

100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI, 5

ORIGINAL APPLICATION NO. 430/2020

Smt. S. C. Deka, Applicant.
versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. B. K. Sharma,

" S. Sharma,

" K. Deka

" K. Goswami.

For the Respondents.

CSC/CA, Assam & Meghalaya.

NOTES OF THE REGISTRY DATE ORDER

This application is in form but requires some corrections. Present : Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman. Hon'ble Mr. M.P.Singh, Member(A)

ST 27/83
12/12/2000
D. Regd. 14/12/2000
Admit. Call for L.

Issue notice. Returnable within weeks.

List on 2.2
orders.

Member(A)

There was a lot of
defects in the petition such
as illegible annexes, Steps:
incomplete & wrong pagination
etc. Now the defects are removed except Annexure
I page 33 which is not
complete.

Submitted for order for
placing before the Court.

23.2.01 List on
the respondent &
statement.

Member

Vice-Chairman

The above defects are
removed & submitted.

14/12/2000
S. C. Deka

SO (5/12/2000)
S. C. Deka

1m

430/2001

Notes of the Registry

Date

Order of the Tribunal

1.1.02

No written statement so far filed by the respondent No. 3 despite granting of time. None appears for the respondent No. 3 today. List this case for hearing on 30.1.2002. In the meantime, the State may file written statement if any, within 2 weeks from today.

List on 30.1.2002 for hearing.

3/1
29.1.02

I C Usha
Member

Vice-Chairman

30.1.02

On the prayer of Miss U.Das, learned counsel for the applicant, the case is adjourned. List on 20.2.2002 for hearing.

No. reminder has been filed.

3/1
19.2.02

I C Usha
Member

Vice-Chairman

20.2.02

It has been stated by Sri U.K.Nair, learned counsel for the applicant that the applicant has already expired. Accordingly the application stands abated.

Member

Vice-Chairman

22.2.2002

Copy of the order has been sent to the Dy. Commr for issuing the same to the L/Bdr. for the purpose.

8
Fwd/15

Notes of the Registry	Date	Order of the Tribunal
No. Wts filed on behalf of respondents.	16.8.01	<p>The respondent nos. 1 and 2 filed the written statement. Respondent no.5 yet to file written statement. Four weeks, further time granted to the respondents nos. 3 to 5 to file written statement.</p> <p>List on 19/9/01 for order.</p> <p><i>CC Shaha</i> Member</p>
No. Written statement filed by the	19.9.01	<p>Heard Mr. B.C. Pathak, learned Addl. CG.S.C. and Mrs. M. Das for the respondents.</p> <p>Written statement has so far filed by the respondent nos. 1 and 2. The respondents are yet to file written statement. List the matter again 17.10.2001 to enable the respondents to file written statement.</p> <p><i>CC Shaha</i> Vice-Chairman</p>
No. Wts filed by the	17.10.01	<p>Dr. Y.K. Phukan, learned Sr. Government Advocate, Assam prays for time to file written statement on behalf of respondents No.3 to 5. Prayer allowed.</p> <p>List on 29.11.01 for order.</p> <p><i>CC Shaha</i> Vice-Chairman</p>
No. Wts filed by the	29.11.01	<p>The respondent Nos. 1 and 2 has already filed written statement. The respondent no.3 has not filed written statement. For the respondent no.3, learned counsel allowed to file written statement. 3 weeks time is given on 1.1.2002 for order.</p> <p><i>CC Shaha</i> Member</p>

31/12/00

6/1/2001 (2)

Notice received
and sent to A/Sec for giving
the respondent No. 1 to 5 by
S. C. G. S. C. vide A/No.
1/11/2001

21/12/00

① Service of process
still awaited.

② No. wts. has been filed.

22.2.01

23.3.01 Neither the State of Assam nor the Union of India has filed written statement. However, on the prayer of Mr A. Deb Roy, learned Sr. C. G. S. C. four weeks time is allowed to file written statement.

List on 24.4.01 for further order.

I C C Usha...

Member

✓

Vice-Chairman

pg

No. written statement
has been filed.

22.3.01

No written statement
has been filed.

24.4.01 No written statement so far filed. Further four weeks time is allowed for filing of written statement. List on 25.5.01 for orders.

I C C Usha...

Member

✓

Vice-Chairman

1m

23.4.01

25.5.01 Three weeks time is allowed to the State of Assam to file written statement. List on 15.6.2001 for order.

Member

Chairman

pg

By order

✓

15.6.01
missed

✓

Mrs. N. Das, learned counsel for the State of Assam, prays for and granted 3 weeks and no more time to file written statement. Written statement on behalf of Respondent No. 1 & 2 has been filed. Rejoinder defying the written statement may be filed within two weeks thereafter.

List for orders on 16-8-2001.

I C C Usha...

Member

✓

Vice-Chairman

bl

590 20 SEP 2000

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

गुवाहाटी विधानिक
Guwahati Bench

Title of the case : DA No. 430/2000

BETWEEN

Shri Sarat Ch. Phatowali,

... Applicants

- versus -

Union of India & Ors.

... Respondents

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Filed by :

Advocate

संघीय अधिकारिक अधिकारी
Central Administrative Tribunal

20 SEP 2000

जनकी नगर
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

D.A. No. 430 of 2000

BETWEEN

Sarat Chandra Phatowali, IFS, DCF, C/o
Office of the Principal Chief
Conservator of Forests, Assam, Rehabari,
Guwahati-8.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Environment, Forests and Wild Life etc., New Delhi-110001.
2. The Secretary to the Government of India, Ministry of Personnel, New Delhi-110001.
3. The State of Assam, represented by the Commissioner & Secretary to the Govt. of Assam, Forest Department, Dispur, Guwahati-6.
4. The State of Meghalaya, represented by the Chief Secretary to the Govt. of Meghalaya, Shillong-793001.
5. The Union Public Service Commission, represented by its Chairman, Shahjahan Road, New Delhi-110001.

... Respondents

DETAILS OF APPLICATION

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

The OA is directed against the order contained in No. 22012/56/97-IFS.II dated 15.9.99 issued by the Government of India, Ministry of Environment and Forests as communicated to the Applicant vide letter F.No. 22012/56/97-IFS.II dated 17.9.99 and received by

Fixed by
The Applicant
through
U.K. Nair,
Advocate.

20 SEP 2000

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Guwahati Bench

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the Applicant on 24.9.99 rejecting the representation of the Applicant by which he had sought for intending his year of allotment than the one assigned to him (1990) vide order F.No. 17103/02/94-IFS-II dated 19.10.95.

2. JURISDICTION OF THE TRIBUNAL :

The Applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The Applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunal's Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India and he is presently holding the post of Dy. Conservator of Forests attached to the office of the Conservator of Forests, Western Assam Social Forestry Circle, Jyoti Path, Ambikagiri Nagar, Guwahati. Except the State and its functionaries the Applicant in the present application has not made any private respondent a party because the Applicant is not seeking any relief against them. This is because the subject matter of the instant applications, involves the correct determination of Applicant's seniority and the fixation of his year of allotment. The Applicant is aggrieved by the method and manner in which his year of allotment has been fixed.

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Guwahati Bench

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4.2 That on the recommendation of the Assam Public Service Commission and on completion on 2 years training at the Indian Forest College, Dehradun (1967-69), the Applicant was appointed as Asstt. Conservator of Forest in the State Forest Service (hereinafter refer to as the SFS) of the State of Assam.

4.3 That the Applicant become eligible for promotion to Indian Forest Service (hereinafter referred to as the IFS) in the year 1975.

Here, it would be appoint to refer to the law governing the IFS and the relevant rules framed thereunder for the sake of convenience in order to show as to how the Applicant become eligible for promotion to IFS in the year 1975.

4.3.1 That the Indian Forest Service is one of the All India Service common to the centre and to the State. The statutory basis for the establishment of the All India Services was provided by Chapter-I of Part IV of the Constitution (Article 308 to 314) supplemented by the All India Services Act, 1951, passed by the parliament as envisaged in Article 312 of the Constitution. The Act of 1951 was initially applicable to the Indian Administrative Service and the Indian Police Service but it was subsequently extended by Amendment Act 27 of 1963 to cover the Constitution of three new All India Services one of which was the Indian Forest Service, Section 3 of the Act of 1951 empowers the Government of India to make, after consultation with the State Government rules for the

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regulation of recruitment and the conditions of service of persons appointed, to the All India Service.

4.3.2 That pursuant to the amendment of 1963, mutual consultation were held between the Union Government and the various State Governments and the broad pattern already in existence for the Indian Administrative Services and the Indian Forest Service also. Once this decision was taken, the statutory rules followed. There were five set of rules framed between 1966 and 1968.

- (i) The IFS (Cadre) Rules, 1966.
- (ii) The IFS (Recruitment) Rules, 1966.
- (iii) The IFS (Promotion) Rules, 1968.
- (iv) The IFS (Pay) Rules, 1968.
- (v) The IFS (Regulation of Seniority) Rules, 1968.

4.3.3 That in pursuance of Sub-rule (1) of Rule 8 of the IFS (Recruitment) Rules, 1966, the Central Government, in consultation with the State Government and the Union Public Service Commission, framed the IFS (Appointment by Promotion) Regulations, 1966.

For the purpose of instant case, three of the above mentioned Rules, namely (i) IFS (Cadre) Rules, (ii) The IFS (Recruitment) Rules, and (iii) The IFS (Regulation of Seniority) Rules, Rules along with the IFS (Appointment by promotion) Regulation are highly relevant and the relevant provisions of the same would be referred to in this application.

4.3.4 That under sub-rule(2) of Rule 4 of the IFS (Recruitment) Rules, recruitment to the IFS is mainly by two of the following methods, viz.:

- (i) By a competitive examination;

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(ii) by promotion of substantive members of the State Forest Service.

4.3.5 That the Reg.5 of the IFS (App. by Promotion) Regulation provides for the preparation of a list of suitable officers of the State Forest Service by the Selection Committee. This regulation also lays down that each selection committee shall ordinarily meet at intervals not exceeding one year. Third proviso to Sub-Reg.(2) of Reg.5 further lays down that the Selection Committee shall not consider the case of a member of the State Forest Service unless, on the first day of January of the year in which it meets, he is substantive in the State Forest Service and has completed not less than eight years of continuous service in the State Forest Service.

4.4 That the Applicant has completed 8 years of continuous service in the substantive capacity in the SFS year, 1975.

4.5 That the Applicant was given officiating appointment against cadre post as early as in 1983. In the year 1984 also applicant continued officiation against a cadre post. After 1984, only for a brief period of 1985, the Applicant did not hold the cadre post. However, during this period he should be deemed to be holding the cadre is firstly because he could not have choice of his own to be posted against a particular post that being the prerogative of the authorities and secondly during the said period many of his junior officers were holding the IFS cadre Post

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which shows that the post Applicant was holding during the said period was equivalent to any other cadre post. It will be pertinent to mention here that the officer placed below the Applicant in the select list in question were also holding the cadre post during the said period. Thus, the Applicant should be deemed to be holding the cadre post in the year 1985. Thereafter from 1986 to 1992, the Applicant continuously officiated against a cadre post. Subsequently in the year 1993 to 1995 till the promotion to IFS though the Applicant did not officiate against the cadre post, but once again the persons junior to him were allowed to officiate against cadre posts. Therefore, on this analogy, the Applicant could also be deemed to be holding the cadre post from 1993-95 till his promotion to the IFS.

4.6 That Rule 9 of IFS (cadre) Rules read with Sub-reg. (2) of Regulation 8 of the IFS (Appointment by Promotion) Regulation, where administrative exigencies require a number of the SFS whose name is not included in the select list or who is not the cadre officer may be appointed to a cadre post if the State Government is satisfied that the vacancy is not likely to last for more than three months or that there is no suitable cadre officer available for filling the vacancy.

4.7 That under sub-rule 2 of Rule 9 of the IFS (Cadre) Rules, wherein any state, a person other than a cadre officer is appointed to a cadre post for a period exceeding three months, the State Government shall

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forthwith report the fact to the Central Government together with the reasons for making the appointment. Under sub-rule 4 of the Rule 9 of the cadre rules, where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding three months, the Central Government shall report the full facts to the Union Public Service Commission with the reasons for holding that no suitable officer is available for filling the post and may in the light of the advice given by the U.P.S.C. give suitable direction to the State Govt. concerned.

4.8 That as the Applicant being a non-cadre officer was given officiating appointment against a cadre post and the said appointment was continued due to administrative exigencies for an inordinately long period, therefore, the Applicant has reasons to believe that the procedure laid down in sub-rule 2 and sub-rule 4 of the Rule 9 of IFS (Cadre) Rules must have been complied with by the concerned authorities and the State Government must have obtained the approval for such continuation of the Applicant from the Central and the UPSC. Do that as it may, the compliance of the procedure laid down in Sub-rule (2) and (4) of Rule 9 of the IFS (Cadre) Rules is not the responsibility of the Applicant. It is for the State Government to ensure that the provisions of law are complied with especially when a non-cadre officer is being made to officiate in a cadre post for long period of time by the State Government in order to serve the interest of the State and to meet the administrative exigencies.

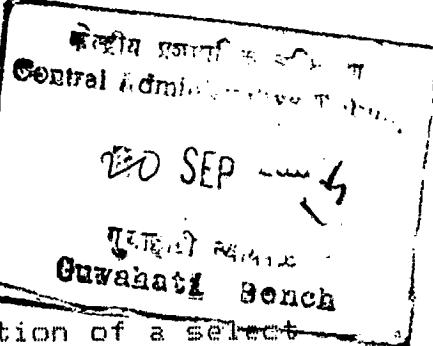
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4.9 That during the year 1985 to 1995 whom for a long period of time the Applicant was holding the cadre post, there were serious lapses on the part of the Respondents in regard to preparation of annual select list. It is pertinent to mention here that there is a mandatory provision under rule (5) (1) of the IFS (Appointment by Promotion) Regulation, 1966, for preparation of annual select list. No selection committee meeting was convened from 1967 to 1974 in blatant violation of rules, while the rule provides that even in absence of vacancy in the promotional quota, select list must be prepared annually but in case of Assam-Meghalaya Joint Cadre, no selection committee meeting was convened and select list prepared on the face of available vacancy in promotional quota. Because of non-preparation of annual select list during the period 1967 to 1974, many senior SFS officers could not be promoted resulting in adverse effect to the service prospect of this Petitioner.

4.10 That during December, 1975 the first ever selection committee meeting was convened for preparation of select list for Assam-Meghalaya Joint cadre and a list of 6 officers was prepared against 9 promotional posts as per schedule 1972. This was another violation of the provision of Rule 591) of IFS (Appointment by Promotion) Regulation, 1966, which provided for preparation of a list containing about double the number of vacancies. The select list was notified on 26.3.76 when as many as 9 senior duty posts were lying vacant in the Joint Cadre if Assam-



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Meghalaya. Non-consideration or preparation of a select list comprising officers greater number than 9 and non-appointment of the senior SFS officers resulted in adverse affect to the service prospect of this Applicant.

