by the Society in IUST which took place only on 1.4.1993. Thus, when the applicant filed this application before this Tribunal on 19.1.1993, he was a person appointed to a civil post under the Union but working in connection with the affairs of the Society, i.e., ICFRE/IUST. Section 14 of the Act reads as follows:-

* 14. Jurisdiction, powers and authority of the Central Administrative Tribunal —

(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to —

(a) recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning —

(i) a member of any All India Service; or ;

(ii) a person (not being a member of an All India Service or a person referred to in clause (c)) appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian (not being a member of an All India Service or a person referred to in clause (c)) appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation (or society) owned or controlled by the Government;

- (c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation (or society) or other body, at the disposal of the Central Government for such appointment.

Explanation — For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory).

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations (or societies) owned or controlled by Government, not being a local or other authority or corporation (or society) controlled or owned by a State Government;

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporation (or societies).

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation (or society), all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court in relation to —

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation (or society) and

(b) all service matters concerning a person (other than a person referred to in clause (a) or clause (b) of sub-section (1) appointed to any service or post in connection with the affairs of such local or other authority or corporation (or society) and pertaining to the service of such person in connection with such affairs. "

It may be seen from sub-clause (ii) of clause (b) of that sub-section (1) of the aforesaid section, the Tribunal has jurisdiction in relation to all service matters concerning a person appointed to any civil post under the Union and pertaining to the service of such person in connection with the affairs of any Society owned or controlled by the Government. It was not disputed by the learned Standing Counsel that ICFRE/IUST is not a Society owned or controlled by the Central Government or that on the date on which he filed this application, i.e., 19.1.1993, the applicant was not an employee of the Central Government. Therefore, the absence of a notification under sub-section (2) of Section 14 of the Act enabling the Tribunal to exercise jurisdiction, powers and authority in respect of ICFRE/IUST under sub-section (3) of the said Section in so far as the applicant is concerned is not really material.

7. Having said so, we cannot but take note of the fact that subsequent to filing of this application and even as the application was pending before the Tribunal, the applicant was absorbed by the ICFRE, a Society, and continued working in IUST as its own employee. Thus, when with effect from 1.4.1993 the applicant was absorbed in ICFRE/IUST and he ceased to be a person appointed to a civil post under the Union in terms of sub-clause (ii) of clause (b) of sub-section (1) of Section 14 of the Act, and/ ICFRE has not been notified to this day under sub-section (2) of Section 14 of the Act for application of the provisions of sub-section (3) of the said Section, the Tribunal has ceased to have all the jurisdiction, powers and authority as empowered under sub-section (1)

of Section 14 of the Act to redress the grievance of the applicant as made out in this application. It is a case of jurisdiction acquired and lost. The jurisdiction earlier acquired stands ousted by the aforesaid statutory provision owing to the applicant ceasing to be a holder of a civil post under the Union by virtue of his having become an employee of a Society.

8. The case of Muralikrishna is distinguishable from this case because at the relevant point of time, the Tribunal had the necessary jurisdiction because of the provisions contained in sub-clause (ii) of clause (b) of sub-section (1) of Section 14 of the Act. The applicant therein was still holding a civil post under the Union and was not an employee of the Society by virtue of absorption. That is, however, not the case here because although the Tribunal had jurisdiction originally, it lost it subsequently once the applicant ceased to be a person holding a civil post under the Union and became an employee of the Society after severing his link with the Government. Thus, the case of Muralikrishna cannot be of any help to the applicant.

9. In view of the foregoing, the question of considering this case on merits does not arise. We dismiss this application in limine for lack of jurisdiction.

No order as to costs.

TRUE COPY

SECTION OFFICER

CENTRAL ADP. & APPEAL TRIBUNAL

ADDL. CHIEF CLERK

BANGALORE

(T.V. RAMANAN)
MEMBER(A)

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN