

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.355 of 1999

DATE OF JUDGMENT: (8 JANUARY, 2001

BETWEEN:

P.ADIVAPPA

.. APPLICANT

AND

1. Union of India, rep. by its
Secretary to Govt. of India,
Ministry of Environment & Forests,
CGO Complex, New Delhi-110001,
and others

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.K.LAKSHMINARASIMHA

COUNSEL FOR THE RESPONDENTS: Mr.B.N.SHARMA for R1 & R2

Mr.P.Naveen Rao for R3 to R5

CORAM:

HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN

HON'BLE SRI M.V.NATARAJAN, MEMBER (ADMN.)

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether the Judgment is to be circulated to the other Benches.

JUDGMENT DELIVERED BY HON'BLE SRI V.RAJAGOPALA REDDY,
VICE CHAIRMAN

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Regulations, 1966 for the years 1987, 1988 and 1989, as illegal and unconstitutional and to conduct a Review DPC to consider the case of the applicant for the said years of 1987, 1988 and 1989 after taking into account the 'deputation reserve' and to grant all consequential benefits.

2. Following facts are to be noticed:-

The applicant was a direct recruit to the post of Assistant Conservator of Forests during 1978. He was eligible for consideration for appointment to the IFS by promotion in 1986 in terms of IFS (Appointment by Promotion) Regulations, 1966 read with IFS (Recruitment) Rules, 1966. The method of Recruitment to the IFS is laid down under Rule 4 of the IFS (Recruitment) Rules, 1966. Under Sub-rule 2 of Rule 4, three methods are shown for such recruitment. They are, (i) by a competitive examination; (ii) by selection of persons from amongst the Emergency Commissioned Officers and Short Service Commissioned Officers of the Armed Forces etc; and (iii) by promotion of substantive members of the State Forest Service. The posts borne on, and the strength and the composition of the cadre of the IFS in each of the State shall be as specified in the Schedule to the IFS (Fixation of Cadre Strength) Regulations, 1966. Item 5 of the Schedule is the 'deputation reserve' which has been varied from time to time, it was @ 15% prior to 1988 and 25% thereafter, of the posts to be filled by direct recruitment. With effect from 10.3.88, the posts shown against deputation reserve for the State of Andhra Pradesh were 18. According to the



applicant, the deputation reserve was available right from 1986 onwards though in different number of posts. It is the case of the applicant that the said 'deputation reserve' had not been taken into account to compute the number of posts available for promotion to the IFS, right from 1987. One Mr.A.Kishan who was junior to the applicant had filed OA 456/93 before the Hyderabad Bench contending that the Department had committed an illegality in not including the deputation reserve for the year 1988 and to compute the number of posts available for promotion. The said OA was disposed of by the order dated 13.3.97 directing the respondents therein to consider his case and pass appropriate orders. Accordingly his case had been considered but was rejected by the order dated 11.7.97 stating that he was far junior and would not come up for consideration even the 'deputation reserve' was computed. It was, however, admitted therein that the deputation reserve at Item 5 of the Schedule had not been taken into consideration by the Select Committee which met during 1987 and 1989. It was further stated therein that in the meeting held on 24/25.2.90 the Selection Committee prepared the Select list to IFS by promotion but they had not take into consideration the 'deputation reserve' on the ground that the Recruitment Rules were amended on 22.2.89, deleting the 'deputation reserve'.

3. The applicant, placing heavy reliance upon this order, submits that the action of the respondents in not including the 'deputation reserve' in the number of posts for promotion to the post of IFS during 1987, 1988 and 1989 when the applicant was eligible for being considered, was illegal and violative of Articles 14 and 16 of the Constitution. It is also submitted that as the seniority



list has now been finalised, the respondents should convene a Review DPC to consider the applicant and others afresh, for promotion to the post of IFS.

4. The respondents contested the case by filing reply in which a preliminary objections had been raised that the OA is barred by limitation and for non joinder of necessary parties. On merits it is, however, admitted that the deputation reserve had not been taken into consideration prior to the notification dated 22.2.89. It was clearly stipulated in the notification that for the purpose of calculating the promotion vacancies in a particular cadre, only items 1 and 2 mentioned in the schedule to the Cadre Strength Regulations i.e, senior duty posts under the State Government and the central deputation reserve, would be taken into account. Hence, after the said amendment, the State deputation reserve was rightly excluded and the selections were made thereafter to the IFS by promotion which was in accordance with law. The judgement of the Tribunal of the Chandigarh Bench in OA 1122/96 decided on 14.10.97 was heavily relied upon to submit that the IFS officers who had been appointed during the intervening period from 1987 to 1999 when this OA was filed, their seniority cannot be disturbed. Any order passed in this OA would adversely affect their rights who are not parties in the OA.

