

50/100
N
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

R.A-16/2001 ordered sheet pg-1 to 2 INDEX

Dismissed Date-29/09/2002

O.A/T.A No. 303/2000

M.P-260/2001 ordered sheet pg-1

R.A/C.P No. 16/2001

Disposed Date-29/09/2002

E.P/M.A No. 260/2001

1. Orders Sheet O.A-303/2000 Pg. 1 to 4
2. Judgment/Order dtd. 16/8/2001 Pg. 1 to 4 Disposed
common order; 194/00, 303/00, 69/01, 70/01
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 303/2000 Pg. 1 to 25
5. E.P/M.P..... 260/2001 Pg. 1 to 8
6. R.A/C.P..... 16/2001 Pg. 1 to 8
7. W.S..... Nil Pg. to
8. Rejoinder..... Nil Pg. to
9. Reply..... Pg. 1 to 14
10. Any other Papers..... Pg. to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

M.P-187/2001 ordered sheet pg-1

Disposed Date-12/09/2001

Petition Copy - pg - 1 to 11

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 303/2000

OF 199

Applicant(s)

Shri Achintya Kumar Sinha.

Respondent(s)

Union of India and others.

Advocate for Applicant(s)

Dr. N.K. Singh
Mr. R.K. Deb Chowdhury

Advocate for Respondent(s)

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
	28.9.00	Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman. Learned counsel for the parties are not present. List on 3.11.2000. for consiereation of admission.
502935 28.9.2000 C.M. 29/9/00	trd 29.9.00	Vice-Chairman Heard Dr. N.K. Singh learned counsel for the applicant, and Mr. A Deb Roy, Sr. C.G.S.C. for the respondents. After passing of the order on 28.10.00 Dr. N.K.Singh learned counsel for the applicant has mentioned the matter today and prayed for taking up the case for admission as he could not attend the court on 28.9.2000 due to some personal reasons. Prayer is allowed. The order dated 28.9.2000 is accordingly modified.
<i>Slips are yet to be received to issue notices.</i> <i>29/9/00.</i> <i>Slips are received issue notices to the respondents and sent to D/Section for</i> <i>apply D/No 2416 to 2428</i> <i>dd 2/11/2000</i>	1m	Heard counsel for the parties. Application is admitted. Issue notice on the respondents. Call for records. List on 14.11.2000 for further orders.

Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

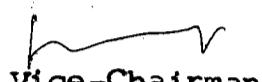
Notice duly served on
respondents No. 1, 2, 3,
5, 7, 8, 10, 12, & 13. Other
R No. 4, 6, 9 are still awaited

DC
2/11/2000

14.11.00

Heard Mr R.K. Deb Choudhury, learned
counsel for the applicant. ~~and~~ Mr A. Deb
Roy, learned Sr.C.G.S.C. prays for four
weeks time to file written statement.
Prayer allowed.

List on 14.12.2000 for order.

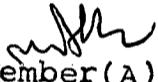

Vice-Chairman

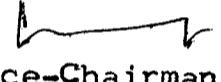
pg

14.12.00
15/11

Four weeks time allowed to file
written statement on the prayer of
Mr A. Deb Roy, learned Sr.C.G.S.C. for
the respondents.

List on 16.1.2001 for order.


Member (A)

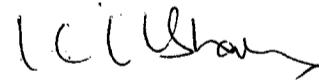

Vice-Chairman

12-1-2000
No. written
statement has been
filed by the
respondents.


Deb Roy

16.1.01

On the prayer of learned counsel for
the respondents four weeks time is
allowed for filing of written statement.
List on 13.2.01 for filing of written
statement and further orders.


Member


Vice-Chairman

8.2.2001

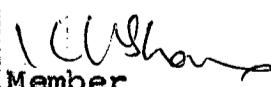
Reply on behalf
of Respondent No. 1
has been filed.

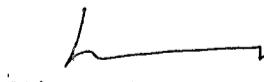
19/02/2001
8/2/2001

1m

13.2.01

It has been stated that written
statement has already been filed.
List on 3.5.01 for hearing. The appli-
cant may file rejoinder if any within
2 weeks.


Member


Vice-Chairman

1m

Notes of the Registry	Date	Order of the Tribunal
25.4.2001 Reply to the rejoinder filed by applicant & the respondents' w/s. <i>Ans.</i>	3.5.	Name appears. List again on 11.6.2001. By A.K.2 3.5-
 <i>The case is ready for hearing as regard BOS and rejoinder.</i> <i>Ans.</i> 10.7.01	28.5.2001	Present: Hon'ble Mr Justice A. Agarwal, Chairman Hon'ble Mr K.K. Sharma, Administrative Member. The applicant is an aspirant for promotion in the Indian Forest Service, Tripura Cadre. He impugns the quota prescribed for promotees vis-a-vis direct appointees. The applicant and his Advocate, however, are absent on an application made by Dr N.K. Singh, learned counsel for the applicant. The case is adjourned till 11.7.01 for hearing. <i>Ans.</i> By order
	11.7.01	On the prayer made by the counsel for the parties, the case is adjourned to 1-8-2001 for hearing. <i>K.K.Sharma</i> Member
	1.8.01	Heard Mr.S.Sarma, learned counsel for the applicant at length. List the matter on 6.8.2001 for hear- ing in the presence of the learned counsel for the respondents. <i>K.K.Sharma</i> Member

Notes of the Registry	Date	Order of the Tribunal

4 5
O.A. 303 of 2000.

Notes of the Registry

Date

Order of the Tribunal

2-8-01

List it alongwith connected cases
on 6-8-2001 for hearing.

U C U Shash

Member


Vice-Chairman

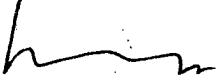
mb

06.08.01

Heard in part. List again on 10/8/01
for hearing.

U C U Shash

Member


Vice-Chairman

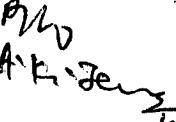
mb

(0-8)

Heard Dr. N. K. Singh, learned
Counsel for the appellants
Mr. A. Deb Ray, S.C.C.G. for the
Respondent.

Hearing concluded.

Judgment reserved


A. K. Ray
10/8

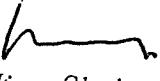
24.8.2001

16.8.2001

Judgment pronounced in open court.
The application is disposed of. No order as to
costs.

U C U Shash

Member


Vice-Chairman

nk m

Copy of the Judgment
was sent out to the
S.P.C. for ready the
same to the appellants
as well as to the L.O.D.
for the Reply

108.

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./RXX. NO.194 of 2000, O.A.No.303 of 2000,
O.A.No.69 of 2001, O.A.No.70 of 2001 and O.A.No.71 of 2001.

1. Shri Gaurish Ranjan Paul (O.A.194/2000)
2. Shri A.K. Sinha (O.A.303/2000)
3. Shri K. Jagadishwar Singh (O.A.69/2001)
4. Shri L. Gopal Singh (O.A.70/2001)
5. Shri K. Premkumar Singh (O.A.71/2001)

DATE OF DECISION *16.8.2001.*

APPLICANT(S)

Mr B.K. Sharma, Dr N.K. Singh, Mr R.K. Dev Choudhury,
Mr S. Sarma and Mr U.K. Goswami.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.
Mr B.C. Pathak, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

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 ?

5.

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.194 of 2000

Original Application No.303 of 2000

Original Application No.69 of 2001

Original Application No.70 of 2001

And

Original Application No.71 of 2001.

Date of decision: This the 16th day of August 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

1. O.A.No.194/2000

Shri Gaurish Ranjan Paul, IFSApplicant
By Advocates Mr B.K. Sharma, Mr S. Sarma and
Mr U.K. Goswami.

- versus -

The Union of India and othersRespondents
By Advocates Mr B.C. Pathak, Addl. C.G.S.C.,
Dr. N.K. Singh, Mr A. Rashid and
Mr R.K. Dev Choudhury.

2. O.A.No.303/2000

Achintya Kumar Sinha, IFSApplicant
By Advocates Dr N.K. Singh and
Mr R.K. Dev Choudhury.

- versus -

The Union of India and othersRespondents
Mr A. Deb Roy, Sr. C.G.S.C.

3. O.A.No.69/2001

Shri K. Jagadishwar Singh, IFSApplicant
By Advocates Dr N.K. Singh and Mr R.K. Dev Choudhury.

- versus -

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

4. O.A.No.70/2001

Shri L. Gopal Singh, IFSApplicant
By Advocates Dr N.K. Singh and Mr R.K. Dev Choudhury.

- versus -

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

5. O.A.No.71/2001

Shri K. Premkumar Singh, IFSApplicant
By Advocates Dr N.K. Singh and Mr R.K. Dev Choudhury.

- versus -

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.
Mr B.K. Sharma and Mr S. Sarma.

.....
O R D E R

CHOWHDURY. J. (V.C.)

All these applications are taken up together since common questions of law are involved.

2. All the applicants were recruited to the Indian Forest Service (IFS for short) in terms of the IFS (Recruitment) Rules, 1966 read with IFS (Appointment by Promotion) Regulations, 1966. In these applications they claim the benefit of the Judgment and Order passed by the Tribunal in O.A.No.15 of 1995, Th. Ibobi Singh Vs. Union of India and others, disposed of on 20.1.1999 based on the Judgment and Order of the Jabalpur Bench of the Tribunal in K.K. Goswami Vs. Union of India and others as well as the decision rendered by the Calcutta Bench of the Tribunal in Dhuti Kr. Basu and another Vs. Union of India and others. The applicants accordingly prayed for a direction to the respondents to include State Deputation Reserve, i.e. Item No.5. of the Schedule to the Cadre Strength Regulations for computing promotion posts in the Manipur - Tripura Joint Cadre of the IFS, for triennial cadre review and predating their date of promotion as well as year of allotment. According to the applicants they are all similarly situated like that of Ibobi Singh(Supra) and K.K. Goswami (Supra) and therefore, similar benefits are to be granted to them also.

3. The respondents denying and disputing the claim of the applicants contended that the directions rendered by the Tribunal in the aforesaid cases are no longer binding in view of the decision rendered

by the Supreme Court in Tamil Nadu Administrative Officers Association Vs. Union of India and others, dated 19.4.2000, reported in (2000) 5 SCC 728. In K.K. Goswami (Supra), the Jabalpur Bench of the Tribunal ordered that the deputationists listed at Item No.5 of the Schedule under the Cadre Strength Regulations was to be included for computing for promotion quota. The Judgment was assailed by SLP before the Supreme Court and the same was rejected. Similar view was taken by the Calcutta Bench of the Tribunal also.

4. The Supreme Court had the occasion to reconsider the decision of the Jabalpur Bench, Calcutta Bench as well as the Chandigarh Bench in Tamil Nadu Administrative Officers Association (Supra). The Supreme Court after considering the cases, finally observed that as per the statutory provisions the encadrement of posts can be done only on certain fact situations existing and the same is to be done on review to be conducted by the Central Government in consultation with the State Governments and on being satisfied that an enhancement in the cadre strength or encadrement of certain posts is necessary in the administrative interests of the State concerned. Until such encadrement takes place, nobody could stake a claim to consider their case for promotion to these ex-cadre posts. In view of the decision rendered by the Supreme Court in Tamil Nadu Administrative Officers Association (Supra) it would not be appropriate for us to issue direction in the light of Th. Ibobi Singh (Supra), which is based on the decision of the Jabalpur Bench and Calcutta Bench of the Tribunal. However, the following observation of the Supreme Court in the aforementioned case is pertinent to note:

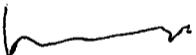
"Though *prima facie* we have accepted the explanation given by the Union of India still we find such posts are being continued by the States concerned even till date. We have not found any reason either in the pleadings or in the arguments addressed on behalf of the Union of India why it has not taken any steps to direct the State Government concerned to abolish these posts if not required to be encadred. Therefore, we find it necessary to direct the Union of India to consider in consultation with the State Government concerned, as required in the Cadre Rules, review the necessity of either to encadrement these ex-cadre/temporary posts or not and take such other necessary steps. In this process the Central Government shall bear in mind the existence of these posts for.....

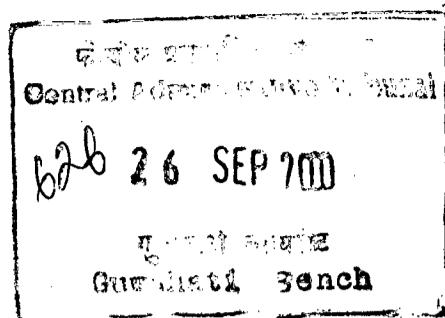
for the last so many years and if it is so satisfied and finds it necessary in there interests of justice to encadre these posts, it may do so with retrospective date so that officers promoted consequent to such encadrement would have the benefit of the seniority from such date, bearing, of course, in mind the possible conflict that may arise in fixation of inter se seniority and take appropriate decisions in this regard so as to avoid any further disharmony in the service."

5. Considering all the aspects of the matter we are of the view that ends of justice will be met if the applicants are directed to submit their individual representatios narrating all the facts including particulars of posts that they consider are fit to be encadred indicating reasons for their encadrement with retrospective date, within six weeks from the date of receipt of the order. If such representations are made the Union of India shall consider the representations in consultation with the State Government concerned and take appropriate decision as per law as expeditiously as possible, preferably within six months from the date of receipt of the representations.

6. The applications are accordingly disposed of. There shall, however, be no order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH

(An application under section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 302/2000
 Shri Achintya Kumar Sinha : Applicant
 -versus-
 Union of India & others : Respondents

INDEX

<u>Sl.no</u>	<u>Particulars of documents</u>	<u>Page nos.</u>
1	Application	1-8
2	Verification	9
3	Government of India letter no.17013/12/90-IFS -II dated 20/09/90 advising Government of Tripura to send proposal to appoint the petitioner to IFS.	Annexure-1 10
4	Government of India Notification No. 16016/3/85 – AIS IV-A dated 29/03/85 being IFS (Fixation of Cadre strength) Third Amendment Regulations, 1985 for “Manipur-Tripura” cadre.	Annexure-2 11-13
5	Order no. 17013/12/90-IFS.II dated 18 th May, 1995 of the Ministry of Environment and Forests, Government of India fixing the year of allotment of the applicant.	Annexure-3 14
6	Demand Notice dated 18/12/99 issued by the Advocate representing the petitioner to the Government of India and the Government of Tripura praying for extension of the relief granted by the CAT, Guwahati in the judgement dated 20 th January, 1999 in OA No. 15 of 1995 to Th. Ibobi Singh and to re-fix the year of allotment of the petitioner accordingly.	Annexure-4 15-17

*Received by post
27/6/2000.*

7 Representation dated 19/09/97 from petitioner to grant him seniority consequent to earlier date of appointment on promotion to IFS by enhancing promotion quota in the cadre schedule as per order dated 24/08/95 by the Hon'ble Supreme Court in SLP © No. 3464 of 1995.

Annexure-5
18-19

8 Representation dated 18th February, 1999 from the petitioner in continuation to his earlier representation dated 19/09/97 praying for seniority consequent to his deemed date of appointment against additional vacancy under the enhanced promotion quota available since 01/04/89 as per the Supreme Court order dated 24/08/95.

Annexure-6
20-24

9 Letter No. 22012/10/97-IFS.II dated 20/01/00 from the Ministry of Environment and Forests, Government of India in reply to the Demand Notice dated 18/02/99.

Annexure-7
25

For use by Tribunal's office
Date of filing
Registration No.

303/2000

Registrar

Filed by
Ranjit Kumar Dev Choudhury
Advocate
26/9/2000

In The Central Administrative Tribunal: Guwahati Bench

Achintya Kumar Sinha
by
Grandmother Shikha
Sarkar
Filing by the applicant through
Ranjit Kumar Dev Goudar
Advocate
26/9/2009

BETWEEN

1. Achintya Kumar Sinha, Indian Forest Service,
Divisional Forest Officer, Forest Training Division,
Sepahijala, West Tripura ... Applicant

AND

- 1 The Union of India represented by the Secretary,
Ministry of Environment and Forests, Government
of India, Paryavaran Bhawan, CGO Complex, Lodi
Road, New Delhi 110 003
- 2 The State of Tripura represented by the Chief
Secretary, Government of Tripura, Agartala,
Tripura 799 001.
- 3 The State of Manipur represented by the Chief
Secretary, Government of Manipur, Imphal.
- 4 Union Public Service Commission represented by
the Secretary, UPSC, Dholpur House, Shahjahan
Road, New Delhi.
- 5 Th. Ibobi Singh, Deputy Conservator of Forests
care of Principal Chief Conservator of Forests,
Manipur, Imphal.
- 6 Shri Jagdish Singh, Assistant Inspector General of
Forests, Ministry of environment and Forests,
Government of India, Paryavaran Bhawan, CGO
Complex, Lodi Road, New Delhi 110 003.
- 7 Shri S.K. Srivastava, Deputy Conservator of
Forests care of Principal Chief Conservator of
Forests, Manipur, Imphal.
- 8 Shri A.C. Srivastava, care of Principal Chief
Conservator of Forests, Tripura, P.O. Kunjavan,
Agartala 799 006.
- 9 Shri Ngulkhohao, Deputy Conservator of Forests
care of Principal Chief Conservator of Forests,

Jehangir Kumar Singh
to
Chandrasekhar Singh
is

Manipur, Imphal.

- 10 Dr. Khaizalian, Deputy Conservator of Forests care of Principal Chief Conservator of Forests, Manipur, Imphal.
- 11 Shri D.K. Sharma, Deputy Conservator of Forests care of Principal Chief Conservator of Forests, Tripura, P.O. Kunjavan, Agartala 799 006.
- 12 Shri R. Das, Deputy Conservator of Forests General Manager, Dioscorea Project, T.F.D.P.C. Ltd., P.O. Kunjavan, Agartala 799 006.
- 13 Shri Lamkhosei Baite, Deputy Conservator of Forests care of Principal Chief Conservator of ... Respondents Forests, Manipur, Imphal.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:-

The petitioner is aggrieved because of refusal, by evasive reference to an extraneous 'subject', vide letter No. 22012/10/97-IFS.II dated 20th January, 2000 (Annexure 7) of the Ministry of Environment and Forests, Government of India, to consider the petitioner's claim in Demand Notice dated 18/02/99 (Annexure 4) made in reference to the order dated 20th January, 1999 of the Honourable Central Administrative Tribunal, Guwahati in OA No. 15 of 1995 (Th. Ibobi Singh Vs the Union of India and others), and thereby denying, without assigning any reasons, a review of the error committed by the Government of India in calculating the promotion quota in the Manipur-Tripura part of the IFS cadre with consequential legitimate benefits of earlier year of allotment to the petitioner in the Indian Forest Service.

2. JURISDICTION OF THE TRIBUNAL:-

The applicant declares that the subject matter of the application is within the jurisdiction of this Honourable Tribunal.

Jehintu Kumar Sait
17
Chandrikesh Sait
15

3. LIMITATION:-

The Applicant declares that the instant application is within the limitation prescribed under section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE

4.1. That the petitioner on successful completion of 2 years training in the Indian Forest College, Dehra Dun was appointed in the State Forest Service in Tripura on the 10th March, 1975.

4.2. That the petitioner was included at serial no. 2 in the 'Select list' prepared by the Selection Committee for promotion to the Indian Forest Service (IFS, for short hereinafter) in their meetings held in two sittings on the 30th December, 1989 and the 7th April, 1990.

Copy of the letter No. 17013/12/90-IFS-II dated 20/09/90 of the Ministry of Environment and Forests of the Government of India ((GOI, for short hereinafter) is annexed and marked as Annexure 1.

4.3. That Shri AK Roy, immediate senior to the petitioner in the State Forest Service in Tripura and at serial no. 1 of the aforesaid 'Select List', having been promoted to the IFS on the 16th December, 1989, the said 'Select list' effectively consisted of only the name of the petitioner.

4.4. That the GOI had committed an error, by excluding the Deputation Reserve posts, being senior duty posts, while calculating promotion quota against the authorised cadre strength fixed vide Notification No. 16016/3/85-AIS IV-A dated 29th March, 1985 of the Ministry of Personnel and Training, Administrative Reforms and Public Grievances and Pension, GOI valid till the next Amendment on the 22nd November, 1990, showing erroneously 14 promotion posts in place of 16 for Tripura part of Manipur-Tripura cadre.

Copy of the Notification No. 16016/3/85-AIS IV-A dated 29th March, 1985 is annexed and marked as Annexure 2.

Johny Kumar Sen
Chandek Singh
serve

- 4.5. That the petitioner, who was appointed to IFS on promotion on the 10th March, 1992 assigning year of allotment 1988 vide GOI order dated 18th May, 1995 ignoring continuous officiation in cadre post since 15th February, 1991, was actually due for consideration for promotion to IFS with effect from 07/04/90 being the date of his inclusion in 'Select List', but was denied that legitimate right merely due to erroneous showing of zero vacancy by the GOI in the promotion quota in place of the factual vacancy of 1 post in Tripura part of the IFS (Manipur-Tripura) cadre.

Copy of the order from the Ministry of Environment and Forests, GOI vide No. 17013 / 12 / 90-IFS.II dated 18/05/95 is annexed and marked as Annexure 3.

- 4.6. That the petitioner filed a Demand Notice dated 18th December, 1999 through his lawyer to the MoEF, GOI and the Government of Tripura for considering his promotion from the date from which he was in the 'Select List' by correction of the promotion quota against the authorised cadre strength fixed vide GOI Notification dated 29th March, 1985 in conformity with the Rules as per order dated 20th January, 1999 of the Central Administrative Tribunal (CAT, for short hereinafter), Guwahati in OA No. 15 of 1995 Th. Ibobi Singh Vs the Union of India and others and for accordingly re-fixing his year of allotment in the IFS, and with the aforesaid contention, amongst others the petitioner had previously made representations dated 19/09/97 and 18/02/99 to the Ministry of Environment and Forests, Government of India through the Government of Tripura but all those also remained unattended till date.

Copy of the Demand Notice dated 18/12/99 is annexed and marked as Annexure 4, representation dated 19/09/97 as Annexure 5 and representation dated 18/02/99 as Annexure 6.

- 4.7. That the Ministry of Environment and Forests, GOI vide letter No. 22012/10/97-IFS.II dated 20th January, 2000 by referring to an extraneous matter deliberately refused to consider the petitioner's claim in Demand Notice dated 18/12/99 (Annex. 4), without assigning any reasons, and thus failed to appreciate the need for review of the error committed by the GOI

Jehangir Kumar Sehgal 19
Chandrasekhar Singh

on the basis of the order dated 20th January, 1999 of the Honourable CAT, Guwahati in OA No. 15 of 1995 (Th. Ibobi Singh Vs the Union of India and others) in calculating the promotion quota in the Manipur-Tripura part of the IFS cadre with consequential legitimate benefits of earlier year of allotment to the petitioner in the IFS.

Copy of letter No. 22012/10/97-IFS.II dated 20th January, 2000 from the Ministry of Environment and Forests, GOI is annexed and marked as Annexure 7.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

- 5.1. For that the respondent authorities failed to appreciate the petitioner's claim as per rule and, therefore, committed errors in law and facts by not considering his appointment with effect from the date of his inclusion in the "Select list" for promotion to the IFS against existing vacancy.
- 5.2. For that the respondent authorities failed to appreciate that promotion posts in the IFS shall be calculated at 33 1/3rd % of the total of the number of senior posts under the State Governments in serial no. 1, Central Deputation Reserve in serial no.2 and Deputation Reserve in serial no. 5 of the cadre schedule as per correct interpretation of Rule 9 of the IFS (Recruitment) Rules, 1966 as interpreted vide judgement dated 09/06/87 of the Honourable CAT, Jabalpur Bench in case no. TA 81 of 1986 (KK Goswami v. Union of India) in respect of Madhya Pradesh cadre of the IFS; and that the Honourable Supreme Court upheld the judgement vide order dated 18/04/88 in SLP no. 11025/87.
- 5.3. For that the respondent authorities failed to appreciate that the Government of India corrected the promotion quota in the IFS (Fixation of Cadre Strength) Regulation for Madhya Pradesh vide Notification No. 16016/1/89-AIS (II) dated 22/02/89 in pursuance of judgement dated 09/06/87 of CAT, Jabalpur Bench.
- 5.4. For that the respondent authorities failed to appreciate the judgement dated 09/06/87 of the Honourable CAT, Jabalpur Bench in case no. TA

Jehing Kona Singh

b

Chandru Singh Srivastava

81 of 1986 (KK Goswami v. Union of India) that they had erred in continuing with the same computation of promotion quota for other cadres of the IFS, while going for recalculation of the promotion quota for Madhya Pradesh Cadre, and that the CAT, Calcutta in its decision on 26/07/94 in O.A. No. 994 of 1990 (DK Basu v. Union of India) reported in (1995) 29 ATC 244 also held the above view and directed the respondents to compute the promotion quota in the IFS strictly in accordance with the judgement passed by the Jabalpur Branch of the CAT in KK Goswami v. Union of India; and that SLP against order dated 26/07/94 of CAT, Calcutta was dismissed by the Honourable Supreme Court vide order dated 24/08/95.

- 5.5. For that the respondent authorities failed to appreciate and implement interpretation of the Rule finally settled by the Apex Court and deliberately continued with the erroneous calculation of the promotion quota against the authorised cadre strength for Manipur-Tripura Cadre of the IFS, and thus illegally deprived the petitioner from being considered for promotion to the IFS from the date of his inclusion in the 'Select List'.
- 5.6. For that the respondent authorities failed to appreciate that the CAT, Guwahati in order dated 20th January, 1999 in O.A. No. 15/97 (Th Ibobi Singh v. Union of India) directed the respondents inter alia to take into account the Deputation Reserve in the notified cadre strength for determining the promotion quota in the IFS (Manipur-Tripura) Cadre as per the decision of the Apex Court, and to provide benefit accordingly to Th Ibobi Singh, and that the petitioner being a member of the IFS in the same cadre and being similarly situated deserved relief mutatis mutandis.
- 5.7. For that had the correct fixation in conformity with the Rules been done following the order dated 18/04/88 by the Apex Court in SLP no. 11025/87 in pursuance of judgement dated 09/06/87 of CAT, Jabalpur Bench, the promotion quota in IFS (Manipur-Tripura) Cadre against Notification dated 29th March, 1985 would be 16, and not 14 as shown erroneously, out of which 8 posts would be available for Tripura part of

Akhil Kumar Sahu
2
Kandweli Sahi
Almora

the cadre, and that on 07/04/90 the petitioner's being the only name effectively in the 'Select List', he could not have been lawfully denied the right to be considered for promotion to IFS with effect from 07/04/90 with consequential fixation of year of allotment accordingly, there being one clear vacancy for Tripura part of the cadre as per correct calculation of the promotion quota, and thus the refusal dated 20/01/00 (Annexure 7) by the Ministry of Environment and Forests, GOI without assigning any reasons to consider the petitioner's legitimate and lawful claim for correcting the errors in law and facts and to extend consequential benefits to the petitioner was arbitrary, unjust and illegal.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant declares that he has no other alternative official remedy than to come under the protective Hands of this Honourable Tribunal.

7. Matters not previously Filed or pending before any other Court

The applicant further declares that he has not filed any application, writ petition or suit before any other Court and/or authority and/or any other Bench of this Honourable Tribunal in respect of the subject of the instant application or any such application, writ petition or suit is pending with any of them.

8. RELIEFS SOUGHT FOR

Under the facts and circumstances stated above, the applicant most respectfully prays that the Honourable Tribunal may be pleased to admit this application, call for the records of the case and upon hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief to the applicant:

8.1. To direct the respondents to correct the computation of the promotion quota against the Government of India Notification No. 16016/3/85 –AIS IV-A dated 29/03/85 (Annexure-2) being the IFS (Fixation of cadre strength) Third Amendment Regulations, 1985 for "Manipur-Tripura" cadre showing 16 posts against the promotion quota as per interpretation

Chintu Kumar Sahu
Advocate
22
15

of the relevant Rule in the judgement dated 09/06/87 of CAT, Jabalpur Bench in case no. TA 81 of 1986 (KK Goswami v. Union of India) and the specific order by the CAT, Guwahati dated 20th January, 1999 in O.A. No. 15/95 (Th Ibobi Singh v. Union of India) for such correction in respect of the Manipur-Tripura cadre of the IFS;

8.2 To direct the respondents to give effect to the promotion of the petitioner to the IFS (Manipur-Tripura) cadre against vacancy under promotion quota arising out of review and correction of wrongful computation in the Notification dated 29/03/85 to the IFS with effect from 07/04/90 when the petitioner was included in the "Select List" at serial no.2, Shri AK Roy at serial no.1 having already been promoted to IFS on 16/12/89, and to assign his year of allotment accordingly on that basis.

8.3 Cost of the application.

8.4 Any other relief to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed proper by the Honourable Tribunal.

9. INTERIM ORDER PRAYED FOR

The applicant does not pray for any interim order at this stage.

10. THE APPLICATION IS FILED THROUGH ADVOCATE

11. PARTICULARS OF BANK DRAFT

- (i). I.P.O. No 502935 dated for Rs.50/- on 26/09/00
- (ii). Date: 26/09/00
- (iii). Payable at Gauhati

12. LIST OF ENCLOSURES

As stated in the Index.

VERIFICATION

I, Achintya Kumar Sinha, son of Late Nil Kanta Sinha, aged about 50 years, presently holding the post of Divisional Forest Officer, Forest Training Division, Sepahijala, West Tripura District in the Forest Department, Government of Tripura, do here by solemnly affirm and verify that the statements made in the instant application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraphs 5 are true to the legal advice received and I have not suppressed any material facts.

And, I sign this verification on this 3rd day of May, 2000 at Agartala.

A handwritten signature in black ink, appearing to read "Achintya Kumar Sinha".

Copy

A-4

(10)

No. 17013/12/90-IFS-II

Government of India

Ministry of Environment and Forests

Parivaran Bhawan,
CIO Complex, Lodi road,
New Delhi-110 003Dated 20th September, 1990

To
 The Secretary,
 Appointment Department,
 Government of Tripura, Agartala

Subject: Indian Forest Service – TRIPURA CADRE-promotion to ... communication of Select list.

Sir,

I am directed to refer to your letter No. F.2 (13) - GA/89(part) dated the 20th April, 1990 addressed to the Union Public Service Commission and to say that the Commission have, vide their letter No. 17/10/12 (4) / 89-AIS dated 28th May, 1990 approved a Select list of officers of State Forest Service of Tripura for promotion to the Indian Forest Service cadre of Tripura prepared by the Selection Committee meeting held on 30th December, 1989 at Shillong and on 7th April, 1990 at Calcutta consisting of the following two names:-

Name of the officer	Date of birth
01. Shri A.K. Roy (SC)	04.05.1950
02. Shri A.K. Sinha	19.05.1950

2. Since Shri A. K. Roy who has been included in the list stands promoted to the Indian Forest Service vide Ministry's Notification No. 17013/12/89-IFS-II dated 16.12.89, the list would effectively consist of the name of only one officer i.e. Shri A.K. Sinha.

3. If and when the State Government proposes to appoint the above officer by promotion to the State Cadre of the Indian Forest Service, the proposal in this behalf may kindly be sent to this Ministry along with the following documents, viz:

- information in respect of the officer proposed for promotion proforma I & II (pages 41-43 of the All India Services Manual ... part, Fifth Edition);
 - a declaration as to single marital status;
 - a certificate that no deterioration in the work of the officer has taken place since inclusion of his name in the Select List;
 - a certificate that there is no stay order, or any other prohibition, on promotion to the State cadre of the Indian Forest Service.
4. Proposals for fixation of seniority of the officers may also be sent simultaneously (in duplicate) in terms of letter No. 18011/04/76-AIS dated 24.2.1976 from the Ministry of Home Affairs (Department of Personnel & A.R.), New Delhi

Yours faithfully,

Sd/- K. S. Acharya
 Under Secretary to the Government of India

Copy forwarded for information with reference to letter cited in para 1 and subsequent letter No. 10/12 (1) / 89-AIS dated 24th August, 1990 to:

The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110011.

Sd/- K. S. Acharya
 Under Secretary to the Government of India

Attested by
 (Handwritten like
 private
 7.7.2000)

PUBLISHED IN PART II SECTION III SUBSECTION (I) OF THE
GAZETTE OF INDIA EXTRAORDINARY) Dated, 29-3-1985.

No. 16016/3/85-AIS(IV-A)

Government of India/ Bharat Sarkar
MINISTRY OF PERSONNEL AND TRAINING, ADMINISTRATIVE REFORMS
AND PUBLIC GRIEVANCES AND PENSION
(Karmik Aur Prashikshan, Prashasnik Sudhar Aur
Lok Shikayat Tatha Pension Mantranalaya)
DEPARTMENT OF PERSONNEL AND TRAINING
(KARMIK AUR PRASHIKSHAN VIHAG)

New Delhi, the 29th March '85.

NOTIFICATION

327 (E)

GSR- In exercise of the powers conferred by Sub-Section (1) of the Section 3 of the All India Services Act, 1951 (61 of 1951) read with sub-rule (2) of Rule 4 of the Indian Forest Services (Cadre) Rules, 1966, the Central Government in consultation with the Governments of Manipur and Tripura, hereby makes the following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966 namely :-

1. (1) These regulations may be called the Indian Forest Service (Fixation of Cadre Strength) Third Amendment Regulations, 1985.
(2) They shall come ~~be~~ into force on the date of their publication in the Official Gazette.

In the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966 for the heading 'Manipur-Tripura' and the entries occurring thereunder, the following shall be substituted, namely :-

Manipur-Tripura.

Senior posts under the State Governments

37

Manipur.

Chief Conservator of Forests	1
Addl. Chief Conservator of Forests	1
Conservator of Forests.	3
Deputy Conservator of Forests.	7

Approved by
Under Secretary
7/3/2001

Contd... P/2...

- 2 -

Deputy Conservator of Forests, Forest Resources Survey Division.	b/f	12
	-	1
Deputy Conservator of Forests, Wild Life	-	1
Dy. Conservator of Forests, Working Plan.		1
Dy. Conservator of Forests, Social Forestry.		1
Dy. Conservator of Forests, Social Conservation.		2
Dy. Conservator of Forests, Headquarters.		1

19

- 19

Tripura.

Chief Conservator of Forests .	1
Conservator of Forests.	2
Deputy Conservator of Forests, Wild Life	2 (9)
Deputy Conservator of Forests, Wild Life	1
Deputy Conservator of Forests, Working Plan.	1
Deputy Conservator of Forests, Headquarters	1
Dy. Conservator of Forests, Forest Research	1
Dy. Conservator of Forests, Training	1
Dy. Conservator of Forests, Planning & Development.	1

19

- 19

37.

2. Central Deputation Reserve @ 20% of 1 above. 7

37

44

Manipur - 22

Tripura - 22

3. Posts to be filled by promotion in accordance with rule 8 of the IFS (Recruitment Rules), 1966.

- 14 (M = 7

T = 7)

*Prepared by
Bhupeshwar Singh
1/3/2003*

Contd....P/3...

- 3 -

4. Posts to be filled by Direct Recruitment - 30	
5. Deputation Reserve @ 15% of 4 above	5
6. Leave Reserve @ 11% of 4 above	3
7. Junior posts @ 20% of 4 above.	6
8. Training Reserve @ 10% of 4 above	3
 Direct Recruitment posts -	47
Promotion posts	14
 Total Strength -	61

Sd/- T.C. Mdnecha,
Desk Officer.

To
The Manager,
Govt. of India Press,
Ring Road,
NEW DELHI.

Attested by
Front Section Like
7.7.2022



F. No. 17013/12/90.IFS.RI
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS

Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi-110003

Dated the 18th May, 1995

Q R Q E B

The year of allotment and seniority of the undermentioned promotee officers borne on the Manipur-Tripura joint cadre of the Indian Forest Service is required to be determined in terms of the provisions of Rule 3(2)(a), 3(2)(c) and 4(4) of the Indian Forest Service (Regulation of Seniority) Rules, 1968. Their respective dates of promotion to the Indian Forest Service are given below:

S.No.	Name of the officer	Date of appointment to the IFS
1.	Sh. A.K. Sinha (Manipur)	10-3-92
2.	Sh. B.M. Dev (Manipur)	10-3-92
3.	Sh. Kalachand Singh (Manipur)	1.6.92
4.	Sh. K. Prem Kumar Singh (Manipur)	1.6.92
5.	Sh. Jibanal Datta (Tripura)	17.8.92
6.	Sh. Jagdip Singh (Manipur)	17.8.93

2. None of the six officers has officiated continuously in senior posts for the purposes of Rule 2(g), read with Rule 3(2)(c) of the Indian Forest Service (Regulation of Seniority) Rules, 1968 prior to the date of his promotion to the Indian Forest Service in accordance with the provisions of Rule 9 of the Indian Forest Service (Cadre) Rules, 1966. The year of allotment, therefore, is to be determined to be the same as of the senior most amongst the directly recruited officers in the Manipur-Tripura joint cadre of the Indian Forest Service who have been continuously officiating in senior posts, on the date of promotion of these officers.

3. In terms of the provisions of the Indian Forest Service (Regulation of Seniority) Rules, 1968 referred to in para 1 above, their year of allotment and their placement is determined as under:

S.No.	Name of the officer	Year of allotment	Placement
1.	Sh. A.K. Sinha	1988	Below Sh. R. Das (RR. 1988)

cont. 2.1

Assisted by
Subashini Dile
Parole
7.7.2014

1.	2.	3.	4.
2.	Shri B.M.Dev	1988	Below Sh.A.K.Sinha
3.	Shri Kh.Kalachand Singh	1988	-do- and below Sh. B.M.Dev
4.	Shri K.Prem Kumar Singh	1988	-do- and below Sh.Kh.Kalachand Singh
5.	Jibanlal Datta	1988	-do- and below Sh.K.Prem Kumar Singh
6.	K.Jagdishore Singh	1988	-do- and below Sh. Jibanlal Datta

Note: The inter-se seniority of the officers who have been appointed to the Indian Forest Service on the basis of the IFS E.C -1983 and onwards has not yet been fixed.

Chiranj

(R.Sanehwal)

Under Secretary to the Govt. of India

Distribution

1. The Chief Secretary, Government of Manipur, Imphal.
2. The Chief Secretary, Government of Tripura, Agartala.
3. The Secretary, Department of Personnel & Admin. Reforms, Government of Manipur, Imphal.
4. The Secretary, Appointment and Service Department, Govt. of Tripura, Agartala.
5. The Principal Chief Conservator of Forests, Manipur, Imphal.
6. The Principal Chief Conservator of Forests, Tripura, Agartala.
7. The Accountant General, Manipur, Imphal.
8. The Accountant General, Tripura, Agartala.
9. Guard File/Spare copies.

A-67/15/304
RL/12/12/99 of 78
15
30

From: C.S. Sinha

Phone: 30 1262 (Res.)

Advocate

Gauhati High Court, Agartala : Tripura

---Notice-Giver

Ref. No.

Date 18/12/99

To

1. The Secretary,
Ministry of Environment and Forests, Government of India,
Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi 110003
2. The
Chief Secretary,
Government of Tripura,
New Secretariat Building, Agartala 799 001

---- Notice-Receiver

My client: Shri Achintya Kumar Sinha, Indian Forest Service Indian Forest Service (Manipur-Tripura), Divisional Forest Officer, Forest Training Division, Sepahijala, West Tripura

Subject: Demand Notice for justice

Sir,

On instruction of my client above mentioned, I am to address as below:

1. That my client, on successful completion of 2 year's training in Forestry in the Indian Forest College, Dehradun, was in the State Forest Service in Tripura with effect from 10/03/75.
2. That he completed 8 years of service including the period of two years training in 1982. Consequently, he became eligible with effect from 1982 for consideration for appointment to the Indian Forest Service (IFS) post of Deputy Conservator of Forests (senior post) in accordance with the sub-regulation 2 of Regulation 5 of the Indian Forest Service (Appointment by promotion) Regulations, 1966.
3. That my client was appointed to the Indian Forest Service against an existing vacancy in the promotion quota vide Notification No. 17013/12/90-IFS-II dated 10/03/92 of the Ministry of Environment and Forests, Government of India.
4. That my client was assigned 1988 as his year of allotment vide Notification No. 17013/12/90-IFS-II dated 18/05/95 of the Ministry of Environment and Forests, Government of India.
5. That the cadre strength of the Indian Forest Service (Manipur-Tripura) Cadre was revised vide Notification No. 16016/3/85-AIS (IV-A) dated 29th March, 1985 of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training, Government of India raising the promotion quota posts from 10 to 14. Fifty per cent of it i.e. 7 posts were available for Tripura part of the cadre and another 7 for Manipur part of the joint cadre.

