

(700)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.276 of 1992

DATE OF JUDGMENT:: 27th August,1993

BETWEEN:

Mr. D.Satyanarayana

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Applicant

and

1. Union of India represented by  
the Secretary to Government,  
Department of Personnel,  
Ministry of Home Affairs,  
New Delhi.
2. The Secretary to Government,  
Forests and Environment,  
Govt. of India, C.G. O. Complex  
New Delhi.
3. The Chairman,  
Union Public Service Commission,  
New Delhi.
4. The Select Committee constituted  
under Rule 3 of the Indian Forest  
Service (Appointment by Promotion)  
Regulations, 1966 represented by  
its Chairman,  
Govt. of A.P.,  
Hyderabad.
5. Principal Secretary to Government,  
Energy, Forests, Environment,  
Science and Technology Department,  
AP Secretariat,  
Hyderabad.
6. Principal Chief Conservator of Forests,  
Govt. of A.P.,  
Hyderabad.

Respondents

7. The Chief Secretary of A.P.  
Secretariat, Hyderabad.

HEARD:

COUNSEL FOR THE APPLICANT: Mr. S.Satyam Reddy, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC for  
RR 1 to RR 3

Mr. D.Panduranga Reddy. Spl.  
Counsel for State of A.P.,  
for RR 4 to RR 6.

contd....

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI A.B.GORTHY, MEMBER (ADMN.)

JUDGMENT

(As per Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman)

The applicant was a direct recruit to the post of Assistant Conservator of Forests and he joined on 10.5.1976. The applicant was eligible for the senior scale post of Indian Forest Service by 1990 and in that year he was also considered and then he was placed at Sl.No.8 and it is the <sup>four</sup> last of the list. First/out of the said list were appointed on 27.4.1991. On 13.9.1991, four additional vacancies to the IFS cadre of the A.P. State were added on the basis of the triennial review of the cadre strength. Then, the ~~one~~ <sup>one officer</sup> who is at Sl.No.5 of the list was appointed in March 1992. But as the inclusion of those in Sl.No.6 and 7 were provisional, <sup>Sl.No.6 to 8</sup> the cases of ~~7~~ were proposed by the State Government to the Central Government for appointment in regard to the remaining three vacancies. But as the inclusion of Sl.No.6 and 7 was provisional, the list was sent to the Union Public Service Commission. Before the latter had taken a decision, the select committee met on 16.3.1992 for consideration of the officers of the A.P. cadre for inclusion in the <sup>next</sup> list for appointment to the post of senior scale in IFS. The applicant filed this OA on 27.3.1992 praying for a declaration that the action of the respondents in not appointing <sup>him</sup> (the applicant) to IFS as per the select list prepared in 1990 is arbitrary and illegal and to direct the 1st ~~respondent~~ and the 2nd respondents to appoint <sup>him</sup> (the applicant) to IFS as per the proposal sent on 9.3.1992 by the 5th respondent in the vacancies that arose in view of the <sup>increase</sup> ~~enhancement~~ at the triennial review.

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7+

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2. It is evident that the vacancies in view of the triennial review had arisen long before 16.3.1992, the date on which the select committee met for preparation of the next list. Hence, the applicant who was in the list that was prepared in 1990 had to be considered in regard to the said vacancy. As four vacancies existed by the date of the preparation of the list in 1990 and as four more vacancies had arisen by 16.3.1992, the date <sup>by</sup> ~~on~~ which the select committee met for preparation of the next list, all the eight in the list of 1990 ~~xxx~~ have to be appointed if clearance is given by the UPSC. Inclusion of the applicant in 1990 list is not provisional. Hence, no clearance by the UPSC arises for appointing him. There is no need to wait for the appointment of the applicant till the clearance is given in regard to the Sl.No.6 and 7, for even after the <sup>reserving</sup> ~~reserved~~ vacancies for them, vacancy exists in regard to the applicant also. In fact, the amendment of Regulation No.9 as per the GORt.No.951 dated 18.12.1991 of E.F.E.S. and Tech (For.II) Department makes it clear that if the inclusion of the senior is provisional and if the inclusion of the junior is not conditional, then the appointment in regard to the junior has to be made by leaving vacancies for those officers whose names were included provisionally in the list.

3. Hence, it <sup>has</sup> ~~is~~ to be stated that the applicant has to be appointed in regard to the last of the four vacancies that had arisen ~~xxx~~ because of the <sup>increase</sup> ~~enhancement~~ <sup>at the</sup> ~~at the time~~ of the triennial review. It is just and proper to direct the respondents to give the applicant notional promotion

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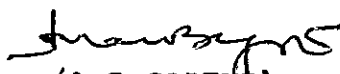
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from the date on which the Sl.No.1 in the list, that was prepared on the basis of the meeting of the select committee which met on 16.3.1992 <sup>was forwarded</sup> and to further direct the payment of arrears from that date.

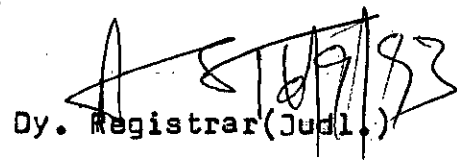
4. The OA is ordered accordingly. No costs. Time for implementation is three months from the date of receipt of this order.

(Dictated in the open Court).

  
(A.B.GORTHY)  
MEMBER (ADMN.)

  
(V.NEELADRI RAO)  
VICE CHAIRMAN

DATED: 27th August, 1993.

  
Dy. Registrar (Judl.)

vsn

Copy to:-

1. Secretary to Government, Department of Personnel, Ministry of Home Affairs, Union of India, New Delhi.
2. The Secretary to Government, Forests and Environment, Govt. of India, New Delhi. *C.G.O. Complex*
3. The Chairman, Union Public Service Commission, New Delhi.
4. The Select Committee Constituted under Rule 3 of the Indian Forest Service (Appointment by Promotion) Regulations, 1966 represented by its Chairman, Govt. of A.P., Hyderabad.
5. Principal Secretary to Government, Energy, Forests, Environment, Science and Technology Department, A.P. Secretariat, Hyd.
6. Principal Chief Conservator of Forests, Govt. of A.P. Hyderabad
7. One copy to Sri. S. Satyam Reddy, advocate, CAT, Hyd.
8. One copy to Sri. N.V. Ramana, Addl. CGSC for R-1 to R-3, CAT, Hyd.
9. One copy to Sri. D. Panduranga Reddy, Spl. counsel for A.P. Stat for R-4 to R-6, CAT, Hyd.
10. One copy to Library, CAT, Hyd.
11. One spare copy.

Rsm/-

12. The Chief Secretary, State of A.P.,  
Secretariat, Hyderabad - 4.

4th 24/9/93  
22/8/93

OA 276/92

TYPED BY

COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY  
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 27/8/1993

ORDER/JUDGMENT: ✓

~~M.A./R.A./C.A.N.~~

in

O.A.No.

T.A.No.

276/92  
(W.P.)

Admitted and Interim directions  
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.