4.11 That during the year 1976, selection was not convened. In 1977, selection committee met and prepared a select list of only 7 officers, though the number of anticipated vacancy under promotional quota was 8 as per revised cadre schedule notified on 6.1.78. This was in blatant violation of Rule 5(1) of IFS (Appointment by Promotion) Regulation, 1966. This violation of rules denied promotion to one of the seniormost member of SFS during 1978 itself. However, it also had the affect of adversely affecting the service prospect of this Applicant.

4.12. That once again from 1978, there was no selection till 1983. However, in 1983 select list, the Petitioner's name was included along with the names of his other batch-mates. While preparing the select list and inducting officers in the IFS, the provision of making the promotion to 33 1/3 persons of the senior post was completely lost sight of, but for which, he could have been promoted to IFS in 1983 itself.

4.13 That after 1983, the select list was prepared during 1985 and 1986 with only 2 officers in the select list though the select list should have contained as many as 5 officers as per Rule 5 of IFS (Appointment by Promotion) Regulation, 1966, read with Rule 9 of IFS

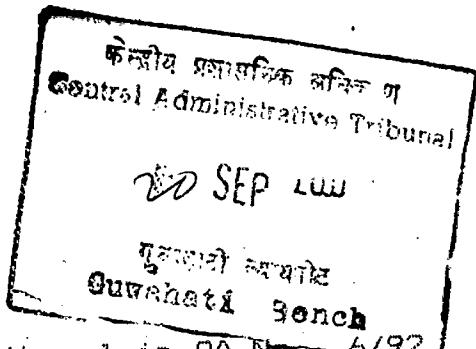
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Guwahati Bench

(Recruitment) Rules, 1966. Here ~~it is pertinent to~~ mention that in the minutes of the selection committee, the Applicant's name was placed at Sl. No. 4 with the performance of the Applicant being at par with the 2 officers included in the select list of both the year 1985 and 1986. Had the select list been prepared as per rules, the Applicant's name would have been included in both the aforementioned select list.

4.14 That after 1986, select lists was prepared only during 1991 and in between, there was no select list. However the select list which was prepared during 1991 contained the names of officers of only Meghalaya Unit of the Assam Meghalaya Joint cadre ignoring the legitimate and just aspirations of the officers belonging to Assam wing. As a result of this, one of Applicant's junior officer Shri P.S. Rynjah of 1971-92 batch from Meghalaya SFS also got promotion to IFS batch whose year of allotment was fixed on 1985. This was a sequel to the recognition to Meghalaya Forest Service as a feeder service to IFS.

4.15 That the select list was also prepared in the later part of 1991 for Assam Unit which was challenged before the Hon'ble CAT/Guwahati Bench and the Tribunal stayed the operation of the select list. Though the Applicant was not arrayed as party Respondents in the aforesaid case but due to the stay order of the tribunal, the Applicant could not derive the benefit of promotion in spite of his name appearing in the select list.



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The interim order of the tribunal in OA No. 6/92

is annexed as Annexure-1.

4.16 That after 1991 it is only in 1995 that the select list was prepared. However, this select list was also challenged before the Tribunal in OA No. 106/93 and the Tribunal passed the stay order on their select list also. On this occasion too, because of the stay order passed by the Hon'ble Tribunal the Applicant in spite of his name being in the select list could not avail the opportunity of promotion during 1993.

Interim order of the Hon'ble Tribunal passed in OA No. 106/93 is annexed as Annexure-2.

4.17 That the selection committee again met on 7.3.94 and having considered all aspects decided to re-convened the meeting of the selection committee of the 1993 for preparation of the select list for promotion to SFS Officers to IFS cadre. The name of this Applicant was placed at Sl. No. 1 in the select list prepared on 7.3.94 and notified on 28.11.95.

Copy of the notified select list No. 1703/2/94-
IFS-II dated 28.11.94 is annexed as Annexure-3.

4.18 That since the selection committee meeting of 30.3.93 was re-convened on 7.3.94 and a select list prepared wherein the name of the Applicant had appeared pursuant to which he was ultimately promoted to IFS in the year 1995, the resultant benefits provided to a person in the select list should have been accorded with effect from 30.1.93 itself and not from 7.3.94

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Guwahati Bench

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inasmuch as the re-convened meeting of selection committee on 7.3.94 was for all intent and purpose a meeting of selection committee dated 30.3.93.

4.19 That during the period 1983 to 1992 when the Applicant was holding the cadre post, his misfortune in the form of non-publication of the select list on year to year basis in violation of the regulation 5 of the IFS (Appointment by Promotion) Regulation was further compounded by the fact that during the period the triennial cadre review was also due in the year 1981, 1984 and 1987. under sub-rule 2 of Rule 4 of the IFS (Cadre) Rules, 1966, there is mandatory provision of triennial cadre review of the cadre. Accordingly, review of cadre after fixation of initial cadre strength in 1966, were due in 1969, 1972, 1975, 1978, 1981 and 1984. Therefore, by 1987, there should have been 7 reviews of the cadre. Due to exigency of the State of Meghalaya were curvied out of the State of Assam and coming of Assam cadre as Assam-Meghalaya Joint Cadre. This review of cadre was done just to provide essential support of IFS cadre officers to the new State of Meghalaya. However, this exercise of cadre review had no relevance to the requirement of the State of Assam. So far as State of Assam is concerned neither in 1969, nor in 1972 any review took place.

4.20 That in 1978, the first ever regular cadre review took place for Assam Meghalaya Joint cadre, though it should have been the fourth triennial cadre review. During this cadre review also, a number of posts of

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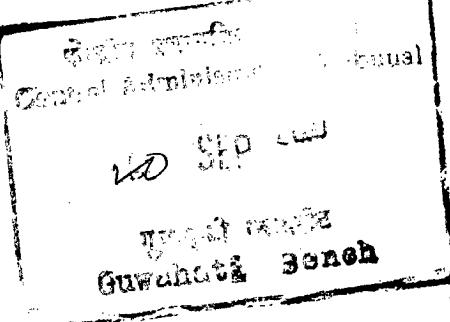
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permanent nature were left out for inclusion in the IFS.

4.21 That the next cadre review was due in 1981 but was done in 1982. Thereafter the cadre review were due in 1984 and then in 1987. But during 1984, the cadre review was not done.

4.22 That during the year 1983 to 1992 when the Applicant was holding cadre post for a very long period of time, had the cadre review been done timely with the objective approach and consideration of the ground related, coupled with only preparation of the select list, then exact situation the Applicant would have at the relevant period of time been holding a cadre post and thus, would have got the opportunity of getting inducted in the IFS much earlier. it is stated that non-holding of cadre review and non-preparation of select list for an inordinate long period and grave irregularities committed in regard to same in flagrant violation of the rules resulted in great hardship to the Applicant.

4.23 That the Applicant was promoted to IFS vide Government of India, Ministry of Environment and Forests Notification No. 17013/02/94-IFS-II dated 24.3.95. This appointment of the Applicant to IFS was made under Sub-rule (1) of Rule 8 of the IFS (Recruitment) Rules, 1968 and sub-rule (1) of Rule 9 of the IFS (Appointment by Promotion) Regulations, 1966. Pursuant to the appointment of the Applicant, he was allotted to Assam Meghalaya Joint Cadre of the IFS



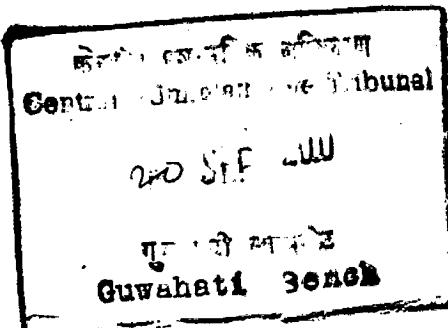
under sub-rule(1) of the IFS (Cadre) Rules, 1966. Thereafter his year of allotment was fixed vide order of eve No. dtd. 19.10.95.

A copy of the order dated 29.3.95 appointing the Applicant to the IFS is annexed herewith as Annexure-4.

Copy of order dated 19.10.95 is annexed as Annexure-4A.

4.24 That it is therefore seen that despite being a non-cadre officer the Applicant was allowed to hold a cadre post prior to his name being included in the select list of 1994 (which is the re-convened meeting of the selection committee of 30.3.93). The Applicant was appointed to IFS with effect from 24.3.95. It is noteworthy that prior to this period from 1985 to 1992, the Applicant was continuously holding the cadre post with the exception of a brief period during 1984-85 when his juniors were holding a cadre post.

4.25 That in the year of allotment to the IFS dated 19.10.95, the Applicant was resigned 1990 as his year of allotment and he was placed above Shri Tapash Kr. Das. However, the grievances of the Applicant arose from the fact that 1990 as his year of allotment was fixed on the basis of the same being the year of allotment of Shri S. Narayanan a direct Rec'tt. promoted to senior scale. The Applicant's case is that he was in continuous officiation against senior scale post in the IFS for inordinately a long period, therefore as per the provision of Rule 3(2)(c) of the IFS (Regulation of



Seniority) Rules, 1968, his seniority ought to have been computed from with reference to at least 28.10.87. This date of 28.10.87 has a significance because on 28.10.87, the cadre was revised and at that point of time, the Applicant was officiating against the cadre post. Moreover, vacancies and the promotional quotas were 7. Furthermore, by virtue of Applicant's name being in the select list prepared in 1985 and thereafter his name being also in the select list prepared during 1991, the & deserves to be inducted in IFS. Therefore, his position should be fixed just below RR (regular recruit) C.P. Marak who was in continuous officiation in the senior scale from 5.9.87. Hence on this analogy, the year of allotment of C.P. Marak which is 1983 should also be the year of allotment of this Applicant.

The list showing the position of IFS Officers of Assam Meghalaya unit is annexed herewith as Annexure-5.

4.26 That it is noteworthy that on 13.3.91, the select list was prepared and the same was notified on 20.9.91 wherein the name of the Applicant appeared at Sl. No. 2. During this period also, the Applicant was officiating against the cadre post and he ought to have inducted in IFS as per 1991 select list and in that event also his position in the seniority should have come just below the Regular Recruit Shri A.M. Singh who was promoted to senior scale on 1.4.91. In this case, the year of allotment of Shri A.M. Singh which is 1986

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ought to have been the year of allotment of the Applicant. Therefore, in either case, the Applicant is entitled to 1983 or 1986 as his year of allotment and not 1990 that has been given to him.

4.27 That the Applicant being aggrieved with the year of his allotment submitted a representation to the appropriate authority vide memo No. SCP/1/96 dated 5.3.96 and subsequent reminder dated 24.6.96 seeking redressal of his grievance with a prayer to review his year of allotment. But the Respondents were not even acknowledged.

A copy of the representation dated 5.3.96 and reminder dated 24.6.96 is annexed herewith and marked as Annexure 6 and 7 respectively.

4.28 That there is a direction of the Govt. of India that the review contemplated under Rule 4(7) of the cadre rules should be completed sufficiently in advance so as to enable a notification to be issued on the third anniversary of the earlier notification. In this connection, extracts from the Government of India, deptt. of Personnel and Administrative Reforms letter No. 4/12/70-ATS.I dated 26.6.71 are worth-mentioning. In the aforesaid letter, it is stated interalia that "the adequacy of recruitment rules for the All India Services is vital to the proper functioning and management of Government. Two measures are needed to ensure this. The first is the prompt encadrement of new posts to last over as extended period and the second is to assess future needs to advance on the basis of the

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past experience and the future plans. A failure in either of the two requirements will affect the adequacy of cadre strength thus leading to strains and stresses which some of the states are facing to-day."

In the light of the above mentioned instructions of the Govt. of India language used in Rule 4(2) of the cadre rules compels one to reach a conclusion that the notification as a result of the triennial review should be effective from the third anniversary of the earlier notification. The expression used in Rule 4(2) is "at intervals of every three years" which means that the interval between the fixation of cadre strength and another shall be 3 years, no more or no less. Therefore, *prima facie*, the fresh notification after triennial review has to be issued at interval of three years i.e. on the third anniversary of every proceeding notification.

4.28.1 That Rules 8 and 9 of the IFS (Recruitment) Rules, 1966 provides that the number of persons recruited under Rule 8 in any state or group of states shall not exceed 33 1/3% of number of senior duty post borne on the cadre of the states or group of States as per sub-rule (1) of Rule 9 while the definition of senior duty post is given under Rule 2(g) of the IFS (Regulation of Seniority) Rules, 1968, exclusion of senior duty post against item No. 5 of the cadre schedule of each State or group of states for computation of promotional quota was bad in law and thus anomalous. The Rule 9 of the IFS (Recruitment) Rules, 1966 created an anomalous situation inasmuch as

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the said Rule restricts the total number of promotees to be the maximum of 33 1/3% of the number of posts as shown against item Nos. 1 and 2 of cadre as stipulated in the schedule to IFS (Fixation of Cadre Strength) Regulation, 1966. The anomaly is created by the fact that while the direct recruits ~~IFS~~ officers in the junior time scale can be promoted to any posts in the senior time scale which fall under item No. 5 of IFS (Fixation of Cadre Strength) Regulation, 1966, no such promotional quota is available to the SFS Officers.

4.28.2 That this anomalous situation was the subject matter of challenge before the Hon'ble Central Administrative Tribunal, Jabalpur Bench in case of K.K. Goswami -and- Union of India & Ors.. The jabalpur Bench of the Tribunal in its judgment (which is reported in 1987 4 SLJ CAT 194) held that 33 1/3% of deputation reserved posts listed at item No. 5 should be considered for computation for promotion quota.

4.28.3 That same issue was raised by the SFS officers of West Bengal before the Calcutta Bench of the Central Administrative tribunal in the case of D.K. Basu vs. Union of India and Ors. The Calcutta Bench of the Hon'ble Tribunal in its order dated 26.7.94 in OA No. 994/90 took the line similar to one taken by the jabalpur Bench of the Central Administrative Tribunal (as adverted to earlier). The Special Leave Re-Appeal No. 3464/95 against the order of jabalpur Bench in OA 394/90 with SLP (C) 6455/95 against the order dated

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26.7.94 passed by the Calcutta Bench of the CAT in OA 994/90 were dismissed by the Hon'ble Supreme Court of India in its judgment dated 24.8.95. Moreover, the SLP bearing No. 11025/87 by the Government of M.P. against the order of Jabalpur Bench of the CAT was also dismissed by the Hon'ble Supreme Court of India in its order dated 18.4.88. Consequently, the Government of India issued a notification dated 22.2.89 amending the cadre strength regulation relating to the State of M.P. as a result of which the promotional posts were increased to 105 from 90.

Applicant craves leave of the Hon'ble Tribunal to furnish the copies of the judgment and order adverted to above at the time of hearing of this application.