Issued by
Advocate C.S. Sinha
F.T. 2000

6. That Shri A K Roy was an officer of the same batch of my client and was his immediate senior in the State Forest Service of Tripura.
7. That Shri AK Roy was appointed to the Indian Forest Service against an existing vacancy in the promotion quota vide Notification No. 17013/12/89-IFS II dated 16/12/89 of the Ministry of Environment and Forests, Government of India and his year of allotment was assigned as 1985.
8. That the number of posts in the promotion quota was computed by the Central Government for fixing the cadre strength vide Notification dated 29th March, 1985 as aforementioned by taking in to consideration the posts in serial no. 1 and 2 of the cadre schedule, i.e. 33 and 1/3rd % of the Senior posts under the State Governments and Central Deputation Reserve.
9. That the Central Administrative Tribunal (CAT), Guwahati in the order dated 20th January, 1999 in OA No. 15 of 1995 Th. Ibobi Singh Vs the Union of India and others directed the respondents (Union of India and others) to compute the cadre strength promotion quota taking in to consideration the deputation reserve quota.
10. That the CAT, Guwahati in its order dated 20th January, 1999 as mentioned here in above directed the respondents simultaneously to give the benefit of the promotion quota to the applicant Shri Ibobi Singh Indian Forest Service in the manner he was entitled to.
11. That Th. Ibobi Singh was a member of the Indian Forest Service (Manipur-Tripura) cadre to which my client belongs.
12. That since my client belongs to the same cadre as that of Th Ibobi Singh, he is entitled to get the benefits of the aforesaid judgment dated 20th January, 99.
13. That in the Cadre schedule of the IFS (Manipur-Tripura) Joint Cadre as fixed vide Notification dated 29th March, 1985 mentioned here in above the position of promotion quota posts on correct interpretation of the relevant Rules in case of the IFS (Manipur-Tripura) Cadre as directed vide judgement dated 20th January, 1999 by the CAT, Guwahati in OA No. 15 of 1995 of was as below:

1). Senior posts under the State Governments	:	37
2). Central Deputation Reserve	:	07
3). Deputation Reserve	:	05
4). Total (1+2+3)	:	49
5). Promotion posts (33 1/3 rd of (4) above)	:	16
14. That against 16 posts in the promotion quota available with effect from 29th March, 1985 as clarified in the preceding paragraph 50% i.e. 8 were available for the Tripura part of the cadre.
15. That only 7 posts out of the 8 available against the promotion posts in Tripura part of the cadre were filled up when Shri AK Roy was appointed vide Notification dated 16/12/89 on promotion to the Indian Forest Service.

Answered by
Sub-Registrar
7/3/2017

16. That the officers in position against 8 promotion posts in Tripura part of the IFS (Manipur-Tripura) Cadre as on 16/12/89 were as below:
- 1). Shri D. Datta Roy IFS (MT-70)
 - 2). Shri R. M. Datta IFS (MT-70)
 - 3). Shri M. A. Khan IFS (MT-77)
 - 4). Shri R. N. Singh IFS (MT-81)
 - 5). Shri A. K. Singh IFS (MT-81)
 - 6). Shri S. B. Bhattacharjee IFS (MT-84)
 - 7). Shri AK Roy IFS (MT-85)
17. That an additional vacancy existed on 16/12/89 against the promotion posts in the IFS (Manipur-Tripura) Cadre for consideration of the promotion of my client.
18. That my client, who was a State Forest Service Officer in Tripura from the same batch as that of Shri AK Roy, was included in the SELECT LIST for 1989 for IFS when the additional vacancy existed against promotion quota, and he therefore deserved promotion to the Indian Forest Service with effect from 16/12/89 or the date of his inclusion in the SELECT list for 1989 whichever was later.
19. That direct recruit IFS officers of 1985 batch were promoted with effect from 01/04/89 vide Notification dated 13th September, 1989 of the Appointment and Services Department, Government of Tripura.
20. That direct recruit IFS officers of 1986 batch were promoted with effect from 01/04/90 vide Notification No. F.2 (14) – GA /90 dated 24th May 1990 of the Appointment and Services Department, Government of Tripura.
21. That my client was therefore entitled to 1985 as his year of allotment as per the provisions of the extant seniority rules for the IFS.
22. That with the aforesaid contention my client made representations dated 19/09/97 and 18/02/99 to the Notice-Receiver No. 1, but those remained unattended till date.

In such circumstances, I request you for all necessary action immediately to re-fix the year of allotment of my client in the IFS (Manipur-Tripura) cadre considering his deemed date of appointment on promotion to the IFS with effect from 16/12/89, when his immediate senior in the State Forest Service was appointed on promotion to the IFS, or from the date of my client's inclusion in the SELECT list for 1989 whichever was later, within a period of 1 (one) month from the date of receipt of this Demand Notice, failing which my client will have no other option than to approach the competent Court of Law for justice.

Yours faithfully,

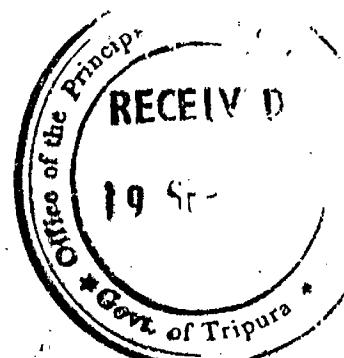
Chandrasekhar Sinha

(C. S. Sinha)

Advocate

18.12.99

Attest by
Chandrasekhar Sinha
Advocate
21/2/2001



Achintya Kumar Sinha IFS

Forest HQ, Aranya Bhawan, Pandit Nehru Complex,
Kunjavan, Agartala, Tripura 799 006

To

The Secretary, Ministry of Environment & Forests,
Government of India, C.G.O. Complex, Lodhi Road,
New Delhi 110003

Through proper channel

Sub: Correction of erroneous fixation of promotion posts in IFS MT-Cadre and consequential re fixation of year of allotment.

Sir,

I have the honour to appeal for correction against erroneous fixation of promotion quota in the IFS MT done earlier. Consequently, I would also request for issue of ante dated appointment of the undersigned on promotion to IFS and re fixation of year of allotment. The submission is made based on the following facts.

2. It has been held by the CAT, Jabalpur and the CAT, Calcutta in the O.A.No.394 of 1990 of the CAT, Jabalpur and in the O.A. No.994 of 1990 of the CAT, Calcutta that the number of officers to be appointed by promotion had to be calculated at 33 and 1/3 percent of the item No.1+2+5 of cadre schedule till the provisions of Rule-9(1) of the Recruitment Rules were amended in February, 1989. The said orders of the Tribunal were finally upheld by the Hon'ble Supreme Court of India by its order dated 24.8.95 in SLP(c) No.3464 of 1995. It was imperative therefore that the ruling of the Supreme Court be made applicable in case of the IFS Manipur-Tripura cadre as well providing relief to the undersigned accordingly by recasting the cadre schedules.

3. Several posts of DFOs/Dy.CFs had been created from time to time, but they were encadred much later to the serious disadvantage of officers eligible for promotion in the feeder service. The posts so created and made functional should have been encadred at least during the following year. The position in this regard is shown in the Annexure. It would be seen from the

Received
from
17/7/2000

Annexure that (i) 4 posts of Dy.CFs/DFOs ought to have been encadred from 1973 instead of 1981, 1985 and 1990; and (ii) another post of DFO ought to have been encadred in 1986 in place of 1990. There was also absolutely no justification for excluding such posts from the cadre during the next triennial review and deferring the inclusion to a subsequent year arbitrarily and which in this case seriously delayed the promotion of the applicant.

4. I became eligible for promotion since 1982. I was appointed as DFO, Ambassa in 1982 and continued there up to December, 1985 till I joined on deputation in January, 1986 with the Andaman and Nicobar Islands Forest and Plantation Development Corporation (a Government of India Undertaking) as a Divisional Manager, a post equivalent in pay and status with Dy. Conservator of Forests in the IFS. On my reversion to the State Government from deputation in Andamans I was appointed as Manager in TRPC Ltd in a scale and grade equivalent to that of Dy. CF. The officer who succeeded me in the TRPC Ltd as Manager was also a member of the IFS. I was promoted to the IFS only in 1991 due to such erroneous computation of promotion quota and inordinate and arbitrary delay in encadrement of existing posts in the Department in the level of Dy.CF/DFOs.

5. The norms and procedure followed by the Ministry of Environment and Forests, Government of India for resolving the dispute and restoration of justice as regards delayed encadrement of already existing posts in the IFS for of IFS J&K vide Ministry's letter no.13014/03/95-IFS II Dated February 28, 1997 should be made applicable in the instant case correcting thereby the injustice and discrimination meted out to the undersigned as regards time of promotion and fixation of seniority. A copy of the Ministry's letter dated February 28, 1997 is enclosed for reference.

6. In view of the position explained above I would, therefore, appeal for order refixing number of posts under promotion quota of IFS M.T, and accordingly issue ante dated appointment to the undersigned to IFS on promotion with consequential benefit in seniority through refixation of year of allotment.

Yours faithfully,

(Achintya Kumar Sinha)
19/08/97

Subd by
Achintya Kumar Sinha
9.7.2020

NO.P.5-1(A)/FTD-98/ 537
 Government of Tripura
 Office of the Divisional Forest Officer
 Forest Training Division
Sopahijala

(20)

Dated, Sopahijala,
 the 18/2/1999.

To
 The Secretary,
 Ministry of Environment & Forests,
 Govt. of India, C.G.O. Complex, Lodi Road,
 New Delhi - 110003

Through proper channel

Sub:-
 In CAT Jmb.
 alpur OA No. 394
 of 1990

Application for change in year of allotment
 on the basis of the Principle of computation
 of promotion quota in KK Geswami Vs Union of
 India decided on 9.6.87 and upheld by the
 Hon'ble Supreme Court in SLP(C) No. 3464 of
 1995 dated 24.8.95, and further explained by
 CAT Calcutta in DK Basu Vs Union of India in
 OA No. 994 of 1990 and duly accepted by the GOI.

Ref:-

Year of allotment order No. 17013/12/90-IFS II
 dated 18th May, 1995 of the MOEF, Govt. of
 India.

Sir,

I submit that I was appointed to the IFS on
 promotion on 14/2/91 and allotted year of allotment
 1988 as per order dated 18th May, 1995 of the Ministry of
 Environment and Forests, Govt. of India referred above.

