

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NOS.471 and 1846 of 1999

DATE OF ORDER: 23/2/2001

OA.NO.471/99:

BETWEEN:

M.K.Prasad, IFS, s/o Balakotaiah,
Divisional Forest Officer,
Cuddapah.

.. APPLICANT

AND

1. The Secretary to Govt. of India,
M/o Environment & Forests,
CGO Complex, Lodhi Road, New Delhi.

2. The Chief Secretary to Govt. of A.P.,
Secretariat, Hyderabad.

3. The Principal Chief Conservator of Forests
Dept. of Forests, Govt. of A.P.,
Aranya Bhavan, Saifabad, Hyderabad.

.. RESPONDENTS

OA.NO.1846/99:

Between:

1. V.Parthasarathy, IFS, s/o Ramachary,
Conservator of Forests,
o/o the Principal Chief Conservator of
Forests, Saifabad, Hyderabad.

2. MVS.Prakasa Rao, IFS,
s/o Suryavardhanaiah, Conservator of
Forests(MEP), o/o the Principal Chief
Conservator of Forests, Saifabad, Hyderabad.

....APPLICANTS

and

1. The Union of India, rep. by Secretary,
M/o Environment & Forests,
Lodhi Road, New Delhi.

2. The Govt. of A.P., rep. by the Chief
Secretary, Secretariat, Hyderabad.

3. The Principal Chief Conservator of Forests,
Dept. of Forests, Aranya Bhavan,
Saifabad, Hyderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.K.Sudhakar Reddy
(in both the OAs)

COUNSEL FOR THE RESPONDENTS: Mr.B.Narsimha Sharma
(for Central Govt.)
Mr.V.V.Anil Kumar
(for State of A.P.)
(in both the OAs)

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:JUDGEMENT:

ORDER (PER HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN)

As both the cases raise the same issue, they are disposed of by a common order.

2. The applicants are seeking a direction to convene a review DPC to consider them for promotion to the Indian Forest Service (for short IFS) counting the Deputation Reserve posts mentioned in item.5 of the I.F.S. (Fixation of cadre strength) Regulations, 1966, for computing the promotion quota as per the rules, with reference to the select lists prepared from 1976 to 1987 under IFS (Promotion) Regulations, 1966 (for short Regulations) and to revise their year of allotment to the IFS.

3. The applicant in OA 471/99 was appointed as Assistant Conservator of Forests in 1965 and his name was considered for conferring IFS along with 5 others in 1987 but was appointed to IFS in 1989 and was given the year of allotment as 1985.

4. The applicant in OA 1846/99 was initially appointed as Assistant Conservator of Forests in the Andhra Pradesh State Forest Service during 1967 and was considered for appointment to IFS during 1979 and was appointed to IFS in 1983 with the year of allotment as 1976.

5. It was stated that the seniority of the Assistant Conservator of Forests was under dispute for more than a decade and finally due to the judgement delivered by the

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Andhra Pradesh Administrative Tribunal, Hyderabad a final seniority list was issued in 1995. The delay in finalisation of the seniority list had affected the applicants in their cadre advancement.

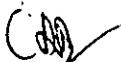
6. Under Rule 8 of the IFS (Recruitment) Rules, 1966 (for short Recruitment Rules), the number of persons recruited should not exceed 33 1/3% and the number of senior duty posts borne on the cadre of the State was 31, but it is submitted that the respondents have wrongly worked out the promotion posts only to 25 by excluding Item 5 viz., the Deputation Reserve posts out of the posts of IFS cadre Strength. It is further the case of the applicants that the senior duty posts clearly comprise of the following categories; (i) senior post in the State Government (Item I of the Cadre Strength); (ii) Central Deputation quota (Item 2); and (iii) Deputation Reserve (Item 5). The grievance of the applicants is that the respondents had not taken into account the posts reserved under the category of deputation reserve for the purpose of 33 1/3% in the matter of promotion of the applicants as per the Rule 9 of the Recruitment Rules. As a result, the number of posts fixed for promotion was reduced. Thus, the total number of posts allotted for promotion came to 25 whereas it should have been 31. Thus, there was not only the breach of rule 9, but also a clear violation of Articles 14 and 16 of the Constitution.