4.28.4 That though the triennial review of Assam Meghalaya Joint cadre was revised belatedly on 28.10.87 i.e. after pronouncement of the Judgment of the Jabalpur Bench of the CAT on 9.6.87 item No. 5 in the cadre schedule was not considered for computation of the promotional quota. Moreover, on 10.5.88 a revised notification of the cadre strength was made by the Government of India after pronouncement of the judgment by the Supreme Court of India dated 18.4.88. In this notification also the item No. 5 of the cadre schedule was not considered for computation for of promotional quota in total disregard of the Hon'ble Court's order.

4.28.5 That not only the item No. 5 also, item Nos. 6 and 8 and the current item No. 6 of the cadre schedule

also deserves consideration for computation of the promotion quota. Item Nos. 6 and 8 of earlier cadre schedule provides leaves reserve and training reserve to the extent of 11 % and 10% of item No. 4 of the schedule. The correct computation of senior duty post against item Nos.6 and 8 of the earlier schedule (1987 schedule taken as example) would be post to be filled up by direct recruitment i.e. item No. 4 (minus) junior posts i.e. item No. 7. computing 11% and 10% of above would indicate the actual No. of senior duty post. In case of 1987 cadre schedule, the post in the senior duty reserves strength should be $51-10=41$ 11% of 41 i.e. 54 at item No. 6 and 10% of 41 i.e. 44 item No. 8 thus shows that another 9 senior duty posts become available for promotion of the direct recruits only denying the legitimate claim of the SFS officers for promotion against those reserved posts. it is submitted that in all fairness 33 1/3% of those 9 posts should also come within the zone of consideration while computing the promotional quota.

4.29 That the need for prompt and punctual cadre review arises from the fact that the framers of law had intended that the members of the All India Services and also those who have a right to be considered for appointment to that service, if a vacancy arise, should feel completely secure that the cadre strength will be revived periodically on time in accordance with law and the benefit thereof will be available to them automatically, without their being beholden to any political party or leader for this purpose. Hence from

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the point of view of persons like this Applicant Sonde

4(2) of the IFS (Cadre) Rules which contains mandatory provisions for review, have to be followed strictly.

4.30 That as stated earlier that during the period 1983 to 1992 when the Applicant was holding cadre post there was hardly a meeting of selection committee in time and as a result during this period, there was virtually no select list in existence. During this period, triennial cadre review was also due, Non-holding of the meeting of the selection committee violated the mandatory provisions of Regulation 5 of the IFS (Appointment by promotion) Regulations. It is submitted that the chances of promotion and the aspiration to reach the higher echelons of service enthuses a member of service to dedicate himself assiduously to the service with delegate, exhibiting self-confidence, honesty and integrity. The absence of chances of promotion generates frustration. Hence unless the select list is made annually, the promotee officers stands to loss his chances of consideration for promotion which is his legitimate expectation. Hence preparation of select list every year is mandatory in order to sub-serve the object of the Act and the rules and to afford an equal opportunity to promotee officer to reach higher echelons of service. As the Applicant lost the opportunity of appointment to IFS during the period 1980 to 1993 primarily due to the fact of non-preparation of select list and non-holding of cadre review, hence the wrong done to the Applicant due to this infraction of the rules and dereliction of

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statutory duty, deserves to be reminded by this Hon'ble Tribunal by giving retrospective effect to cadre revive and select list with all necessary consequential beliefs therefrom.

4.31 That Rule 3 of the All India Services (Conditions of Service-Residuary Matters) Rules, 1980, provided the power to relax rules and regulations in certain cases- where the Central Government is satisfied that the operation of the Act, or (ii) any regulations made under any such rules regulating the conditions of service of persons appointed to an All India Service "caused undue hardship in any particular case". It may, by order, dispense with or relax the requirements of that rule or regulation, as the case may be, to such an exception and conditions as it may consider necessary for dealing with the case in a 'just and equitable manner'. Rule 3 empowers the Central Government to relieve undue hardship caused due to the interpretation being given to the Rule 3(2)(c) of the IFS (Regulation of Seniority) Rules therefore, the instant case is a fit one where the Central Government may invoke its power under Rules 3 of the Central Government residuary Rules to relax the rigour of Rule 3(2)(c) of the IFS (Regulation of Seniority) Rules. It is submitted that Applicant's continuous officiation in a cadre post must be counted for determining the Applicant's seniority in the IFS. If there is difficulty in doing so, because of nature of rules, then for the ends of justice the Central Government should invoke its power under Rule 3 of the Residuary Service Rules and confer upon the

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Applicant the benefit of continuous officiation in a cadre post.

4.32 That when the grievance of the Applicant regarding wrong fixation of his YOA was not redressed he had to approach this Hon'ble Tribunal by filing OA No. 120/97. The OA was disposed of by an order dated 22.4.99 with a direction to dispose of the representation of the Applicant within two months.

A copy of the order dated 22.4.99 is annexed as Annexure-7A.

4.33 That pursuant to the above order of the Hon'ble Tribunal, the representation submitted by the Applicant has since been disposed of by the impugned order No. 22012/56/97-IFS II dated 15.9.99 received by the Applicant on 24.9.99 on communication of the same vide letter F.No.22012/56/97-IFS II dated 17.9.99. By the impugned order instead of redressing the grievance of the Applicant, his representation has been rejected refusing to assign correct year of allotment to the Applicant.

A copy of the said order dated 15.9.99 along with the communication dated 17.9.99 is annexed as Annexure 7B & 7C respectively.

4.34 That the Applicant states that the Respondents did not consider the attending circumstances invoked in the case and passed the impugned order without attending to the factual aspect of the matter referring to certain decisions. But while doing so did not consider that the

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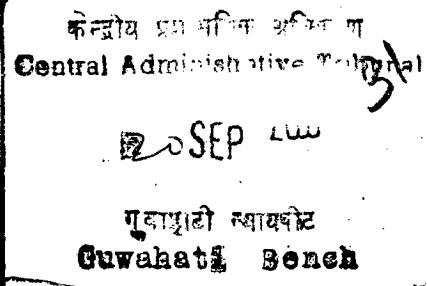
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ratio of a case will have to be understood in the background of that case only and the same cannot be applied mechanically.

4.35 That the Applicant states that under similar fact situation the same very Respondents have redressed the grievance of the SFS officers of J & K. In this connection letter No. 18014/07/95-IFS II dated 27.2.97 may be referred to.

A copy of the said letter together with the enclosures is annexed as Annexure-8.

4.36 That the situation that has emerged from the above fact situation in case of Assam wing of the Assam-Meghalaya Joint cadre of IFS is similar to that of J & K and accordingly there is no earthly reason as to why similar benefits be not extended to the deprived SFS officers of the Assam wing like that of the Applicant. It is understood that the Union of India, Ministry of Environment & Forests with a view to consider the case of the deprived SFS officers of Assam wing have requested the State of Assam in the Forest Deptt. to send information and particulars including parawise comments on its ~~queries~~ ^{queries}, but till date nothing has been done in the matter. It is unfortunate that the Union of India on one hand have asked for reports from the Govt. of Assam, but on the other hand have rejected the representation of the Applicant. This shows total non-application of mind and arbitrary and illegal exercise of power. On this score alone the impugned order is bad in law and liable to be set aside and



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quashed.

4.37 That in the above context the Applicant has submitted representations and the PCCF Assam has also written letters asking for an early decision. But till date nothing has been done.

Copies of the representations dated 4.1.2000, 4.5.2000 and PCCF's letter dated 29.5.2000 are annexed as Annexure-9, 10 and 11 respectively.

4.38 That the Applicant files this application bonafide and for securing the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the non-preparation of the select list on time during the long period violated the regulation 5 of the IFS (Appointment by promotion) Regulation and deprived the Applicant of the opportunity to come in the select list. As at the relevant time, the Applicant was holding a cadre post, therefore, had his name appeared in the select list during this period, he would certainly have been promoted to IFS may be in 1983 or in 1986 itself.

5.2 For that the failure to hold the triennial cadre review on time during the long period, violated the Rule 4(2) of the IFS (Cadre) Rules coupled with the fact of on-preparation of the select list on time during this long period and to failure to hold the triennial cadre review on time severally affected the Applicant's right/interest.

5.3 For that leaving aside the argument of non-

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preparation of select list and non-holding of triennial cadre review during the long period and also leaving aside the argument of allotting the Applicant either 1983 or 1986 as his year of allotment, since the name of the Applicant appeared in the select list of 1994 which in real terms was the re-convened meeting of 1993 when the Applicant was holding a cadre post, therefore the Applicant's seniority should at least be counted from 1993, to be more precise from 30.3.93 (the date of 1993 select list). Pursuant to this, changes are also required to be made while assigning the Applicant his year of allotment in accordance with rule 392(c) of the IFS (Regulation of seniority) Rules.

5.4 For that since on 28.10.87, the cadre was revised and as during this period, the Applicant was officiating against the cadre post and as his name also appeared in the select list in 1983, therefore, the Applicant ought to have been inducted in the IFS just below RR-CP Marak, who was in continuous officiation in the senior scale from 5.9.87 and as such, the year of allotment of Shri C.P. marak should also be the year of allotment of the Applicant.

5.5 For that 13.3.91, the select list was prepared where the name of the Applicant appeared at Sl. No. 2. During this period also, the Applicant was officiating against cadre post and hence, he ought to have been inducted in the IFS as per 1991 select list and in that event also his position in the seniority should have come just above the Regular Recruit-Shri A.M. Singh who

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was promoted to senior scale on 1.4.91. In such a case, the year of allotment of Shri A.M. Singh which is 1986 ought to have been the year of allotment of the Applicant.

5.6 For that in MP 12/95 in connection with OA 161/94 (Shri N.K. Sharma vs. Union of India) this Hon'ble Tribunal maintained in its interim order dated 3.2.95 that since the selection committee of 7.3.94 was a re-convened meeting of 31.3.93 the consideration should naturally rest upon the date 30.3.93 and not 7.3.94. This judgment per se according to the Applicant to reap the benefits as provided under Rules for determination/fixation of seniority and year of allotment having regard to the fact that the select list for 1994 is a select list of 1993 itself.

Copy of the interim order of the Hon'ble Tribunal dated 2.2.95 is annexed as Annexure-12.

5.7 For that the Applicant's continuous officiation in a cadre post for nearly 10 long years must be counted for determining the Applicant's seniority in the IFS. If there is difficulty in doing so because of nature of rules, the due to the resultant hardship to the Applicant, for the ends of justice, the Central Government should invoke its power under Rule 3 of the Residuary Service Rules and confer upon the Applicant the benefit of continuous officiation in a cadre post.

5.7.1 For that as a result of the judgments and orders of the central Administrative tribunal's benches of Jabalpur and calcutta, the Central Government or

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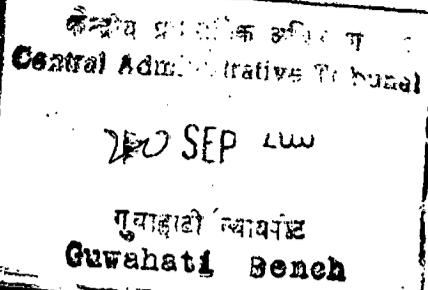
गुवाहाटी बैचन्स
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respective State Government have already accepted the decisions of the said two Benches and accordingly modified the relevant rules and/or have included 33 1/3% of the posts under item No. 5 for the purpose of fixing quota. The IFS being all India Services there cannot be any discrimination in the application of the rules and therefore, non-inclusion of 33 1/3% of the post under item No. 5, No. of promotion quota of Assam Meghalaya Joint Cadre is discriminatory and violative of Article 14. This non-inclusion of 33 1/3% of the posts under item No. 5 of the promotional quota further deprived the Applicants of the opportunity of promotion to IFS at an appropriate time.

5.7.2 For that present practice of non-inclusion of item No. 6 for computation of 33 1/3% for fixation of promotion quota is highly discriminatory inasmuch as a direct recruits get an advantage of being promoted and posted in all the posts falling vacant under item No. 6 whereas the SFS officers are denied their share under item No. 6. As a result of this, anomalous situation has been created inasmuch as No. of posts falling vacant on account of leave and training under item No. 6 go to the share of direct recruits whereas the SFS officers are entirely denied their share to such posts.

5.8 For that the belated triennial cadre review should relate back to its due date and consequently the appointment of the Applicant to IFS should also relate back to its due with all consequential benefits, more particularly the benefit of correct assignment of year



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of allotment and fixation seniority:

5.9 That seniority being a cherished right of the Applicant, on which his future promotional and service prospects are dependent cannot be allowed to be defeated by the inaction of the Respondents and accordingly, judicial interference is called for in the matter, if necessary by invoking the provisions of relaxation of rules.

5.10 For that the impugned order dated 15.9.99 being a non-speaking one and having been passed without taking into account the factual aspects involved in the case same is not sustainable and liable to be set aside and quashed.

5.11 That the Union of India have acted arbitrarily and illegally in passing the impugned order inasmuch as of their own showing the matter is under consideration for which reports/informations have been sought for from the Govt. of Assam, but on the other hand the claim of the Applicant based on the same yardsticks has been rejected by the impugned order most mechanically.

5.12 For that the delay in finalisation of the claim of the Applicant and other similarly situated aspirants has seriously affected the service carrier of the Applicant and accordingly the reliefs sought for by him are required to be graced.

5.13 For that in any view of the matter the reliefs sought for by the Applicant are just and proper and liable to be graced by allowing the OA.

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6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has exhausted all the remedies available to him there is no alternative remedy available to him in law.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

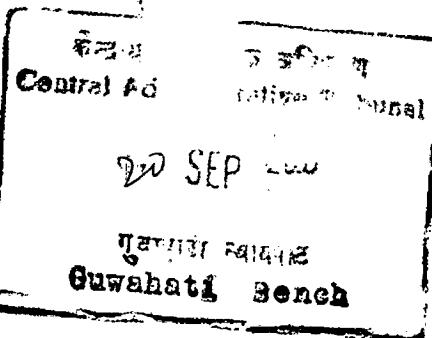
The Applicant further declares that he has notified any application, writ petition or suit regarding the matter in respect of which this applicant has been made before any Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances and in the premises aforesaid the OA be admitted records be called for an upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs : 8.1 To set aside and quash Annexure-7C order dated 15.9.99 as communicated vide Annexure 7B letter dated 17.9.99.

8.2 To quash the Government of India order No. 17013/02/04-IFS-II dated 19.10.95 tot the extent that it allots 1990 as the Applicant's year of allotment.

8.3 To direct the Respondents to assign the Applicant either 1983 or 1986 or 1987 as his year of allotment and place him accordingly below the direct recruits having YOA of those years and while doing so, if necessary, invoke the



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provisions of ALL India Services (Conditions of Services, residuary Matters) Rules to meet the ✓ under hardship bad caused to the Applicant by the inaction of the Respondents.