2. Immediately on learning about the Supreme
 Court order dated 24-8-95 as referred to above, which
 interpreted that the number of posts to be appointed by
 promotion had to be calculated at 33 and 1/3 rd per cent
 of the total of senior IFS posts under the State Government,
 Central Deputation Reserve and Deputation (State Deputation)
 Reserve, I made an application to the Secretary, Ministry
 of Environment and Forests, Govt. of India on 19/9/97.
 I requested there in to refix the promotion quota by
 correcting the erroneous computation done earlier and to
 grant me seniority consequent to the earlier date of
 appointment on promotion to IFS accordingly.

Contd.P/2.

Abhishek
 (Handwritten Signature)
 7.7.2000

3. It may be pointed out that based on the correct procedure for calculation of promotion quota as per the IFS Cadre Rule 4 (interpreted in Supreme Court Order dated 24-8-95 mentioned under reference), the Ministry of Personnel Public Grievances & Pensions, Department of Personnel and Training, Govt. of India amended the existing cadre schedule (Notification No. 16,016/8/94-AIS(II)-A dated 4th July, 1995) vide Notification No. 11033/15/95-AIS(II)-C dated 31st December, 1997 resulting in a rise in the promotion quota in the IFS (Manipur-Tripura) Cadre from 21 to 26. Subsequent direction from the Ministry of Environment, Govt. of India vide letter No. 16021/1/98-IFS-II dated 27th February, 1998 gave effect to that increase in promotion posts in a phased manner with effect from 1/1/98.

4. Evidently the Notification and direction from the DGPT and MOEF, Govt. of India as described in para 3 above did not redress my grievance submitted vide my original representation dated 19/9/97 to the Ministry of Environment and Forests, Govt. of India.

5. As the Govt. of India has already complied with the decision taken by the CAT, Calcutta in OA No. 994/90, the correct procedure for computation of promotion quota in IFS having been already decided by the Supreme Court (reference para 2 of this letter), for the West Bengal Cadre with effect from 1981, being a member of the same All India Service the same Principle for fixation of Cadre Schedules should naturally be made applicable in case of the IFS (Manipur - Tripura) Cadre with effect from 1981 restoring thereby my seniority with respect to the deemed date of appointment in the IFS on promotion.

6. The revised promotion quota based on the fixation of Cadre strength of IFS (Manipur-Tripura) Cadre as per Notification No. 16016/12/80-AIS(IV)-A dated 16th February, 1981 of the Department of Personnel & Administrative Reforms, Ministry of Home Affairs, Govt. of India following the correct procedure as per rule 4 of the IFS (Cadre) Rules, 1966 as upheld by the Supreme Court (Ref para 2 of this letter) would be as below :

Contd., P/3.

Handwritten Note:
Manipur-Tripura Cadre
7.7.2017

1. Senior posts under the State Governments	:	27
2. Central Deputation Reserve.	:	5
3. Deputation Reserve.	:	4
4. Total (1+2+3).	:	36
5. Promotion posts 1/3rd of 4 above.	:	12

The promotion posts as per the earlier fixation of Cadre strength of IFS (MT) vide Notification No. 16016/29/75-AIS(IV) dated 26th February, 1977 of the Department of Personnel & Administrative Reforms, Ministry of Home Affairs, Govt. of India was 8. Thus, there would be (12-8) 4 fresh vacancies (as against 2 shown erroneously earlier) in the promotion quota against the Cadre strength as per Notification dated 16th February, 1981. Out of that 2 vacancies would be available for Tripura part of the Cadre.

7. Similarly, the revised promotion quota against the Fixation of Cadre strength of IFS (MT) as per Notification No. 16016/3/85-AIS(IV-A) dated 29th March, 1985 of the DOPT, Govt. of India would be as under :

1. Senior Posts under the State Governments	:	37
2. Central Deputation Reserve	:	7
3. Deputation Reserve	:	5
4. Total (1+2+3)	:	49
5. Promotion posts 1/3rd of 4 above	:	16

Thus, there would be a rise (16-12) of 4 fresh vacancies in the promotion quota, out of which 2 would be available for Tripura part of the Cadre.

8. Two more vacancies arose due to superannuation and technical resignation of Sri M.K.Biswas and Shri S.K.Mukharjee, IFS on 31-12-87 and 1-4-89 respectively.

9. I therefore humbly pray for justice on the basis of correct fixation of promotion quota in IFS(MT) as per Supreme Court ruling under reference, and as complied with by the Govt. of India in the matter of DK Basu Vs Union of India in OA No. 994/90 1981-1982.

Contd. P/4.

Attended by
Controller of
Deputation
7.7.2002

of the CAT, Calcutta with effect from 1981. The deemed date of my promotion to IFS on the basis of the corrected promotion quota (with effect from 1981) would be 1-4-89. My year of allotment would stand revised as 1984 in accordance with the rationalized basis for regulation of seniority of officers ~~promoted~~ promoted to the All India Services, on the basis of length of qualifying service before appointment to the cadre post as per DP & AR Notification No. 14014/17/86-AIS(I)GSR 42 (E) dated 18-01-88. I may submit here that I joined the State Forest Service on 10-3-75, and including 2 years training in the Indian Forest College, Dehra Dun as admissible vide DP & AR Notification No. 11039-2-76-AIS (I-B) dated 3-10-1977. My qualifying length of service in 1989 would be 16 years. The computation of my year of allotment against deemed date of appointment on promotion to IFS would be as below:

(a) For qualifying service upto 12 years	: 4 years
(b) For the balance (16-12) 4 years	: 1 year
Total	: 5 years.
(c) Years of allotment 1989 - 5	: 1984

10. A statement showing the rise of fresh vacancies since 1981 as described in para 6 and 7 of this letter alongwith deemed dates of appointment of SFS Officers (now IFS) in IFS is annexed.

11. The principle of fixation of promotion quota having been clarified and settled by the Honourable Supreme Court, and its acceptance and compliance by the Govt. of India in the matter of BK Basu Vs Union of India case as referred to here-in-before with effect from 1981, I would humbly ^{pray} for correcting the injustice caused to me and the resultant hardship by granting me 1984 as the consequential year of allotment with respect to my deemed date of appointment on 1-4-89.

Encs:- As stated.

Yours faithfully,

(A. K. Sinha)
IFS(MT)
Divisional Forest Officer
Forest Training Division,
Sepahijala.

Attn: Dr. L. S. Sankar
(Additional Secretary)
7.7.2002

**Statement showing deemed dates of appointments of SFS Officers to the IFS taking into account
State Deputation Reserve for calculation of promotion quota.**

Name of officer	Date of appoint - ment to IFS	Particulars of fresh vacancies arising date wise			Deemed date of appointment to IFS
		<u>Cause of increase</u>	<u>Date</u>	<u>No. of posts</u>	
Shri M. A. Khan.	14-04-81	Cadre strength regulation	16/1/81	2	16/1/81
Shri R. N. Singh	09-12-85				16/1/81
Shri A.K.Singh	07-05-86	Cadre strength regulation	29/3/85	2	29/3/85
Shri S.B. Bhattacharjee	26-08-88				29/3/85
Shri A.K. Roy	16-12-89	Retirement of MK Biswas	31/12/87	1	31/12/87
Shri A.K. Sinha	14-02-91	Technical resignation of SK Mukherjee	1/4/89	1	1/4/89

Ass'tt. Librarian
(mid-term)
7.7.2003

ANNDXURE-F

(25)

ifsd3

By Speed Post

No.22012/10/97-IFS.II
Government of India
Ministrys of Environment and Forests

Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi-110003

To

Dated, the 20th January, 2000

Shri C.S. Sinha,
Advocate,
Guwahati High Court,
Agartala, TRIPURA.

SUB: OA No.276/96 : A.K. Sinha Vs. UOI & Ors. : CAT -
Guwahati Bench.

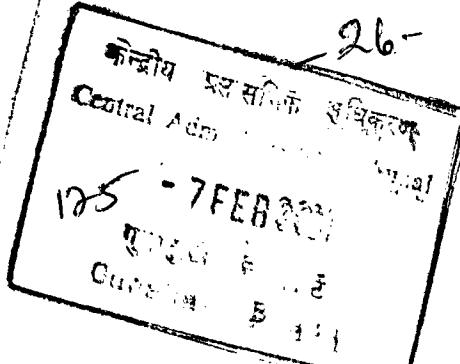
Sir,

I am directed to refer to your letter dated 18.12.99 on the subject noted above and to say that the representation of Shri A.K. Sinha is receiving attention at this end.

Yours faithfully,
R. Sanehwal

(R. Sanehwal)
Under Secretary to the Govt. of India

ASST. BY
Enacted by
7.7.2000



File No 61/61
A. DEB Roy
Sr. C. C. S. C.
C. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A. No. 303 of 2000

Shri A.K. Sinha Applicant

Versus

Union of India and Others Respondents

S.No.	Description	Page No.
01	Reply to the Original Application	1 to 9
02	Copy of Order dated 9.8.2000 (Annexure-R.1)	10 - 14

THROUGH

(A. Deb Roy)
Sr. Central Govt. Standing Counsel,
Hengrabari Housing Colony,
L.I.G. - 3 (Top Floor)
Guwahati - 781 006

27 ✓

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A. No.303 of 2000

Shri A.K. Sinha Applicant

Versus

Union of India and Others Respondents

Reply on behalf of Respondent No.1

I, R. Sanehwal, aged 47 years, Under Secretary in the Ministry of Environment and Forests, Government of India, Paryavaran Bhavan, New Delhi, do hereby solemnly affirm and say as follows :

2. That I am Under Secretary in the Ministry of Environment and Forests, Government of India, New Delhi and having been authorised I am competent to file this reply on behalf of Respondent S.No.1. I am acquainted with the facts and circumstances of the case on the basis of the records maintained in the Ministry of Environment and Forests. I have gone through the petition and understood the contents thereof. Save and except whatever is specifically admitted in this reply, rest of the averments will be deemed to have been denied.

3. In reply to para 1 of the application, it is submitted that the grievances of the applicant submitted through his representation dated 18.12.99 were duly considered in pursuance of the order dated 24.3.99 passed by this Hon'ble Tribunal in an earlier

R. Sanehwal

(रवीश सानेहवाल)
(R. SANEHWAL)
मंत्र सचिव/Under Secretary
पर्यावरण एवं वन मंत्रालय
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली, New Delhi

-: 2 :-

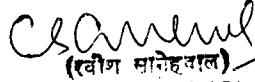
OA No.276/96 filed by the applicant and a speaking order was issued on 9.8.2000 preponing the year of allotment of applicant from '1988' to '1987'. A true copy of the said order is annexed herewith as **Annexure-R.1.** It is further submitted that the Union of India has filed a Review Application against the order dated 20.01.99 passed by the Hon'ble Tribunal in OA No.15/95 : Th. Ibobi Singh Vs. UOI. The Review Application has been registered as RA.15/99 and is still pending before this Hon'ble Tribunal.