5. Having given careful consideration to the pleadings in this case and arguments advanced by the learned counsel on either side, we are of the considered view that this OA has to be held as not maintainable on the



ground of laches and limitation. The only grievance of the applicant in this case is that the number of posts shown against the deputation reserve were not taken into consideration by the select committee for the purpose of promotion of the cadre officers to the IFS right from 1987, 1988 and 1989. It is the case of the applicant himself that he was eligible for consideration for promotion from 1987. We find that Mr. Kishan, Assistant Conservator of Forests who was much junior to the applicant had approached the Court in 1993 itself on the ground that the deputation reserve was not taken into consideration for promotion from 1987. It is not the case of the applicant that he was unaware of the fact of 'deputation reserve' in the Schedule in the Fixation of Cadre Strength Regulations. He cannot now say that at least after his junior filed the OA in 1993, that the 'deputation reserve' was not under consideration by the Select Committee in 1989. But the applicant had not made any grievance that the same was not taken into consideration during the selections. It is also not in dispute that the applicant's juniors were promoted much earlier to the applicant. The applicant had not even made any representation. In fact, he should have approached the Tribunal in 1989 itself. No reason is given for not doing so. Even after the orders were passed by the Tribunal in March, 1997 in the OA filed by Mr. Kishan, the applicant did not move into the matter. In fact, the case of Mr. Kishan who was junior to the applicant was reviewed by the respondents taking into account the deputation reserve as seen from the order dated 11.7.97 and it was categorically stated in that order that the applicant did not come up for consideration. On that ground, the



respondents had rejected the case of Mr. Kishan who was his junior to review the select list for the year 1991. It may be true that the seniority list of Assistant Conservators of Forests was not finalised and was subjected to litigation. The selections might have been held for promotion on the basis of the provisional seniority list and several officers had been promoted to the IFS right from 1987. Without making any representation right from 1987, the applicant now seeks the relief of review DPC right from 1987 only on the ground that the respondents were shown to have been admitted that they have ignored the D.R. But the applicant has now lost the bus. We find that the applicant is not entitled for any relief in this case, on the ground laches and limitation.

6. By and large, one of the essential requirements of efficiency in public services is a feeling of security. One of the guarantees for such security is to ensure that matters like seniority list and the promotions should be left undisturbed and should not be reopened after a lapse of many years at the instance of a party who has during the intervening period chosen to keep quiet. Raking up old matters like seniority after a long time is likely to result in administrative complications and difficulties and hence such matters should be given a quietus after lapse of some time (vide "Melcom Lawrence Cecil D'Souza v. Union of India; (1976) 1 SCC 599)". Relying on the above observations of the Constitutional Bench of the Supreme Court and also in "R.S. Makashi v. I.M. Menon; (1982) 1 SCC 379", the Supreme Court in "K.R. Mudgal v. R.P. Singh; 1987 SCC (Lab) 6" held that promotion should not be disturbed



after a long lapse of time. In that case, the seniority list challenged after 18 years after the first draft seniority list was published questioning some appointments made nearly 22 years ago was held as not permissible. In the instant case also, the officers' ^{promotion made} ~~who were promoted~~ from 1987, 1988 and 1989 and who were also not made parties in this OA, is sought to be disturbed on the basis of an order passed in the case of another person who admittedly approached the Tribunal in 1993 on the same cause of action. In the circumstances we are not inclined to interfere with the promotion made already and to convene a review DPC to consider the applicant afresh.

7. The Supreme Court has also held in "JT 1997 (8) SC 189 (P.K.Ramchandran v. State of Kerala)" that, "Law of limitation harshly affects a party but it has to be applied with all its vigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds."

8. In view of the foregoing discussion, we are not inclined to grant any relief to the applicant in this OA. The OA ~~is~~ therefore, fails and ^{is} accordingly dismissed. We do not, however, order any costs.

(Signature)
(M.V.NATARAJAN)
MEMBER (ADMN.)

(Signature)
(V.RAJAGOPALA REDDY)
VICE CHAIRMAN

DATED: 18th JANUARY, 2001

vsn

(Signature)