8.4 Pass any other order/orders or give direction/directions as may be deemed fit and proper under the facts and circumstances of the case

8.5 Cost of the application.

9. INTERIM ORDER PRAYED FOR :

In the facts and circumstances stated above, the Applicant pays for an interim order restraining the Respondent from giving any promotion to the rank of Conservator of Forests without first resolving the issues raised

10.

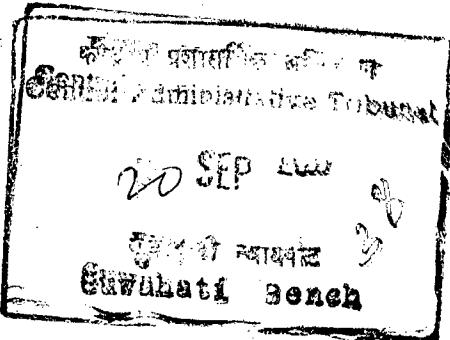
The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 2G 502785
- ii) Date : 12/9/2000
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.



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VERIFICATION

I, Shri Sarat Chandra Phatowali, aged about 58 years, son of Late Dharmeswar Phatowali, presently working in the post of Deputy Conservator of Forest, Office of the Principal Chief Conservator of Forests, Assam, Rehabari Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 3, 4.1 to 4.14, 4.18 to 4.22, 4.24, 4.26, to 4.33, 4.34 and 5 to 12 are true to my knowledge ; those made in paragraphs 4.15, 4.16, 4.17, 4.23 4.25, 4.33 and 4.35 are true to my information derived from records and the rests/are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 20 th day of September 2000.

Sarat Chandra Phatowali

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH; GUWAHATI, 5

Annexure - 1

O.A. No. 6/92

Sri S. Dutta & ors Applicant.
v/s.
U.O.I. & ors Respondents.
P R E S E N T

THE HON'BLE JUSTICE SRI S. HAQUE, VICE CHAIRMAN
For the Applicant Mr. M.Z. Ahmed, Mrs. B. Dutta, Adv.
For the Respondents Mr. A.K. Choudhury, Addl. C.G.S.C.
Mr. Y.K. Phukan, Sr. G.A.A.
Mr. M. Das, G.A.A.

28.1.92.

Heard learned counsel Mr. M.Z. Ahmed on behalf of the six applicants holding post in the rank of Deputy Conservator of Forests. Perused the statements of grievances and the reliefs sought for in the application.

This application is admitted. Issue notices on the respondents (eight) under Registered Post. Learned Addl. C.G.S.C. Mr. A.K. Choudhury has taken notice of this case on behalf of respondents No. 1, 2 and 8 and prays for six weeks time to file the counter. Time allowed as prayed for.

Learned Govt. Advocate, Assam Mrs. M. Das takes notice on behalf of respondent No. 3 only and prays for six weeks time to file counter on behalf of State of Assam, Forests Department. Time allowed as prayed for.

Heard Mr. Ahmed as well as Mrs. Das on the interim prayers. Issue notice on the respondents to show cause as to why appointments by promotion to the I.F.S. of Shri N. Das, Shri B.B. Nobis and Shri Das, Shri B.B. Nobis and C.K. Das in pursuant to the impugned select list under letter No. 17013/02/90

contd.

Attested
Dated 28.1.92
W.K. Phukan
Advocate



-IFS-II dated 11th/20th September, 1991 (Annexure-3) should not be stayed till disposal of this application. Notice is returnable within six weeks. Pending hearing of the show cause, the operation and implementation of the impugned select list under letter No.17013/02/90-IFS-II dated 11th/20th September, 1991 (Annexure-3) for appointments by promotion in respect of Shri N.Das, Shri B.B.Nobis and Shri C.K.Das to the Indian Forests Service are stayed.

Communicate all concerned.

Call for the records mentioned in paragraph 8(vi) of the application. Learned Govt. Advocate, Assam Mrs. M. Das submits and undertakes to produce these records at the appropriate time after inspection of the records for preparing counter.

All steps by tomorrow.

List on 16.3.92 for counter/show cause and return of service report and orders.

Sd. S. Hodge
Vice Chairman

Certified to be true Copy

স্বাধির প্রতিলিপি
1/12/2000

Section Officer (S)
সামুদায় অধিকারী (স্বাধিক সভা)
Central Administrative Tribunal
স্বাধিক প্রশাসনিক অধিকরণ
Guwahati Bench, Guwahati-9
গুৱাহাটী - সামুদায় অধিকারী

16/2/19

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH: GUJARATI S

D.A.No.106/93

Sri Binod Bihari Nobis . . . Applicant.

vrs.
U.T. &ors Respondents.
P R E S E N TTHE HON'BLE MR.JUSTICE S.HAQE, VICE CHAIRMAN
THE HON'BLE MEMBER SRI G.L.SANGLYAL, ADM.

For the Applicant. Mr. S. K. Sharma, Mr. M. K. Choudhury, Mr. A. K. Ray

For the Respondents. Mr. S. Ali, Sr. C.G.S.C.
G.A. Assam.

16.6.93 Heard learned counsel Mr B.K. Sharma on behalf of applicant Shri Binod Biharee Nobis, Divisional Forest Officer(SFO), Sibsagar. The applicant impugned the minutes of the meeting of the select committee held on 30.3.93 as contained in UPSC File No.F.10/2(1)/90-AIS selecting 7(seven) candidates for promotion to Indian Forest Service. Perused the statements of grievances and reliefs sought for in this application.

This application is admitted. Issue notice on the respondents under Registered Post. Learned Sr. Government Advocate, Assam Mr Y.K. Phukan takes notice of this case on behalf of respondent No.3 and prays for six weeks time to file counter. Time allowed as prayed for. Learned Sr.C.G.S.C Mr S.Ali also takes note of this case and

contd..



*Noticed
and Admitted*

16.6.93 prays for six weeks time to file counter on behalf of respondents No.1 and 2, Union of India and Union Public Service Commission. However, notices on respondents No.1, 2 and 3 be served in usual process.

Heard Mr B.K.Sharma on interim relief prayer. Mr Y.K. Phukan vehemently resists this prayer. Mr Sharma refers to rules stating that approval of the impugned select list of the instant case will make the previous select list of 1991 in which the applicant was selected as third nominee loose its force, although the same is sub-judice. This point deserves scrutiny.

Issue notice on the respondents to show cause as to why they should not be directed not to give effect and/or act in any manner pursuant to the minutes of the select committee meeting dated 30.3.93 for promotion to IFS as contained in UPSC File No.F.10/2(1)/90-AIS. Notice is returnable within two weeks. Learned Sr.Govt.Advocate, Assam Mr Y.K.Phukan has taken notice of this order on behalf of respondent No.3. Pending hearing of the show cause, the respondents are directed not to give effect and/or act in any manner pursuant to the minutes of the select committee meeting held on 30.3.93 for promotion to IFS as contained in UPSC File No.F.10/2(1)/90-AIS.

List on 9.7.1993 for show cause and further order.

SD/ S.HAQEE,
VICE CHAIRMAN
SD/S.L.SAHLYING
MEMBER(ADMIN)

SD/ S. MAQE,
VICE CHAIRMAN
AGRICULTURAL
COMMISSION

Memo No:- 1573

Dt. 17-6-93

Copy for information and necessary action to:-

- 1) The Secretary, Govt. of India, Ministry of Environment & Forests, Parvabharan Bhawan, C.G.O. Complex, Lodhi Road, New Delhi.
- 2) The Chairman, U.P.S.C. Dholpur House, Shahjahan Road, New Delhi.
- 3) The Secretary, Govt. of Assam, Department of Forests, Dispur, Guwahati-5.
- 4) The Secretary, Govt. of Meghalaya, Department of Forests, Shillong, Meghalaya.
- 5) Sri S.C. Phatowali, Divisional Forests Officer, Darrang Forests Division, Mangaldoi, Assam.
- 6) Sri C.K. Das, D.F.O. Motivation, O/XO the P.C.C.F. Assam, Rabbari, Guwahati-7.
- 7) Sri Nagen Das, D.F.O. Kacharup East Division, Kacharipet, Guwahati-1.
- 8) Sri T.K. Das, D.F.O. Cachar Forests Division, Silchar, Assam.
- 9) Sri N.K. Sharma, D.F.O. Goalpara Division, Goalpara, Assam.
- 10) Sri H.K. Saikia, D.F.O. North Kamrup Division, Rangia, Assam.
- 11) Sri K.C. Dutta, D.F.O. Nagaon Division, Nagaon, Assam.
- 12) Mr. S. Ali, Sr. C.G.S.C.A.T. Guwahati Bench.
- 13) Mr. Y.K. Bhukan, Sr. G.A. Assam, C.A.T. Guwahati Bench.
- 14) Mr. B.K. Sharma, Advocate, C.A.T. Guwahati Bench.

17-6-93
DEPUTY REGISTRAR (JUDL)R.D. 697
C.M. -

O.M. No.1703/2/94-IFS - II.

Ministry of Environment and Forests

Paryavartan Bhawan
CGO Complex, Lohi Road,
New Delhi-110 003

Ref. 1701/2/94-IFS-11 Dated the 28th Nov, 1994

To

The Secretary, Forest Department,
Government of Assam, Dispur (Guwahati)

Subject : Indian Forest Service : Assam Cadre :
Promotions to : communication of select list.

Sir,

I am directed to refer to the Union Public Service Commission's letter No. I.10/2/93-AIS dated 28.11.94 and to say that the Commission have approved a select list of officers of the State Forest Service prepared by the selection committee at its meeting held at Shillong on 07.3.94 consisting of the following seven (07) names :

<u>S.No.</u>	<u>Name of the officer</u>	<u>Date of Birth</u>
01.	S.C.Phatorwali (STP)	01.07.1941
02.	T.K.Das	09.04.1950
03.	S.N.Buragohain	01.05.1950
04.	B.B.Nohis	01.05.1951
05.	J.C.Day	01.09.1939
06.	C.K.Das(Sc)	01.06.1942
07.	Nagen Das	01.06.1943

The name of S.No.4 has been included in the select list subject to grant of integrity certificate by the State Govt., and the name at S.No.6 has been included subject to clearance in the departmental inquiries and grant of integrity certificate by the State Government. The name at S.No.7 has been included in the select list subject to clearance in the departmental inquiries and grant of integrity certificate by the State Government.

*Attested
On my behalf
Advocate*

2. If and when the State Government propose to appoint one or more of the officers by promotion to the State cadre of the Indian Forest Service, the proposals in this behalf

behalf may kindly be sent to this Ministry alongwith the following documents, viz :

- i) information in respect of the officers proposed for promotion in proforma I & II (pages 41.43 of the All India Services Manual Part-I, Fifth Edition);
- ii) a declaration as to singular marital status ;
- iii) written consent for termination of lien in the State Forest Service on confirmation in the IFS ;
- iv) a certificate that no deterioration in the work of the officer has taken place since inclusion of his name in the select list ;
- v) a certificate that there is no stay order of any court prohibiting the making of appointment by promotion in the State cadre of the Indian Forest Service ;
- vi) detailed information in respect of promotion of all the eligible direct recruit IFS officers to the senior scale as envisaged in this Ministry's circular No.17013/22/94-IFS-II dated 07.03.94 (copy enclosed)

8. Proposals for fixation of seniority of the officers should be forwarded in the prescribed format and while forwarding the proposals it may also kindly be noted that in terms of judgement dated 29.11.92 of the Supreme court in Civil Appeal No.823 of 1989 (Syed Khalid Rizvi & others vs. UOI others), unappreval efficiencies are not be counted for the purposes of determination of seniority.

Yours faithfully
Sd/-Illegible
(R.Sahewala)
Under Secretary to the Govt.of
India.

30/1
GOVERNMENT OF ASSAM
FOREST DEPARTMENT : : : DISPUR
ORDERS BY THE GOVERNOR

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ANNEXURE-4

NOTIFICATION

Dated Dispur, the 29th March/95.

NO. F.R.E. 125/91/239 : The following notification issued by the Govt. of India, Ministry of Environment & Forests, New Delhi is re-published for general information.

F.NO. 17013/02/94-IFS-II dtg. 24.3.95

Govt. of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New-Delhi -110003.

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Indian Forest Service (Appointment by promotion) Regulations, 1966, the President is pleased to appoint with immediate effect the under mentioned FUOR officers of the State Forest Service of Assam to the Indian Forest Service against existing vacancies, and allocate them, to the Joint Cadre of Assam - Meghalaya of the Indian Forest Service under sub-rule (1) of rule 6 of the Indian Forest Service (Cadre) Rules, 1966:-

S.No.	Name of officer	Date of birth.
01.	Shri S.C. Phatwali	01.07.1941.
02.	Shri Tapas Kr. Das	09.04.1950.
03.	Shri S.N. Buragohain	01.05.1950.
04.	Shri J.C. Dey	01.09.1939.

Sd/- R. Sanohwal

Under Secy. to the Govt. of India.

Johnson
Commissioner & Secretary to the
Govt. of Assam, Forest Department,
Dispur.

Memo No. F.R.E. 125/91/239-4, Dated Dispur, the 29th March/95.
Copy forwarded to :-

- 1) The Accountant General (A&E), Assam, Shillong/ Shanggarh, Guwahati-5.
- 2) The Under Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New-Delhi -110003.

3) The Chief Secretary to the Govt. of Meghalaya, Environment & Forests, Shillong.

4) The Principal Chief Conservator of Forests, Assam, Ruhabari, Guwahati-8.

5) The Principal Chief Conservator of Forests, Meghalaya, Shillong.

6) The Principal Chief Conservator of Forests, Wildlife, Assam, R.G. Baruah-Roa I, Guwahati-24.

7) The Principal Chief Conservator of Forests, Social Forestry, Assam, Zoo Harungi Roni, Guwahati-24.

8) The Director, Inira Gandhi National Forest Academy, P.O. New Forests, Dibrugarh - 240006.

9) The Director, Lal Bahadur Shastri National Academy of Administration, Mysore.

10) The Conservator of Forests

11) The Field Director, Project Tiger, Barpeta Road.

12) The Director, Kaziranga National Park, Dhekakhat.

13) The Principal, North East Forest Range College, Jalukbari, Guwahati-14.

14) Shri .

15) The Deputy Director, Assam Govt. Press, Dammimondan, Guwahati-21 for publication of this Notification.

16) The Officer-On-Special-Duty to the Chief Minister, Assam, Dispur for Pavour of information of Chief Minister.

17) The P.S. to the Minister of State for Wildlife and Social Forestry, Assam, Dispur for Pavour of information of Minister.

18) Personal File of officers.

By order etc.

Surjana Kumar
Deputy Secy. to the Govt. of Assam,
Forest Deptt., Dispur.