7. The application is contested mainly on the ground of limitation. It is urged by the respondents that the State Deputation Reserve which was to be taken into account for calculating the vacancies for promotion has been

deleted in 1989 and as the applicants have been appointed to the IFS in 1989 and 1983 respectively, if they were aggrieved by the breach of the rules,, they should have agitated the matter immediately thereafter within the period of limitation. In fact, no representation was also made in this regard. It is also urged that any change in the date of appointment of the applicants to the IFS and their years of allotment would adversely affect the seniority of several IFS officers who were not even made parties to this OA. The learned counsel for the respondents placed heavy reliance upon the judgement of the Chandigarh Bench of the Tribunal in "Vinod Kumar Jhanjhria Vs. Union of India; OA No.1122/96 dated 14.10.97" and "P.Adivappa Vs. Union of India; OA 355/99, the judgement rendered by this Bench on 18.1.2001", in support of the contention as to limitation.

8. Having given careful consideration to the arguments advanced by the learned counsel on either side, we find it difficult to understand how the OAs could be maintained after a long lapse of time when the delay was not properly explained by the applicants.

9. On merits, the applicants are on firm ground. The method of recruitment to the IFS is laid down under Rule 4 of the Recruitment Rules. Under Sub-rule 2 of Rule 4, one of the methods shown for such recruitment is by promotion of substantive members of the State Forest Service. The method of promotion of the members of the State Forest Service is governed by the IFS (Recruitment) Rules, 1966. As per Rule 8 of the Recruitment Rules, the



Central Government on the recommendation of the State Government and in consultation with the Union Public Service Commission, may recruit to the Indian Forest Service by promotion. As per Rule 9, the number of persons recruited under Rule 8 in any State should not exceed 33 1/3% of the number of senior duty posts borne on the cadre of that State. The strength and the composition of the cadre of the IFS in each 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' 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. The said provision regarding State Deputation Reserve, however, was deleted in 1989. It is, however, admitted by the respondents that the State Deputation Reserve was indeed not taken into consideration while considering the case of the applicants for promotion to the IFS. Hence, it appears prima facie that this case is liable to be allowed only on the admission of the respondents.

10. But at this stage, the preliminary plea of limitation raised by the respondents has to be disposed of and the same to our mind appears to be formidable. The applicants do not plead that they are unaware of the provisions of the State Deputation Reserve on the date of their appointment. They cannot also say so because they comprise of the highly intellectual and knowledgeable persons in the society having been selected to IFS for their erudition and learning. They cannot give any sort of excuse for not knowing the Recruitment Rules which govern

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their career prospects. It is also admitted by the learned counsel for the applicants that the applicant in OA 471/99 had approached this Tribunal in OA 48/96 praying for a direction to review the panel made to the IFS consequent on the fixation of the revised seniority, as per the final seniority list prepared. The applicant could have taken this plea atleast therein, but he did not. Practically no reasons are given for filing this OA after such a long lapse of time, much after the expiry of the period of limitation under Section 21 of the Administrative Tribunals Act. In the Column against limitation in these OAs, no reasons are assigned by the applicants for the delay.

11. In Adivappa's case (*supra*), we have rejected the OA where the same points have been raised on the ground of limitation wherein we have made the following observations:-

"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)."

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12. The Chandigarh Bench also rejected the claim for State Deputation Reserve on the ground of limitation in Vinod Kumar Jhanjhria's case (*supra*). Relying upon the above two decisions, we hold that the applicants failed to justify the delay in filing these OAs. We are therefore not prepared to grant any relief to the applicants as they forfeited their rights, in view of the long delay in approaching this Tribunal.

13. The OAs are, therefore, rejected on the ground of limitation, in the circumstances, without costs.