4. As regards para-2 of the application, the jurisdiction of this Hon'ble Tribunal is not disputed.

5. In reply to para-3 of the application, the answering respondent has no comments to offer.

6. As regards para-4.1 of the application, the applicant may be put to strict proof.

7. In reply to paras 4.2. to 4.7 of the application, it is submitted that the issues raised by the applicant in his representation dated 18.12.1999 were duly examined by the Government of India and a speaking order was passed on 9.08.2000 referred to above. The answering respondent craves leave to refer to the said order for its exact meaning and contents at the time of hearing of this application. It was


(रवींद्र सान्धिवाल)
(R. SANJIVWAL)
भवर सचिव/Under Secretary
प्रशासन एवं संसाधन
Ministry of Env. & Forests
आरती गवर्नर ऑफ इंडिया
नई दिल्ली, N.W. Delhi

clearly mentioned in the said order that the Union of India had filed an appeal against Hon'ble Tribunal's order dated 20.01.99 passed in OA No.15/99 filed by Shri Ibobi Singh which is still pending before the Hon'ble Tribunal. It is further submitted that the applicant cannot raise additional issues which are more than 10 years old at this belated stage by way of filing the present fresh application.

8. In reply to para-5 of the application, it is submitted that the main grievance of the applicant is that the promotion vacancies in the Manipur-Tripura Joint cadre were not correctly calculated. In support of his argument he is relying on the judgment passed by the Jabalpur Bench of the Hon'ble Tribunal in K.K. Goswami case. In this connection, it is submitted that prior to 22.2.89, rule-9 of the IFS(Recruitment) Rules, 1966 (hereinafter referred to as 'Recruitment Rules') provided as under:-

"The number of persons recruited under rule-8 in any State or group of States shall not, at any time, exceed 33 1/3 per cent of the number of Senior duty posts borne on the cadre of that State, or group of States."

Shri K.K. Goswami, an SFS officer of Madhya Pradesh, challenged this rule arguing, among other things, that the Senior duty posts included the State Deputation Reserve also. The Jabalpur Bench of this Hon'ble Tribunal before whom the matter again came up for

Chanchal
(रवींग सांगेहर्वाल)
(R. SANGHWAL)
अधिकारी/Under Secretary
पर्यावरण एवं वन मंत्रालय
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली, New Delhi

discussion held that the State Deputation Reserve was also covered under the Senior duty posts. The Central Government implemented the Tribunal's decision by amending the Schedule to the Cadre Strength Regulations in respect of Madhya Pradesh cadre vide notification dated 22.2.89. On the same date another notification was issued amending rule-9 of the Recruitment Rules which reads as under:

"The number of persons recruited under rule-8 in any State or group of States shall not, at any time, exceed 33 1/3 per cent of the number posts as are shown against items 1 & 2 of the Cadre in relation to that State or the group of States, in the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966."

In terms of this amendment, it was clearly stipulated that for the purposes of calculating promotion vacancies in a particular State cadre only items No.1 & 2 mentioned in the Schedule to the Cadre Strength Regulations, i.e. the Senior duty posts under the State Government and the Central Deputation Reserve, would be taken into account. Since the Recruitment Rules were amended on 22.2.1989, the applicant cannot raise the issue of calculation of promotion vacancies for taking into account the State Deputation Reserve also at this stage. In this connection, it is submitted that a similar issue was raised by Shri. Vinod Kumar Jhajhria before the Chandigarh Bench of this Hon'ble Tribunal in OA No.1122/HR/96. Deciding the case on 14.10.97, the

Chanchal
(चंचल सानेहवाल)
(R. SANEHWAL)
अवर सचिव/Under Secretary
पर्यावरण व वन मंत्रालय
Ministry of Env. & Forests
भारत सरकार, India
नई दिल्ली, New Delhi

Hon'ble Tribunal held that the matter was time-barred. The relevant portion of the judgment (para 14 and 15) is extracted below:

" While the first notification amended the cadre strength regulations in respect of Madhya Pradesh cadre in order to increase the number of vacancies in promotion quota in the IFS of the said cadre after taking into account the State Deputation Reserve alongwith the senior duty posts as also Central Deputation Reserved i.e. item Nos.1, 2 and 5 of the Cadre Strength Regulations. However, by the second notification issued on the same date, the recruitment rules were also amended according to which the number of persons recruited under Rule-8 in any State would not at any time exceed 33 1/3 per cent of the number of posts shown against items No.1 and 2 of the Cadre Strength in relation to that State in the Schedule to the Cadre Strength Regulations.

15. With the issuance of the aforesaid notification, it was made known to all the State Forest Officers serving in different States that the notification of the Govt. of India was explicit not to provide promotion quota more than 33 1/3 percent of the number of posts shown against items No.1 and 2 of the Cadre Strength in the Schedule. Thus, if any member of the State Forest Service had any grievance, he ought to have challenged the legality of the above stated provisions within the prescribed period of limitation. As pleaded by the applicant himself, he became eligible for appointment to the IFS in the year 1988. He did not challenge the above stated provisions till he filed the present OA in the year 1997. Even in the year 1993, the applicant was considered and placed in the select list, and the promotion quota was calculated in terms of the above stated Regulations. the applicant did not question the said method of calculation of promotion quota within the period of limitation even after his placement in the select list of 1993. In this background, if the claim of the applicant is accepted at this stage, the retrospective increase in the promotion quota in the IFS cadre of Haryana is bound to adversely affect the seniority of those directly recruited IFS officers who have been appointed during this long interval of 8 years from the year 1989 till date. None of them has been impleaded in the array respondents in the present OA."

Chander

(रवीरा सानेहवाल)

(R. SANEHWAL)

मंत्र सचिव/Under Secretary

परो राज्य सरकार

मिनिस्टरी ऑफ फॉरेस्ट्स

मानव संसाधनों मंत्रालय, India

नई दिल्ली, New Delhi

In view of the above observations of the Hon'ble Tribunal, the applicants cannot raise the issue of increase in the number of promotion vacancies at this stage when the Rules had been amended long before in 1989 specifying Item 1 & 2 only of the schedule to the Cadre Strength Regulations to be taken into account for the purposes of calculating promotion vacancies, and made at par with those for the IAS and the IPS. As already submitted above, the judgment rendered by the Hon'ble Tribunal in case of Shri Ibobi Singh is pending for review following Review Application filed by the Union of India.

9. It is submitted that the Government of India have already included the component of the State Deputation Reserve for calculating the promotion vacancies w.e.f. 1.1.1998 by amending IFS (Fixation Of Cadre Strength) Regulations) 1966 on 31,12.1997 while bringing similar amendments to the rules in respect of IAS and the IPS.

10. It is further submitted that the Tamil Nadu Administrative Service officers Association filed W.P. No.613/94 before the Supreme Court praying for giving retrospective effect to the computation of promotion posts in all the three All India Services on

Chander
(रवीश सानेहवाल)
(R. SANEHWAL)
अदर सचिव/Under Secretary
पर्सोनल एवं संग्राह
Ministry of P. & F. S.
भारत सरकार, कृष्णगढ़, नई दिल्ली, New Delhi

the basis of the judgment rendered by the Jabalpur Bench of the Hon'ble Tribunal in K.K. Goswami case. The claim of the petitioner was rejected by the Hon'ble Supreme Court vide judgment dated 19.04.2000 reported as JT 2000 (5) SC 86. The Hon'ble Supreme Court has held as under:-

"The petitioners further contend that similar relief was granted in the case of applicants who filed original applications before the Jabalpur and Calcutta Benches of the Central Administrative Tribunal, and there is no reason why the petitioners should be denied such benefits. The Union of India has explained in the counter affidavit that those are isolated cases where promotions were given on the basis of the directions issued in the original applications as well as contempt petitions, and the same should not be treated as a binding precedent in every other case. We notice that as per the statutory provisions, the encadrement of posts can be done only on certain fact situations existing and further it will have to be done on a review to be conducted by the Central Government in consultation with the State Governments and on being satisfied that an enhancement in the cadre strength or encadrement of certain posts is necessary in the administrative interest of the States concerned. Until such encadrement takes place, nobody including the petitioners could stake a claim to consider their case for promotion to those ex-cadre posts. Therefore, such right to be considered for promotion, in our considered view, would arise only from the date of encadrement which having been done with effect from 1998 only, we do not think that as a matter of right the petitioners are entitled for retrospective seniority.

In light of the above, we are of the opinion that the petitioners are not entitled to the twin reliefs sought for by them i.e. for a writ of mandamus to encadrement the ex-cadre/temporary posts, so also for a writ of mandamus for the retrospective seniority in regard to the posts already included in the State IAS cadre strength by virtue of 1997 amendments."

C. S. Chauhan
(रवीश सानेहवाल)
(R. SANEHWAL)
अधर सचिव/Under Secretary
स्वास्थ्य विभाग
Minister of Env. & Forests
मंत्री सचिव, सरकार, भारत
नई दिल्ली, New Delhi

-: 8 :-

The applicants are thus not entitled to any of the reliefs prayed for in the present O.A., without regard to the statutory rules and regulations.

11. Paras 6 & 7 need no reply.

12. In reply to para-8 of the application, it is submitted that in view of the position explained above, the applicant is not entitled to any relief as prayed for. The writ petition is devoid of any merit and deserves to be dismissed.

13. Paragraphs 9 to 12 need no reply.

PRAYER

In view of the position explained in the foregoing paragraphs, the instant application has no merits and is, therefore, liable to be dismissed with costs. It is prayed accordingly.

New Delhi

Dated: 22.1.2001

Chandru

For Respondent No.1
 (राजीव नाथ चंद्रु)
 (R. NATH CHANDRU)
 अवासिक्षिकी अधिकारी
 संस्थान एवं वनों की संचय
 Ministry of Environment & Forests
 काशीपुरा, नई दिल्ली
 नई दिल्ली, दिल्ली

VERIFICATION

I, R. Sanehwal, Under Secretary to the Govt. of India, having my office at Paryavaran Bhavan, Lodi Road, New Delhi-110003, do hereby verify that the contents stated above are true and correct to the best of my knowledge, belief and information and that nothing has been suppressed therefrom.