— (b) — 20/3/95

F.NO.17013/02/94-IFS-II
Government of India
Ministry of Environment and Forests

Parivaran Bhavan,
CGO Complex, Lodhi Rd.,
New Delhi - 110003

Dated the 19th October, 1995

ORDER

The following four officers from the State Forest Service of Assam were promoted to the Indian Forest Service on 24.3.95:-

S/Shri
1. S.C. Phatowali
2. Tapas Kumar Das
3. S.N. Buragohain
4. J.C. Dey

The year of allotment and the inter-se seniority of these promoted officers is required to be determined in the Indian Forest Service in terms of the provisions of rule 3(2)(a), 3(2)(c) and 1(4) of the Indian Forest Service (Regulation of Seniority) Rules, 1968.

i. None of the four officers have 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 their promotion to the Indian Forest Service in accordance with the provisions of Rule 9 of the Indian Forest Service (Cadre) Rules, 1956. The year of allotment, therefore, is to be determined to be the same as of the junior most amongst the directly recruited officers in the joint cadre of Assam-Keghalaia continuously officiating in senior posts, on the date of promotion of these officers.

ii. 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:

No.	Name of the officer	Year of allotment	Placement
S/Shri			
1.	S.C. Phatowali	1990 Below Sh. Suryanarayana, (RR-1990)	
2.	Tapas Kumar Das	1990 Below Sh. S.C. Phatowali	
3.	S.N. Buragohain	1990 Below Sh. Tapas Kumar Das	
4.	J.C. Dey	1990 Below Sh. S.N. Buragohain	

Note:- The inter-se seniority of the officers who have been appointed to the Indian Forest Service on the basis of the IFS Exam 1985 and onwards has not yet been fixed.

*Attested
Anuradha
Advocate*

C. G. Menon

भारतीय वन रोका

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सिविल रुक्ती

1995



THE INDIAN FOREST SERVICE

CIVIL LIST

1995

(1 जून, 1995 तक)
 As on the 1st June, 1995

*Afterokd
Ann. for
Advocate*

शारत राजकार
पर्यावरण और वन गंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

(अराम-गोपालय) ASSAM MEGHALAYA

राज्य संसाधन का नंबर सं.	अधिकारी का नाम/ जन्म तिथि/मरी स्रोत	भावते में अवधन का वर्ष/ सिर्फ वर्ष की विवरण/ स्रोत की विवरण	वर्तमान विवरण की विवरण/ स्रोत की विवरण	वर्तमान वर्ष/वर्षों में विवरण/ स्रोत	वर्तमान वर्ष/वर्षों में विवरण/ स्रोत	
STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ RECTT. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IPS	PRESENT SCALE OF PAY / DATE OF APPT	PRESENT POST/ DATE OF APPT TO PRESENT POST / REMARKS	PRESENT PAY SAL. PAY DEPTU. PAY PERS. PAY
0001	आमे	आर.एन. हाजारिका			प्रमुख सं. ग्राम	
	AM/002	R.N. HAZARIKA 06/01/39 IR	1964 01/10/61	7300-7600 04/05/94	PCCF, ASSAM	7000
0002	आमे	नरेन चक्रवर्ती			प्रमुख सं. (प्रा. ग्रा. सं.) ग्राम	
	AM/003	N.C. CHAKRAVARTY 01/01/39 IR	1964 01/10/61	7300-7600 04/05/94	PCCF(SF), ASSAM	7310
0003	आमे	बलविंदर सिंह			प्रमुख सं. गोपालय	
	AM/005	BALVINDER SINGH 03/12/42 FC	1964 01/04/69	7300-7600 04/05/94	PCCF, MEGHALAYA	7400
0004	आमे	सु. सिंह			प्रमुख (प्रा. सं. ग्रा. सं. ग्रा. सं.) ग्राम	
	AM/006	S.U. SINGH 13/07/39 RR	1969 04/07/69	5900-6700 29/01/93	CCF (RE & WL) SHILLONG	6300
0005	आमे	आ.ए.ओ.एस. नोगरी			प्रमुख, प्राप्ति. ग्रा. सं. ग्रा. सं., ग्राम	
	AM/007	R.O.L. NONGBRI 01/01/39 SFS	1969 11/11/76	5900-6700 02/00/04	CCF(SF) SHILLONG	5000
0006	आमे	ए.ए.ओ. चेतिया			प्री. उच्च प्रत. ग्राम, ग्राम	
	AM/008	S.K. CHETIA 01/09/39 SFS	1969 11/11/76	5900-6700	CWLW, ASSAM	
0007	आमे	के.सी. दास			प्रमुख सं. ग्राम	
	AM/009	K.C. DAS 01/06/38 SFS	1969 11/11/76	5900-6700 00/00/00	CCF, ASSAM	5000
0008	आमे	बी.एन. कलिता			प्रमुख (प्रा. ग्रा. सं.) ग्राम	
	AM/010	B.N. KALITA 01/08/39 SFS	1969 07/12/70	5900-6700 01/04/95	CCF(WL) ASSAM	5000
0009	आमे	बी.एन. लाहान			प्रमुख (प्रा. ग्रा. सं.) ग्राम	
	AM/011	B.N. LAHAN 01/08/41 SFS	1969 07/10/77	4500-5700 29/01/04	CC(CAC), ASSAM 24/05/05	5700

(आसाम-मेघालय) ASSAM MEGHALAYA

संख्या क्रमांक	प्राधिकारी का नाम पा. न.	प्राधिकारी का नाम/ जन्म तिथि/मरण का नाम	भारत से आवंटन का नाम/ वेतनावार/उपकरण प्राप्ति की तारीख/ दिनांक	प्रतिवार प्रतिवार प्रतिवार पर/उपकरण प्रतिवार प्रतिवार प्रतिवार पर/उपकरण प्रतिवार प्रतिवार	प्रतिवार पर/उपकरण प्रतिवार प्रतिवार प्रतिवार पर/उपकरण प्रतिवार प्रतिवार	प्रतिवार प्रतिवार प्रतिवार प्रतिवार प्रतिवार प्रतिवार	
0010	आसमे	एस.आई. ए.काजी					
	AM012	S. I. A. KAZI ✓ 01/04/39 SFS	1969 22/08/78	4500-5700 20/05/85	CF(R & E), ASSAM		5400
0011	आसमे	के.एन.देब गोस्वामी					
	AM013	K.N. DEB GOSWAMI ✓ 01/02/41 SFS	1960 22/08/78	4500-5700 16/02/80	CF(SAC), ASSAM 11/01/85		5400
0012	आसमे	(II). पांगोलिमामा					
	AM014	C. THANGLIMA ✓ 01/12/41 SFS	1960 22/08/78	4500-5700 10/03/89	CI (UAC), ASSAM 22/01/95		5400
0013	आसमे	के.सी. पातार					
	AM015	K.C. PATAR ✓ 01/04/39 SFS	1969 22/08/78	4500-5700 01/10/81	CF(WASC) ASSAM 0. VI/2/84		5400
0014	आसमे	सु. चन्द्र गो(गुरु)					
	AM016	RUDRA CHANDRA GOSWAMI ✓ 01/06/39 SFS	1969 22/08/78	4500-5700 01/10/86	CF(WL), ASSAM		5400
0015	आसमे	सोनार डोले					
	AM017	SONAOR HAN DOLEY ✓ 07/04/40 RR	1974 01/03/74	4500-5700 08/07/87	CF(EAC)HO, ASSAM 20/05/95		5100
0016	आसमे	वी.के. नीटियाल					
	AM018	V.K. NAUTIYAL 27/04/53 RR	1975 01/03/75	4500-5700 20/08/87	MD, FOC, SHILLONG		5550
0017	आसमे	एम.सी. मालाकर					
	AM019	M.C. MALAKAR ✓ 16/03/49 RR	1976 01/03/76	4500-5700 17/10/89	CF/(NAC)ASSAM 13/X/95		4800
0018	आसमे	वी.के. विश्वोद					
	AM020	V.K. VISHNOI 25/03/55 RR	1978 06/08/78	4500-5700 01/07/94	CF(MOHO SR) ASSAM		4800

~ 16 ~
ANNEXURE-5 Contd

(असाम-गोमालय) ASSAM MEGHALAYA

स्थान संख्या का. संख्या न.	अधिकारी का नाम/ वर्ष जन्म/मरी का स्रोत	भाषा से अपेक्षा का वर्ष/ जन्म वर्ष/मरी का स्रोत	वर्तमान प्रेसेन्ट स्केल/प्रेसेन्ट स्केल की वर्तमान वर्षीय	वर्तमान पद/पद/ प्रेसेन्ट पद/पद/ वर्तमान वर्षीय	वर्तमान प्रेसेन्ट पद/ प्रेसेन्ट पद/ वर्तमान वर्षीय	
STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ REC'D. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IFS	PRESIDENT SCALE OF PAY / DATE OF APPT	PRESIDENT POST/ PRESENT POST / REMARKS TO SCALE	PRESIDENT PAY SPL. PAY DEPU. PAY PENS. PAY
0019	आमो	पुरोष गंग			न.म., दीर्घ-मारुर, जबलपुर	
	AM029	SURESH CHAND 02/10/53 RR	1978 06/03/78	4500-5700 01/07/94	CF,TEH, JABALPUR AGAINST SON	
0020	आमो	टी.टी.सी. मारक			4.0, नाला नगर, असाम, भारत	
	AM030	T.T.C. MARAK 24/04/54 RR	1978 00/03/78	4500-5700 23/12/93	CF,STAWL,SHILLONG	4600
0021	आमो	सुनील कुमार			4.0 (पुरुष), भारत	
	AM031	SUNIL KUMAR 20/07/65 RR	1979 01/03/79	4500-5700 23/12/93	CF(HO),SHILLONG	4600
0022	आमो	एन.एन. हाजारी			4.0 (पुरुष), भारत	
	AM021	N.N. HAZARIKA 01/03/39 SFS	1979 02/12/83	4500-5700 01/07/94	CF(FUO)ASSAM	4600
0023	आमो	प्रस. डॉ. अदिकारी			4.0 (पुरुष), भारत	
	AM023	D.O. ADHIKARI 01/01/42 SFS	1979 02/12/83	4500-5700 01/07/94	CF(HO) ASSAM	4600
0024	आमो	डॉ. डी. बारुआ			4.0 (पुरुष/स्त्री), भारत	
	AM024	D.G. BARUAH 31/01/39 SFS	1979 02/12/83	4500-5700 01/07/94	CF(GENETICS) ASSAM	4600
0025	आमो	एस. रायचौधरी			4.0. (पुरुष/स्त्री), भारत	
	AM025	S. ROYCHOWDHARY 01/03/39 SFS	1979 02/12/83	4500-5700 01/07/94	CF(HO) ASSAM	4600
0026	आमो	एस. के. सिंह			4.0 (पर. विद्या), भारत	
	AM020	M.K. SINHA 01/06/30 SFS	1979 02/12/83	4500-5700 01/07/94	CF(SILVICULTURE) ASSAM	4600
0027	आमो	एस. के. सेन			4.0 (पर. विद्या), भारत	
	AM022	S.K. SEN 20/02/42 SFS	1979 02/12/83	4500-5700 01/07/94	CF(SILV) ASSAM	4600

*Attested
Xmrs. Md.
Advocate*

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(असाम-मेघालय) ASSAM MEGHALAYA

राज्य संघ सरकारी कार्यालय/मंत्री का स्वामी	कार्यालय का नाम/ कार्यालय का स्वामी	प्राप्ति में अपेक्षित का वर्ष/ संस्थान का वर्ष	प्रतिकाल प्रतिकाल की वर्तमान वर्तमान की वर्तमान	प्रतिकाल पर/वर्तमान प्रतिकाल की वर्तमान वर्तमान की वर्तमान	प्रतिकाल पर प्रतिकाल की वर्तमान वर्तमान की वर्तमान	
STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ RECTY. SOURCE	YEAR OF ALLOTMENTS/ DATE OF APPT TO IFS	PRESNT SCALE OF PAY / DATE OF APPT TO SCALE	PRESNT POST/ DATE OF APPT TO PRESENT POST / REMARKS	PRESNT PAY SPL. PAY DEPU. PAY PERB. PAY
0028 असमे	पी. राय				परमाणु (परमाणु) असम	
AM/028	P. ROY ✓ 01/08/43 SFS		1979 02/12/83	4500-5700 01/04/95	CF(HILLS)ASSAM	4500
0029 असमे	बी.एफ. पाठक				परमाणु (परमाणु) असम	
AM/027	B.F. PATHAK ✓ 01/08/44 SFS		1979 02/12/83	4500-5700 15/05/95	CF(EASC)ASSAM	4500
0030 असमे	आर ए. अध्यात्म				से नियुक्त, असम	
AM/032	R.P. ADHYATM 16/01/55 RR		1979 01/03/79	4500-5700 18/05/95	EDU, ASSAM	4500
0031 असमे	दराश माथुर				परमाणु, असम	
AM/033	DARASHI MATHUR 15/08/57 RR		1980 01/08/80	3700-5000 01/04/90	DCF, ASSAM 06/09/94	4075 150
0032 असमे	बिशन सिंह बोनल				परमाणु, बिहार, गुवाहाटी	
AM/034	BISHAN SINGH BONAL 01/03/57 RR		1980 01/04/80	3700-5000 01/04/90	DFO, ZOO, GUWAHATI 20/09/93	4100
0033 असमे	ओम प्रकाश पांडे				परमाणु, (परमाणु), असम	
AM/035	OM PRAKASH PANDEY 07/05/56 RR		1981 25/05/81	3700-5000 01/04/90	DFO (SILVI), ASSAM	4325
0034 असमे	भूषण भारत द्वारा				परमाणु से जो, सेवा असम	
AM/036	BHUSHAN BHARAT DWAAR 20/03/54 RR		1981 01/04/81	3700-5000 01/04/90	WPO, LOWER ASSAM	4325
0035 असमे	मी. बुदनाह				परमाणु, परमाणु, मेघालय	
AM/037	C. BUDNAH 01/03/57 RR		1981 11/05/81	4500-5700 15/12/94	CF. (R & T), MEGHALAYA	4500
0036 असमे	देव मांगल सिंह				नियुक्त, राष्ट्रपति, रेस्टी	
AM/038	DEV MANGAL SINGH 01/06/58 RR		1982 15/05/82	3700-5000 01/04/90	* DIIR, NCP, DELHI ON DEPUTATION TO GOI	4200

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(आराम-गोपालय) ASSAM MEGHALAYA

STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ REC'D. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IFS	PRES'DT SCALE OF PAY / DATE OF APPT TO SCALE	PRES'NT POST/ DATE OF APPT TO PRES'NT POST / REMARKS	DEPUTY PAY SPL. PAY DEPL. PAY PERB. PAY
0037	आरा०	मदन मोहन शर्मा	1982 01/05/82	3700-5000 01/04/91	DO.O. CACHAR, ASSAM	3700
AM039	MADAN MOHAN SHARMA 15/09/55 RR					
0038	आरा०	दिक्षिण ब्रह्मा	1982 24/05/82	3700-5000 12/07/91	DO.O. ASSAM	3700
AM041	DIKSHIUN BRAHMA 01/03/58 RR					
0039	आरा०	की.सी. बाबुमातारी	1982 05/05/82	3700-5000 05/07/92	DO.O. BOROBORAOON	3700
AM042	K.C. BABUMATARI 10/04/54 RR					
0040	आरा०	आर. शुल्लाई			काम, बानारेश्वर नगर नगरी	
AM043	R. SHULLAI 01/02/55 RR	1982 10/05/82	3700-5000 01/04/91	DO.O. JANTIA HILLS MEGHALAYA	4200	
0041	आरा०	संतोष पाल लोक			काम, नगर, नगर नगर नगर, लोक	
AM044	SANTOSH PAL SINGH 02/01/50 RR	1983 03/05/83	3700-5000 01/04/92	DO.PT.MOEF, DELHI ON DEPUTATION TO GOI	3025 400	
0042	असमे	अस्तार हुसैन खान	1983 09/05/83	3700-5000 14/06/93	DO.O. SF, BANGAIGAON	3700
AM045	AKHTAR HUSSAIN KHAN 02/08/54 RR					
0043	आरा०	की.सी. मारक			काम, कामारी दी ओ, लिमान	
AM046	C.P. MARAK 09/12/59 RR	1983 18/05/83	3700-5000 01/04/92	DO.O.O PCCF, SHILLONG	400	
0044	आरा०	की.सी. दास चौधुरी			काम, डक्यु एवं फार्म, लिमान	
AM079	G.C. DAS CHOWDHURY 01/01/40 SIS	1983 00/04/91	3700-5000 01/04/92	DO.O. WL DIV, SHILLONG		
0045	आरा०	रिपु दामन सिंह तनवर	1984 21/05/84	3700-5000 01/04/93	प्रोक्षण अधिकारी PLANNING OFFICER	3700 300
AM048	RIPU DAMAN SINGH TANWAR 09/09/55 RR					

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(अराम-मेघालय) ASSAM MEGHALAYA

STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ RECTT. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IFS	PRESENT SCALE OF PAY / DATE OF APPT TO SCALE	PRESENT POST/ DATE OF APPT TO PRESENT POST / REMARKS	PRESENT PAY BPL. PAY PERS. PAY
0046	आमो	देहरा राज प्रसाद			3700, 3000	3700
	AM049	DEPAR HARA PRASAD 04/04/50 RR	1984 01/04/84	3700 5000 01/01/93	DFO,KAMRUP EAST	3700
0047	आमो	चंद्र मोहन			3700, 3000	3700
	AM047	CHANDRA MOHAN 15/07/56 RR	1984 07/07/84	3700 5000	DFO,KHARGAON	3700
0048	आमो	अमित कुमार सिंह			3700, 3000	3700
	AM050	AMIL KUMAR SINGH 15/01/57 RR	1984 21/07/84	3700 5000 01/01/93	DFO, JORHAT,ASSAM	3700
0049	आमो	अमित राधा			3700 (1/2)	
	AM051	ADHIJIT RABHA 20/08/81 RR	1984 01/04/84	3700 5000 01/01/93	DFO (1)	3700
0050	आमो	ठ. रुद्र दुबे			3700, 3000	3700
	AM040	DR. RUDRA DUBEY 20/10/55 RR	1982 01/05/82	3700 5000 01/04/91	DFO, ASSAM	3300
0051	आमो	एन.एस. जुरफाल			3700, 3000	3700
	AM052	N.S. DURFAL 05/05/54 RR	1984 21/05/84	3700 5000 01/01/93	DFO, TRO DIVN SHL.	3050
0052	आमो	एस.के.वासु			3700, 3000	3700
	AM053	N.K. VASU 02/04/50 RR	1985 27/07/85	3700 5000 01/01/93	DFO, AZAD, JODHPUR AGAINST SDR	3025 400
0053	आमो	की.पी. बनारस			3700, 3000	3700
	AM054	D.P. BANARAS 21/01/59 RR	1985 27/05/85	3700 5000 01/01/94	DFO, NEW DELHI ON DEPUTATION TO GOI	3025 400
0054	आमो	ए.के.शीराजान			3700, 3000	3700
	AM055	S.K. SRIVASTAVA RR	1985 03/06/85	3000 4500 01/01/94	DFO, NAGAON	3000

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(असम-मेघालय) ASSAM MEGHALAYA

राज्य क्रमांक NO.	अधिकारी का कोड NO.	अधिकारी का नाम/ जन्म दिनी/मरी का ज्ञान	भारत में अन्दर का वर्ष/ देशभूमि/उपर्युक्त विभाग की विधि	वर्तमान प्राप्ति का वर्ष/ देशभूमि/उपर्युक्त विभाग की विधि	वर्तमान पद/उपर्युक्त विभाग की विधि/ पदीक्षा	वर्तमान पद/उपर्युक्त विभाग की विधि/ पदीक्षा	वर्तमान पद/उपर्युक्त विभाग की विधि/ पदीक्षा
STATE B.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH RECTT. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IFS	PRESENT SCALE OF PAY / DATE OF APPT	PRESNT POST/ PRESENT POST / REMARKS	PRESENT PAY SPL PAY DEPU. PAY PERB PAY	
0055	आगे	युसुफ शरिफ सुलाई			3700, MHRD, MEGHALAYA		
	AM056	YUSUF SHARIFF SULLAI 10/01/1980 RR	1986 1000/85	3000-4500 01/01/84	DFO, KHABRI HILLS, SHILLONG	3025	
0056	आगे	बायर कुमार सिंह			3600, MHRD, MEGHALAYA		
	AM057	BAYAR KUMAR SINGH 15/02/83 RR	1985 1000/85	3700-5000 01/01/84	WFO, MEGHALAYA SHILLONG	3025	
0057	आगे	पी.एस. रियाज			3700, कर्मचारी प्रगति (प्र.)		
	AM060	P.S. RYIAJAH 01/07/45 SFS	1985 1000/85	3700-5000 01/01/84	DFO, SILVI (MG)	3025	
0058	अमरे	एम. सिंह			3700, MHRD		
	AM060	A.M. SINGH 27/09/61 RR	1986 1000/85	3000-4500	DFO, ASSAM	3000	
0059	आगे	श्रीमती रंजना गुप्ता			3700, MHRD, DEHRADUN		
	AM069	SMT. RANJANA GUPTA 20/10/81 RR	1986 02/06/86	3700-5000 01/01/86	DY DIR, FSI, DEHRADUN ON DEPUTATION TO GOI	3000	
0060	आगे	सुनील अशुतोष			3700, MHRD, DEHRADUN		
	AM060	SUNEEL ASHUTOSH 01/07/81 RR	1986 02/06/86	3700-5000 01/01/86	DFO, AZRI, JODHPUR (MG) AGAINST SDR	3000	
0061	आगे	जे.एम.कौली			3700, MHRD, ASSAM		
	AM062	J.M. KOULI 06/10/58 RR	1986 23/06/86	3000-4500	DFO, HAMRER, ASSAM	3000	
0062	आगे	ए.के. जोहरी			3700, MHRD, DEHRADUN		
	AM071	A.K. JOHARI 03/01/00 RR	1986 02/06/86	3700-5000 11/95	LECT SFS, DEHRADUN ON DEPUTATION TO GOI	3000	
0063	आगे	टी.वी.रेडी			3700, MHRD, DEHRADUN		
	AM063	T.V. REDDY RR	1987	3000-4500 01/04/81	E OFFICER, WL AGAINST SDR TO AP		

Attested
Anu. Mr.
Advocate

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(অসম-মেঘালয়) ASSAM MEGHALAYA

राज्य क्रमांक	प्रधानकारी का नाम/ जन्म तिथि/मरी का दोष	प्राप्ति का वर्ष/ अप्टेंट का वर्ष/ नियुक्ति की तिथि	प्रतीकार प्रतीकार/उन्नयन की तिथि/	प्रतीकार प्रतीकार/उन्नयन की तिथि/	प्रतीकार प्रतीकार/उन्नयन की तिथि/	प्रतीकार प्रतीकार/उन्नयन की तिथि/
STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ RECTT. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IFS	PRESNT SCALAR OF PAY / DATE OF APPT TO SCALE	PRESNT POST/ DATE OF APPT TO PRESNT POST / REMARKS	PRESNT PAY SPL PAY DEPU PAY PERA PAY
0064	आरामे	श्रीमती. अलका भारति			उ.प.र.टी.एफ.आर.आई, जबलपुर	
	AM064	SMT. ALKA BHARGAVA 02/01/82 RR	X 1907 06/07/87	3000-4500 01/04/91	DCF, TFRU, JASALPUR AGAINST SDR	3100
0065	आरामे	ए. सहाय	X	1907 06/07/87	3000-4500 01/04/91	उ.प.र.टी.एफ.आर.आई, जबलपुर
	AM005	A. SAHAI 19/05/02 RR			DCF, TFRU, JABALPUR AGAINST SDR	3200
0066	आरामे	बुदासर खर्मावीलांग			वी.एफ.टी.एफ.टी.एफ. (ए)	
	AM066	BUDASTAR KHAMAWIOLANG 09/12/80 RR	1907 06/07/87	3000-4500 10/07/92	DEF, T. MIL OFFICERS D.C., (MLO)	3200
0067	आरामे	श्रीमती. राम			उ.प.र.टी.एफ.टी.एफ.टी.एफ.	
	AM007	SHRINIVASA RAO 21/08/83 RR	1908 04/07/88	3000-4500 20/04/93	DCF, SF, DOLAGHAT, ASSAM	3100
0068	आरामे	रणजीत पोखरी			उ.प.र.टी.एफ.टी.एफ. (ए)	
	AM068	RANJIT POPLI 01/08/65 RR	1908 04/07/88	3000-4500 03/08/92	DFO, GARO HILLS, TURA (MEG) MEGHALAYA	3200
0069	आरामे	अनिन्द्या स्वर्गोवरी			उ.प.र.टी.एफ.टी.एफ.टी.एफ.	
	AM069	ANINIDYA SWARGOWARI 01/01/83 RR	1908 04/07/88	3000-4500 08/04/93	DFO, SF, KOLERAGHAR	3200
0070	आरामे	सुशीलेश मोहन सहाय			उ.प.सं., बताकरणा एवा.पी. गोपालगं	
	AM072	SUSHILESH MOHAN SAHAI 28/11/84 RR	1909 01/07/90	3000-4500 01/07/93	DFO, BAI PAKRAM H.P. MEGHALAYA	3100
0071	आरामे	महेन्द्र कुमार यादव			कक्षा. टी. एफ.टी.एफ.	
	AM073	MAHENDRA KUMAR YADAV 10/02/84 RR	1909 20/04/90	3000-4500	WFO(G) JORHAT	3100
0072	आरामे	वाई. सुर्यनारायण			उ.प.र.टी.एफ.टी.एफ.टी.एफ.	
	AM075	Y. SURYANARAYANA 15/02/83 RR	1920 17/12/90	3000-4500	DFO(SF)SIOSAPAR	3000

Attested
on my behalf
Advocate

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(असाम-मेघालय) ASSAM MEGHALAYA

राज्य क्रमांक	अधिकारी का कोड नं.	अधिकारी का नाम/ जन्म तिथि/मरी का ज्ञेय	पा.प.से. में अद्यतन का वर्ष/ नियुक्ति से तिथि	वर्तमान वेतनपात्र/उपर्योग नियुक्ति वाली वार्षिक	वर्तमान वेतन/उपर्योग नियुक्ति वाली वार्षिक	वर्तमान वेतन/उपर्योग नियुक्ति वाली वार्षिक
STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ RECTT. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IPS	PRES. SCALE OF PAY / DATE OF APPT	PRES. POST/ DATE OF APPT. TO PRES. POST / REMARKS	PRES. PAY SPL. PAY DEPU PAY PERS. PAY
0073	आमे	संदीप कुमार			डिप्पोली, पानीपत	
	AM/082	SANDEEP KUMAR 04/11/89 RR	1990 03/07/90	3000 4*00	WFO, MULS, DIPPU	3000
0074	आमे	ए.के.वी.वास्तवा			प्रवासी लाल, गुवाहाटी, असम	
	AM/081	A K SHIVASTAVA 29/10/89 RR	1991 01/02/91	2200 4000	ACT O/O DFO, SLE, 5000 MEGHALAYA	2275
0075	आमे	प्रान्तोष राय			पुरामुख नदी उपरी गोप्तव्य क्षेत्र	
	AM/083	PRANTOSH ROY 28/02/84 RR	1991	2200 4000	ACT A/I, DFO SONITPUR MEGHALAYA	2275
0076	आमे	के.पा.वी.वी.पानि केशव			प्रवासी, प्रवासी का विविध क्षेत्र	
	AM/076	K.S.P.V. PAWAN KUT 24/06/84 RR	1992 01/01/93	2200 4000	ACT O/O PGCI ASSAM	2200
0077	आमे	हरिश च.चौधरी				
	AM/077	HARISHCHANDRA CHAUDHARY 1992 10/04/90 RR	16/05/94	2200 4000		2325
0078	आमे	ए.ए.अनकाम राधा देवी				
	AM/078	MS ANKAM RADHA DEVI 10/04/90 RR	1992 01/01/93	2200 4000		2325
0079	असमे	सारत गोप्ता, पाहटोती			उ.क.पी., आम	
	AM/084	SARATCH. PHATOWALI ✓ 01/07/41 SFS	24/03/95	3000-4500	DFO, ASSAM	3000
0080	आमे	तपास के.दा.स			उ.क.पी., गोप्तव्य, आम	
	AM/085	TAPAS KR. DAS ✓/ 06/04/50 SFS	24/03/95	3000-4500	DFO, SONITPUR, ASSAM	3000
0081	आमे	ए.ए.वाली			उ.क.पी., गोप्तव्य, आम	
	AM/086	S.N. VARADGOLAIN 01/05/50 SFS	24/03/95	3000 4*00	DFO, DIBANGVALI, ASSAM	3000

Attested
Ann: 1962
Advocate

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(असाम-मेघालय) ASSAM MEGHALAYA

राज्य संमानक	अधिकारी का नाम म.	अधिकारी का नाम/ जन्म तिथि/पत्ती का जोड़	भारत में जन्माये का नाम/ जन्माये तिथि/उपाये दिव्यांशु से लिये दिव्यांशु की प्राप्ति	वर्तमान पद/उपाये दिव्यांशु की प्राप्ति/ दिव्यांशु	वर्तमान पद/उपाये दिव्यांशु	वर्तमान पद/उपाये दिव्यांशु
STATE S.NO	OFFICER CODE NO.	OFFICER'S NAME/ DATE OF BIRTH/ RECTT. SOURCE	YEAR OF ALLOTMENT/ DATE OF APPT TO IFS	PRESENT SCALE OF PAY / DATE OF APPT	PRESENT POST/ DATE OF APPT TO PRESENT POST / REMARKS	PRESNT PAY BPL. PAY DEPU. PAY/ PERS. PAY
0082	आमो	जीतेन्द्र देय ✓ AM/007 01/09/39 SFS	24/03/95	3000 4500	UFO, SF, DHUINI, ASSAM	3000

Accepted
by
Advocate

Memo No. SCP/1/96
Dtd. Guwahati, the 5th March/96

To,

The Secretary to the Govt. of India,
Ministry of Environment & Forests,
Parivaran Bhavan, C.G.O. Complex.
Lodhi Road,
New Delhi. 110003.

Through the Principal Chief Conservator of Forests
Assam,

Sub:- Year of allotment and inter-So-seniority
of promotee officers.

Ref:- Govt. of India's order No.17013/02/94-IFS-
II Dt. 19.05.95 Communicated under cover
of Govt. of Assam's letter No.125/91/250
Dt. 01.01.96.

Sir,

In inviting a reference to above quoted subject,

I have the honour to lay before you the following facts for
your kind perusal and taking necessary actions:

1. That Sir, the award of your of allotment as 1990 placing
me just below the R. R. Sri Suryanarayen, based upon the ob-
servations made in the second para of the order of the Govt.
of India is not very correct. This will be revealed from the
following facts:

1.1. I joined in the State Forest Service, Assam in the year
1969 after completion of training in the Indian Forest college
(IFC) Dehra Dun, during 1967-69 and became eligible to be in-
ducted in the IFS in the year 1975 i.e. after completion
of eight years of service including the period of training
in IFC, Dehra Dun.

1.2. As illluck would have it, the triennial reviews of the
cadre strength of Assam-Meghalaya Joint Cadre was not done
inspite of the mandatory provision of Rule 4(2) of the Indian
Forest Service (Cadre) Rules 1966.

Contd. 2/-

Attended
by
Advocate
and
Advocate

1.3. Though the cadre revision took place belatedly, in the year 1978 after 1972, the number of promotion quota was not fixed as per Rule. 9 of the I.P.S. (Recruitment) Rules, 1966 which provides availability of 33 $\frac{1}{3}\%$ of the senior duty posts for recruitment under Rule 8(i.e. by promotion).

1.4. While preparing the Select List, in the year 1978, a list of only Seven S.F.S. officers was prepared notwithstanding the fact that there were as many as eight vacancies in promotion quota requiring preparation of a select list of at least 16 officers, in gross disregards to the provisions of rule 2(g) of I.F.S.(Regulation of senior) Rules 1968, for calculation of the number of senior posts available for the promoted officers.

1.5. From 1978 there was no selection till 1983. However in 1983 Select list my name was included along with the names of my other batchmates. While preparing this select List and inducting officers in the IFS, the provision of making the promotion to 33 $\frac{1}{3}\%$ of the Senior posts was completely lost sight of.

1.6. After 1983, the Select lists were prepared during 1985 and 1986 with only two officers in the Select List though the Select List should have contained as many as 5 officers as per Rule 5 of IFS(Apptt. by promotion) Regulations, 1966 read with Rule 9 of IFS(Recruitment)Rules, 1966. Incidentally, I would submit that in the minutes of the Selection Committee, my name was placed at No.4 with the performance calibration at par with the two officers included in the Select Lists of both the years 1985 & 1986. Had the select lists been prepared as per Rules, my name would have been included in both the aforementioned Select Lists.

1.7. With deep regret, I would like to submit that after 1986 a Select List was prepared during 1991 with only the officers of Meghalaya unit of the Assam Meghalaya Joint cadre, completely

Contd.3/-

Affected
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indicate

ignoring the legitimate and just aspirations of the officers belonging to Assam wing. Eventually one of my junior officers Sri P.S. Rynjah of 1971-73 batch of IFC from Meghalaya S.F.S. also got promotion to I.F.S. whose year of allotment was fixed as 1985. This was a sequel to the recognition to Meghalaya Forest Service as a feeder service to I.F.S.

1.8. One select list was prepared in the later part of 1991 for Assam wing which was challenged in the Hon'ble Central Administrative Tribunal (C.A.T.), Guwahati Bench and the Hon'ble Tribunal stayed the operation of the Select List. Though I was not cited as a respondent in the instant case, due to the stay order of the Hon'ble Tribunal, I could not derive the benefit of promotion inspite of my name appearing in the Select List.

1.9. After 1991, during 1993 one Select list was prepared and that was also challenged in the Hon'ble Tribunal and because of stay order passed by the Tribunal I could not avail the opportunity of promotion during 1993, inspite of my name being there in the select list. Unfortunately on both the occasions, no endeavour was made from Govt. side to get the stay order vacated.

1.10. In 1994, the Selection Committee for 1993 was reconstituted and Select list prepared. But though the Select list was prepared in 1994, the appointment in the IFS was issued by the G.O.M. only on 24.03.1995.

2. That Sir, the fixation of seniority ~~year~~ and year of allotment is guided by Rule 3(2) (c) read with the explanation 1,2 & 4. The details of officiation of myself and my immediate juniors in the select list of 1994 is shown below, to establish that I had been in continuous officiation myself or through proxy by my juniors against cadred posts till the day of my promotion:

Contd.4/-

*After 10
for
Advocate*

2.1. Offication against cadre post:-

1983 - S. Phatowali.
1984 - S. Phatowali.
1984 - C. K. Das, S. N. Buragohain.
1985 - C. K. Das, S. N. Buragohain.
1986 - C. K. Das, S. N. Buragohain, S Phatowali.
1987 - S. Phatowali.
1988 - S. Phatowali.
1989 - S. Phatowali.
1990 - S. Phatowali.
1991 - S. Phatowali.
1992 - S. Phatowali, N. Das, S. N. Buragohain,
T. K. Das.
1993 - T. K. Das, N. Das, S. N. Buragohain.
1994 - T. K. Das, N. Das, S. N. Buragohain.
1995 - T. K. Das, S. N. Buragohain.

From the above statement, it would be seen that,
I was holding cadre post continuously myself or by proxy by
my juniors.

2.2. Since posting of an employee rests wholly at the discretion of the employer, continuity of my officiation against cadre post was beyond my jurisdiction or power. It was at the convenience of the authorities the posting of officers was made without due regard to the inter-se-seniority of the officers.

3. That, three of my batchmates from I.F.C. were promoted pursuant to 1983 select list in the same year who by now have gone to the level of Conservator of Forests. But for the total apathy shown by the authorities in making triennial reviews and preparation of Select list in pursuance of the provisions of I.F.S. Rules, my promotion to IFS also would have been effective by 1984 or so. Denial of just and legitimate aspirations by the authorities have resulted in extreme hardship for me.

Afterok
Anuradha
Advocate R

4. Though as many as four promotional posts for induction to I.F.S. were available in Assam wing right from October, 1987, no Select List was prepared till 1991 which is a clear case of denial of justice to me.

5. Barring all other considerations, if I would have been appointed in I.F.S. during 1991 in pursuance of the Select List prepared in 1991, my year of allotment would have been 1982 in view of my continuous officiation from August 1986 against cadre post of D.F.O. Kachugaon Division.

6. In case of 1994 Select List also I would most humbly submit that truly speaking, this Select List was of 1993 since the Selection Committee of 1993 was re-convened during 1994 and this consideration was also not made while issuing appointment letter or awarding the year of allotment.

In view of the above facts and circumstances, I would fervently request you to be so kind as to review and revise my year of allotments and fix my year of allotment just below Sri M.M. Sharma ^{who} got promotion on 01.04.91 with a year allotment as 1982 and for which act of your kindness, I shall ever pray.

Your's Faithfully,

3.4.95. 3-26
 (S. C. Phatowali.)
 C/o S.S.W.A.C. Social Forestry
 R. G. Baruah Road:
 Guwahati:::24.

Aftered
 Anil Deka
 Advocate

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ANNEXURE- 7

Memo No. SCP/2/96

Dt. Guwahati, the 24th June, 1996.

To

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

Through the Principal Chief Conservator of Forests,
Assam, Rehbari, Guwahati-8.

Subject:

Year of allotment and inter - se - seniority of
Promotee Officers.

Ref:

My representation No. SCP/1/95 dated 5th March/96.

Sir,

I have the honour to draw your kind attention to the communication referred to above and request you to take an early action in reviewing the fixation of year of allotment in my case and favour me with your valued judgement fixing the year of allotment as 1982 in consideration with the grounds put forward in my representation dated 5/3/96. I am enclosing herewith a copy of my representation dated 5/3/96 and same will be available for ready reference.

An early action is solicited.

Yours faithfully,

(S. C. Phatowali)

Deputy Conservator of Forests, Attached to
the Conservator of Forests, Western Assa
Social Forestry Circle, Guwahati-24

Attached
Lm
John Carter

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 120 of 1997.

Date of decision : This the 22nd day of April, 1999.

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

HON'BLE SRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

Shri Sarat Chandra Phatowali, I.F.S.,
Son of late Dharmeshwar Phatowali,
Presently posted as Deputy Conservator
of Forests, attached to the office of the
Conservator of Forests,
Western Assam Social Forestry Circle,
Jyoti Path, Ambikagiri Nagar,
Guwahati-781 024

...Applicant

By Advocate Mr. S.Sarma.

-versus-

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Environment,
Forests and Wild Life etc.
New Delhi-110 001.

The Secretary to the Government
of India, Ministry of Personnel,
New Delhi-110 001.

The State of Assam,
represented by the Commissioner
& Secretary to the Government of Assam,
Forest Department,
Dispur, Guwahati-6.

4. The State of Meghalaya,
represented by the Chief Secretary to
the Government of Meghalaya,
Shillong-793001.

5. The Union Public Service Commission,
represented by its Chairman,
Shahjahan Road,
New Delhi-110 001

....Respondents

By Advocates Mr. B.C.Pathak, learned Addl.C.G.S.C. and
Mrs. M. Das, learned Jr. Govt. Advocate, Assam.

O R D E R

BARUAH J.(V.C.).

The applicant originally belonged to State Forest
Service, Assam. Thereafter he was recruited to the Indian

Contd...

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Forest Service (for short IFS) as per the provisions of IFS (Appointment by promotion) Regulations, 1966.

Grievance of the applicant is that though he was recruited to the IFS but his year of allotment was not properly assigned. Being aggrieved the applicant submitted Annexure-6 representation dated 5.3.1996 which was not disposed of. Situated thus the applicant submitted Annexure-7 reminder dated 24.6.1996 to the said representation. Nothing was done thereafter also. Hence the present application.

2. In due course the respondents have entered appearance. Respondent No.3 - Government of Assam has filed written statement. However others have not filed written statement. Today records have also not been produced.

3. Heard Mr. S.Sarma, learned counsel appearing on behalf of the applicant, Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondent Nos. 1, 2, 5, and Mrs. M. Das, Jr. Government Advocate, Assam appearing on behalf of the respondent No.3 - Ms.M.Das, Learned Govt. Advocate, Assam submits that it will be better if a direction is given to dispose of the representations of the applicant.

4. Due to paucity of material it is difficult for the Tribunal to decide the matter. Therefore we feel it will be expedient if the case is sent back to the respondents to dispose of the representations of the applicant by a reasoned order. This must be done as early as possible at any rate within a period of two months from the date of receipt of this order.

RJ

Contd..

5. With the above directions the application is disposed of.



Considering the facts and circumstances of the case, however, make no order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Noted
J. M. Mohanta
Advocate

Certified to be true COPY

प्रशासन प्रतिविधि

Normal
7/12/2000

Section Officer (J.)

अधिकारी (न्यायिक साक्षी)
Central Administrative Tribunal

केंद्रीय प्रशासनिक अधिकारी
Guwahati Bench, Guwahati-8
न्यायिक साक्षी, अधिकारी

HS/12/2000

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ANNEXURE-FB

5.12.97
5.12.97

By Speed Post

F.No. 22012/56/97-IFS-II
Government of India
Ministry of Environment & Forests

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.

Dated, the 17th September, 1999

To

Shri S.C.Phatowali,
Deputy Conservator of Forest,
D/o Conservator of Forests,
Western Assam Social Forestry Circle,
Jyoti Path, Ambikagiri Nagar,
Guwahati - 781 024.

SUB : O.A.No. 120/97 : Sh S.C.Phatowali Versus Union of
India & Others : CAT - Guwahati Bench.

Sir,

In compliance with the order dated 22nd April, 1999 delivered by the Hon'ble Tribunal of Guwahati Bench in the above cited case, I am directed to forward herewith a copy of the order dated 15th September, 1999 disposing of your representation dated 5.3.96.

Yours faithfully,

R. Sanehwal

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

Attested /
R. Sanehwal
Advocate

No. 22012/56/97-IFS.II
Government of India
Ministry of Environment & Forests

Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi, 10003.

Dated, the 15th September, 1999

O R D E R

Shri S.C. Phatowali, a promotee Indian Forest Service officer borne on the Assam-Meghalaya Joint Cadre, filed OA No.12/97 before the Hon'ble Central Administrative Tribunal - Guwahati Bench praying, inter alia, to quash the Government of India's order dated 19.10.95 vide which he was allotted '1990' year of allotment and also seeking a direction to assign him either '1983' or '1986' or '1987' year of allotment. The Hon'ble Tribunal decided the matter vide order dated 22.4.1999 directing the respondents to dispose of the representation dated 5.3.96 submitted by Shri Phatowali which was annexed to OA No.120/97 as Annexure-6 within a period of two months from the date of receipt of the order. Since the Original Application served on the Union of India was without any annexure, the Government of Assam was requested vide letter dated 18.6.99 to forward a copy of the representation dated 5.3.96 submitted by the officer alongwith their comments. Similar request was made to the UPSC. They were reminded on 12.7.99 followed by further reminders dated 28.7.99 and 4.8.99 to make available the copy of the said representation. A copy of the communication dated 4.8.97 was also endorsed to Shri Phatowali requesting him to send a copy of his representation. Ultimately, a copy of the representation was received from Shri Phatowali himself on 18.8.99 vide his letter dated 11.8.99.

Pass

Attested
Anu. Adv.
Advocate

2. Shri Phatowali has made the following submissions in his representation:-

- i) The number of promotion posts was not determined as per rule-9 of the IFS (Recruitment) Rules which provide availability of such posts to the extent of 33 1/3 percent of the Senior Duty posts in a State cadre.
- ii) Triennial Cadre Reviews were not conducted in time.
- iii) From 1978 till 1983 there was no selection to the IFS by way of promotion from amongst the members of the State Forest Service.
- iv) In the Select List prepared for 1983, 1985 and 1986, total promotion posts as per the Recruitment Rules were not taken into account. Due to lesser number of posts for which these Select Lists had been prepared, he could not get promotion to the IFS.
- v) After 1986, A Select List was prepared during 1991 in respect of Meghalaya segment and later on in respect of Assam segment of the Joint Cadre. The Select List in respect of Assam wing was challenged before the Hon'ble Central Administrative Tribunal - Guwahati Bench who

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Attested
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Advocate

stayed its operation. Similarly, the Select List prepared in 1983 was also stayed by the Hon'ble Tribunal. Though, according to the applicant, his name was included in both the Select Lists, he could not get promotion to the IFS on account of stay by the Tribunal.

vi) He had been officiating continuously on the Cadre post till his appointment to the IFS on 24.3.95 or by proxy by his juniors. As such, he is entitled to the benefit of such officiation for the purposes of fixation of his seniority.