Verified at New Delhi on this the 22nd day of
January, 2001.

Chamal

For Respondent No.1

महाराष्ट्र राज्य विद्यालय
मुख्यालय, मुंबई ४००००९
महाराष्ट्र विद्यालय
मुख्यालय, मुंबई ४००००९
M. Sc. (Hons.) in English
महाराष्ट्र विद्यालय
मुख्यालय, मुंबई ४००००९

ifsc:

10

36

51

No.22012/10/97-IFS.II
Government of India
Ministrys of Environment and Forests

Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi-110003

Dated, the 9th August, 2000

O R D E R

Shri A.K. Sinha, a State Forest Service (SFS) officer of Tripura was promoted to the Indian Forest Service (IFS) w.e.f. 10.3.92. Subsequently, his year of allotment was determined as '1988' vide order dated 18.5.95 and he was placed below Shri R. Das, a direct recruit officer of 1988 batch. Aggrieved by the order dated 18.5.95, Shri Sinha filed OA No.276/96 before the Hon'ble Central Administrative Tribunal - Guwahati Bench seeking a direction to assign him '1985' year of allotment with all consequential benefits including correct assignment of seniority and promotion prospects etc. with retrospective effect. The OA was decided by the Hon'ble Tribunal vide order dated 24.3.99. The operative portion of Tribunal's order is extracted below:-

"On consideration of the entire facts we find that adequate materials are not available to determine for what reasons the applicant was not appointed in the year 1989-90. The contention of Mr. Sharma is that the post was available but he was not appointed. For all these we feel the entire matter needs to be considered by the authority concerned taking into consideration all the materials in the records and dispose of the representation by a reasoned order. Mr. Sharma wants to file a fresh representation giving details of his claim. If he wants to file a fresh representation he may do so within a period of fifteen days from today. If such representation is filed within the time allowed the competent authority shall also consider the same and dispose of it as early as possible, at any rate within a period of six months from the date of receipt of the representation. The counsel for the applicant and the respondent Nos.19 and 20 submit that before taking any decision by the competent authority the persons interested may be given opportunity of personal hearing. This submission is reasonable. Therefore, we direct the respondents that before taking any decision they shall give notice by giving sufficient time to all persons interested for personal hearing."

Attested True Copy,

C. S. Chaturvedi
(राज्य सामन्ताल)

Additional Legal Secretary

-: 2 :-

In pursuance of the directions given by the Hon'ble Tribunal, Shri Sinha submitted a fresh representation on 18.12.99 which was received on 22.12.99. As per Tribunal's order the representation should have been submitted by 7th April, 1999. Broadly, Shri Sinha has made following submissions:-

- i) He became eligible for consideration for appointment to the IFS in 1982.
- ii) He was appointed to the IFS on 10.3.92 and was assigned '1988' year of allotment whereas his immediate senior in the Tripura SFS, Shri A.K. Roy, was appointed to the IFS on 16.12.89 and was assigned '1985' year of allotment.
- iii) The Central Govt. while fixing the number of promotion posts, took into account only Item No.1 & 2 of the Cadre Schedule, i.e. the Senior duty posts under the State Government and the Central Deputation Reserve. But in terms of the order dated 20.1.99 passed by the Central Administrative Tribunal - Guwahati Bench in OA No.15/95 : Th. Ibobi Singh Vs. Union of India and Ors, the Union of India was directed to compute the promotion vacancies by taking into consideration the State Deputation Reserve also. Therefore, he is also entitled to the benefit of the judgment rendered by the Hon'ble Tribunal in Th. Ibobi Singh's case.
- iv) In terms of the above said judgment, there were 8 promotion posts in the Tripura segment of the Joint Cadre, out of which 7 posts were filled up when Shri A.K. Roy was appointed on 16.12.89. He (Shri Sinha) is entitled for consideration for promotion to the IFS against the 8th vacancy.
- v) The direct recruit IFS officers of 1985 and 1986 batch were appointed to the Senior time scale w.e.f. 1.4.1989 and 1.4.1990 respectively. Therefore, he is entitled to '1985' year of allotment.

2. In his earlier representations attached to O.A. No.276/96 the main ground urged by Shri Sinha was that he had been continuously officiating on cadre post from 15.2.91 till his appointment to the IFS and, as such, he was entitled to the benefit of such officiation and pleaded to assign him '1985' year of allotment..

3. As per directions of the Hon'ble Tribunal, Shri R. Das and Shri D.K. Sharma, the direct recruit officers (Respondent No.19 & 20), were afforded an opportunity of personal hearing. Initially, the date of

Attached True Copy

Classified
(R. SANEHWAL)

Ministry of Home Affairs
Government of India

14th Floor, N.W. Wing
Ministry of Home Affairs
Government of India
New Delhi

- : 3 : -

personal hearing was fixed on 6th March, 2000 but neither of the two officers appeared on that date. Therefore, another date was given to them on 20th March, 2000. This time, only Shri D.K. Sharma appeared. He made the following submissions:

- i) According to Shri A.K. Sinha, he was promoted to the IFS on 10.3.92 whereas he claims promotion in November, 1990. The IFS (Recruitment) Rules provides only the maximum number of posts that can be filled up. Mere presence of vacancy does not entitle Shri Sinha to claim promotion to the IFS. Further, it is not necessary that his name would have been considered had the Select List been prepared earlier.
 - ii) Officiation of Shri Sinha on cadre post from 15.2.91 to 16.5.92 cannot be considered for seniority because his name was included in the Select List only on 25.11.91 when the list was approved by the UPSC. His officiation cannot, therefore, be counted for the purpose of fixation of his seniority before 25.11.91.
 - iii) As per rule-9 of the IFS (Cadre) Rules, prior approval of the Central Government is required by the State Government in case a non-cadre officer is posted on a cadre post beyond a period of three months.
 - iv) He (Shri D.K. Sharma) was entitled to Senior time scale w.e.f. 4.7.91. Therefore, he was senior to Shri Sinha whose name was included in the Select List w.e.f. 25.11.91.
 - (iv) In view of above, the year of allotment (1988) assigned to Shri Sinha is correct and does not require any change.

Shri Sharma also asked for a copy of representation dated 18.12.89 submitted by Shri Sinha which was sent to him vide letter dated 18.04.2000. Shri Sharma furnished his comments on the said representation vide his letter dated 1.5.2000.

4. The ground urged by Shri Sinha in his earlier representations as well as the latest one as also the submissions made by Shri D.K. Sharma have been examined. At the outset, it is stated that the judgment rendered by the Hon'ble Tribunal in the case of Shri Ibobi Singh in OA No.15/95 is pending for review with the Hon'ble Tribunal following filing of Review Petition

Noted True copy.

C. Sanehwal
(कवि राजनीतिज्ञ)
(R. SANEHWAL)
प्रबन्ध सचिव / *Editor - Secretary*

: 1 :-

by the Union of India. As regard the contention of Shri Sinha that his immediate senior, Shri A.K. Roy was appointed to the IFS on 16.12.89 and was assigned '1985' year of allotment, it is stated that Shri Roy's name was included in the Select List prepared on 13.12.1988 whereas Shri Sinha's name could not be included in that list due to restriction on size of the Select List which depended upon the number of promotion vacancies available on the date of preparation of the list. In fact, Shri Roy was the only officer whose name was included in the Select List prepared on 31.12.1988. The name of Shri Sinha was included in the subsequent Select List prepared on 15.3.91 and he was placed at S.No.1 of the list in which names of 5 other SFS officers of Tripura, who were found suitable for promotion to the IFS, were included. On the basis of that Select List, Shri Sinha was appointed to the IFS w.e.f. 10.3.92 and was subsequently assigned '1988' year of allotment.

5. The issue of extending the benefit of officiation to a promotee IFS officer on a cadre post prior to his promotion to the IFS was examined by the Hon'ble Supreme Court in the case titled : M.V. Krishna Rao and Ors. Vs. UOI and Ors. - JT 1994(1) SC 492. In that case, the Hon'ble Supreme Court held that for appointing a Select List officer on a cadre post prior to his induction into the all India Service, approval of the Central Government was not necessary. Such approval is required only in the case of non-Select List officer or one who is not next in order in the list. In the present case, Shri Sinha was at the top of list prepared on 15.3.91 and, as such, as per ruling of the Apex Court in the case cited above, no approval of the central Government was necessary. Nevertheless, Central Government accorded approval to the State Government's proposal regarding officiation of Shri Sinha on cadre post w.e.f. 15.2.91 till his appointment to the IFS on 13.3.92. In a recent judgment dated 20.1.2000 delivered by the Hon'ble High Court at Allahabad in W.P. No.24393/97 : Chandra Bhushan Vs. Central Administrative Tribunal, Allahabad Bench and Ors., it has been held that Shri Bhushan was entitled to the benefit of officiation from 13.12.1981, i.e. the date when the Select List in which his name was included was drawn. While delivering the judgment, the Hon'ble High Court also relied upon the judgment rendered by the Apex Court in the case of M.V. Krishna Rao referred to above.

6. In view of the position explained above, Shri A.K. Sinha is entitled to the benefit of officiation on cadre post w.e.f. 15.3.91, the date when his name was included in the Select List and on that date Dr. Khaizalian was the junior-most direct recruit

Attached True copy
C. Sanehwal
 (विंग सेनेहवाल)
 (R. SANEHWAL)
 अधिकारी/Under Secretary

Ministry of Environment & Forests
 Govt. of India
 New Delhi

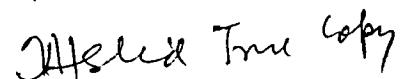
-: 5 :-

of 1987 batch borne on the Manipur-Tripura Joint Cadre who had been officiating continuously on a senior post. Accordingly, in terms of rule 3(2)(c) of the IFS (Regulation of Seniority) Rules, 1968, Shri Sinha is placed below Dr. Khaizalian and is hereby assigned '1987' year of allotment.



(Mira Mehrishi)

Joint Secretary to the Govt. of India


Affixed True Copy
R. S. Suriwal

(R. S. SURIWAL)

लघर अमीर/Under Secretary

राज्यवर्षपाल संसाधन

Ministry of Env. & Forests

राजसरकार Govt. of India

नई दिल्ली/New Delhi