In view of the above facts and circumstances, he has requested to revise his year of allotment as '1982'

3. The representation of Shri Phatowali has been examined. His main grievance that he was not promoted to the IFS prior to 1995 because the Selection Committee meetings were held in time and also the Triennial Reviews were not conducted in time. Secondly, the promotion posts were not correctly calculated as the State Deputation Reserve were not included while determining the number of promotion vacancies. Thirdly, he has been denied the benefit of officiation on cadre posts prior to his appointment to the Indian Forest Service w.e.f. 24.3.95.



Attested
Anu.
Advocate

5. So far as the holding of Selection Committee meetings, it is true that ordinarily the Selection Committee should meet every year. However, there could be reasons beyond the control of the Central Government, as a result whereof the Selection Committee is not in a position to meet on annual basis to draw the Select List. This view has been expressed by the Hon'ble Supreme Court in the judgment dated 28.7.93 in Civil Appeal No.3891-3894/93 : H.R. Kasturi Rangan and Ors. Vs. Union of India and Ors. Clarifying their earlier judgment dated 29.11.92 in Syed Khalid Rizvi case, the Apex Court observed that the State Government had to take all necessary measures for convening Selection Committee meetings for preparation of the Select List. However, there could be reasons beyond the control of the State Government as a result of which the meeting of the Selection Committee could not be convened every year.

6. The question of giving seniority to promotee IFS officers of Manipur from an earlier date on the ground that the Select List during 1977-79 had not been prepared, came up for discussion before the Hon'ble Supreme Court in Civil Appeal No.2370-2371 of 1987 : K.J. Singh Vs. State of Manipur and Others. The Apex Court decided the case on 8.2.95. The order in verbatim is reproduced below:

"The appellants, in the appeals herein, are members of the Indian Forest Service (IFS). They were appointed to the IFS by way of promotion from the State Service. It is not disputed that during the period from 1977-79, the Selection Committee did not meet and as such no selections were held for promotion to the IFS., The

Attested
M. V. M. V.
Advocate

appellants were selected in the year 1980 and were appointed to the IFS in 1981. They were given the year of allotment as 1977. The grievance of the appellants is that had there been selection during the period 1977-79, they were sure to be selected, and as a consequence would have got earlier year of allotment. The Central Administrative Tribunal by a detailed judgment, rejected the contention of the appellants. It is no doubt correct that ordinarily the Selection Committee should meet every year to revised the select list for appointment by promotion to the IFS but due to reasons beyond the control of the respondents, no selection could be made during the relevant period. We see no ground to interfere with the impugned judgment of the Tribunal. We agree with the reasoning and the conclusion reached therein. The appeals are dismissed. No costs."

In view of Supreme Court's observations on the subject, Shri Phatowali cannot claim for promotion to the Indian Forest Service with reference to the years in which no meeting of the Selection Committee was held. Further, his referring to the preparation of the Select List for the years 1978 onwards and that of the earlier Cadre Reviews having not held in time, is barred by limitation.

7. As regards his second plea that the State Deputation Reserve had not been taken into account while calculating the promotion vacancies, it is stated that the issue of counting of State Deputation Reserve for the purpose of calculating promotion vacancies came up for discussions before the Chandigarh Bench of the Hon'ble Tribunal in OA No.1122/HR/1996 : V.K. Jhajharia Vs. Union of India and Ors. The following two issues were examined by the Hon'ble Tribunal :-

i) whether the respondents can be directed to appoint the applicant to IFS cadre against the promotion quota on the premises that the name

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Attested / *hmk*
Anu. *hmk*
Advocate

1 of the applicant appeared on the Select List in 1993 (and as reviewed/revised on 1.2.1994), against a vacancy becoming available on 1.7.1996.

ii) whether the Tribunal can direct the respondents to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966 qua the Haryana State so as to add posts of State Deputation Reserve also to item 1 and 2 for calculating the promotion quota as against the existing regulation where promotees get share only against Senior Duty posts under the State Govt. as per item No.1, and against the Central Deputation Reserve posts as per item No.2, and if the applicant can be considered for such a promotion/appointment with retrospective effect in terms of the judgment of K.K. Goswami.

The Hon'ble Tribunal disposed of the case vide judgment dated 14.10.97 dismissing the second prayer on grounds of laches and delay. The operative portion of the said judgment is extracted below:-

"14. So far as the second relief sought by the applicant i.e. direction to amendment of cadre rules and to increase 2 posts in promotion quota of IFS cadre of Haryana retrospectively w.e.f. 22.2.1989 is concerned, it deserves to be rejected for more than one reasons but, primarily, being barred by limitation. Respondent No.1 in its reply has explained that on the basis of the judgment delivered by the Jabalpur Bench of the CAT, 2 Notifications,

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Attested / for
Anu. Advocate

both dated 22.2.1989 (Annexure A-4 and 1-5) were issued by the Government of India thereby amending the cadre strength regulations and the recruitment rules. 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 Reserve 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."

In view of the said judgment rendered by the Chandigarh Bench of the Hon'ble Tribunal, the representation of the Association is clearly barred by limitation. In

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Attested
Anu. Datt
Advocate

case representation is allowed at this stage it will have repercussions in all the State Cadres of the Indian Forest Service and would disturb the settled seniority of most of the officers and would give rise to further litigation.

Shri Phatowali cannot raise the issue which was settled as far back as 1989 at this belated stage. In any case, the issue has already been settled by the above said judgment rendered by the Hon'ble Tribunal in V.K. Jhajharia case.

8. Regarding his third contention that he should have been given the benefit of officiation on cadre post prior to his appointment to the Indian Forest Service w.e.f. 24.3.95, it is stated that as per rule-9 of the IFS (Recruitment) Rules, 1966 the State Government is empowered to post a non-cadre officer on cadre post for a period of three months only. Beyond that, prior approval of the Central Government/UPSC is required. In the case of Shri Phatowali no such approval was given by the Central Government. Accordingly, he was not entitled to any benefit of such officiation on cadre post for the purposes of fixation of his seniority in the Indian Forest Service. In any case, his officiation on cadre post was not continuous. Since his officiation, if any, on cadre post prior to his appointment to the

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Affested
Dhan Singh
Advocate

Indian Forest Service was without the express approval of the Competent Authority, he cannot lay any claim to count such officiation for the purpose of fixing his seniority in the Indian Forest Service.

9. In view of the position explained above, the Representation of Shri Phatowali is without any merit. He has rightly been assigned '1990' year of allotment in accordance with the provisions laid down in the IFS (Regulation of Seniority) Rules, 1968. His representation is, hereby rejected.


(R. B. S. Rawat) 15/9/99

Director

Attested
Anu. J. Mohr
Advocate

No. 18014/07/95 - IFS-II
Government of India
Ministry of Environment and Forests

Paryavaran Bhavan, C.G.O. Complex,
Lodhi Road, New Delhi - 110003.
Dated the 27th February, 1997.

To

The Chief Secretary,
Govt. of Jammu & Kashmir,
Srinagar.

Sub :

Indian Forest Service - J & K Cadre - Revision of seniority of officers appointed on the basis of 1995 Select List.

Sir,

I am directed to say that S/Shri V.P. Modi and 27 other State Forest Service Officers of your State were appointed to the Indian Forest Service (IFS) of J & K Cadre by promotion vide this Ministry's Notification No. 17013/07/95-IFS-II dated 12.9.95. all the 28 officers were assigned 1991 as their Year of Allotment in terms of the provisions of rule 3 (2) (a) and 3 (2) (c) of the IFS (Regulation of Seniority) Rules, 1968 vide this Ministry's Order No. 18014/7/95-IFS-II, Dt. 30.10.95.

2. Representations have been received from the officers concerned that if the Select List had been prepared annually, as envisaged in the IFS (Appointment by Promotion) Regulations, 1966, they would have been appointed to IFS earlier and consequently they would have got higher Year of Allotment than 1991 and higher seniority position than assigned now.

3. The Government of Jammu & Kashmir also recommended the relaxation of Rules/Regulations in order to assign higher Year of Allotment and seniority to the officers concerned, because the Select List of 1995 from which the above said 28 officers were appointed was prepared after a gap of about 20 years.

4. The matter has been considered carefully. It is felt that undue hardship has been caused to these officers due to delays in the Conduct of Cadre Reviews and holding of Selection Committee meetings. If the Selection Committee meetings were held annually, these officers would have been appointed to IFS much earlier and would have got higher Years of Allotment and seniority.

5. In view of the undue hardship caused to the officers concerned, the Central Government, in exercise of the powers conferred by rule 3 of the All India Services (Conditions of Service - Residuary Matters) Rules, 1960, as a ONE TIME measure is pleased to assign deemed dates of appointment to the service as shown in Column "3" and determination of Year of Allotment as shown in Column "4" of the table below. Accordingly, the deemed date of appointment of these officers have been worked out on the basis of deemed, cadre review, inclusion of their names from the year 1980 onwards which is calculated on the basis of vacancies in promotion quota at the appropriate periods and then applying the provisions of rule 3 of the IFS (Regulation of Seniority) Rules, 1968, on the basis of their deemed dates of appointment to the IFS for assigning Year of Allotment and inter-se seniority. (Statements A and B indicating as to how the vacancies were arrived at and the names of officers, who would be accommodated against each vacancy are enclosed for information.

*Attested
Anil Kumar
Advocate*

Sl.No.	Name	Deemed date of Appointment (31 st Dec. of the year)	Revised Year of Allotment based on Col. (3)
1	2	3	4
1.	S/Shri		
1.	V.P. Modi	31.12.80	1976
2.	H.A. Kwoosa	31.12.83	1978
3.	B.K. Sharma	-do-	1978
4.	Shahniaz Naqashbandi	-do-	1978
5.	Y.S. Narsinghia	-do-	1978
6.	S.S. Bali	-do-	1978
7.	A.R. Wadoo	-do-	1978
8.	V.K. Zadoo	-do-	1978
9.	Chander Mohan Seth	-do-	1978
10.	Shafsat Ahmed	-do-	1978
11.	S.K. Kajuria	-do-	1978
12.	Shamim Mohd. Khan	31.12.86	1982
13.	Peer Bashir Ahmed Quadri	31.12.88	1984
14.	Subhash Chander Sharma	31.12.89	1985
15.	Suraj Prakash Sharma	-do-	1985
16.	Narinder Singh	31.12.90	1986
17.	Upinder Pachnanda	-do-	1986
18.	Abdul Qayoom Khan	-do-	1986
19.	Mohd. Shafiq Khan	-do-	1986
20.	Manu Raj Singh	-do-	1986
21.	Lalit Kumar Sharma	-do-	1986
22.	Manzoor Ahmed	-do-	1986
23.	Mukerjeet Sharma	-do-	1986
24.	Arun Kumar	-do-	1986
25.	Asgar Inayatullah	-do-	1986
26.	A.R. Latoo	-do-	1986
27.	M.A. Hakak	31.12.92	1988
28.	Nissar Ahmed Hakeem	31.12.92	1988

NOTE : The revision presently covers only those officers who have been actually appointed to IFS of J & K Cadre on the basis of 1995 Select List.

6. For purposes of inter-se-seniority, they shall be placed below the direct recruits of the corresponding Year of Allotment in the same order.

Yours faithfully,

Sd/-A.S.N.Murti,
Under Secretary to the Govt. of India.

Copy to :

Department of Personnel & Train, North Block, New Delhi (AIS-I Section).
Their case No. F. No. 14014/32/96 - AIS-I refers.

Copy also :

Guard File.

Attns. fel
Luv, fmz
fel w/cpt

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STATEMENT - A

Sl.No.	Year	No. of vacancies accrued			Remarks
			Retirement	Cadre Review	
1	2	3	4	5	6
01	1980	2	1. Due to retirement of Shri Gurbadhan Singh	-	3 posts were created in 1979 and all the 3 were encadred in 1990. If these posts were encadred in 1980, the promotion quota would have gone up by 1 (The total promotion posts would be 14).
02	1981	Nil	_____	1	
03	1982	Nil	_____	-	
04	1983	12	2. Due to shifting of S/Shri M.A. Mufti & Sujan Singh To I.R. Category.	10	25 posts were created in 1982. Out of these, 19 were encadred in 1990. If they were encadred in 1983, the promotion quota would have risen by 10. Total would have gone up from 14 to 24.
05	1984	Nil	_____	-	
06	1985	Nil	_____	-	
07	1986	1	Due to retirement of Shri G.N. Sheikh.	-	

Sd/- A.S.N.Murti,
Under Secretary to the Govt. of India.

affested
L.M.
Advocate

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Sl.No.	Year	No. of vacancies accrued			Remarks	
		3	Retirement	Cadre Review	6	
1	2	4	5			
08	1987	Nil		-		
09	1988	1	Due to retirement of Shri J.S.Jamwal.	-		
10	1989	3	Due to retirement of S/Sh. G.Q.Keng, A.R.Para & M.S. Bahal.	-		
11	1990	15	2 due to retirement of S/Sh. N.A.Farooqui & G.N.Naquaah 2 due to the death of Shri Parvez Qadri.	12 due to cadre review		
12	1991	1	Due to retirement of Shri G.Q.Reshi in May, 1991.	-		
Total		35				

Attested
Anil Kumar
Advocate

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STATEMENT - B

S.No. per Select List	Name of the officer	Date of appointment			Remarks
		Original in all cases the date of appointment was 12.9.95	Proposed in all cases 31.12. of the year	Year of allotment (Pl. see note below)	
1	2	3	4	5	6
01	S/Shri Abdul Hamid		1980		Not appointed due to court case.
02	V.P. Modi	1995	1980	1976	
03	S.D.A. Salaria		1983		Not appointed due to pending court case.
04	M.A. Kawoosa	1995	1983	1978	
05	H.K. Sharma	1995	1983	1978	
06	Shaniaz Naqashbanda	1995	1983	1978	
07	Y.S. Narsinghia	1995	1983	1978	
08	G.S. Bali	1995	1983	1978	
09	A.R. Wadoo	1995	1983	1978	
10	V.K. Zadoo	1995	1983	1978	
11	Dr. Riaz Sadiq		1983		Not appointed because he has not given the undertaking regarding marital status.
12	Chander Mohan Seth	1995	1983	1978	
13	Safat Ahmed	1995	1983	1978	
14	S.K. Kajuria	1995	1983	1978	

*P. Hesk D
Lun. 1992
Advocare*

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S.No. per Select List	Name of the officer	Date of appointment			Remarks
		Original in all cases the date of appointment was 12.9.95	Proposed in all cases 31.12. of the year	Year of allotment (Pl. see note below)	
1	2	3	4	5	6
15	Shamim Mohd. Khan	1995	1986	1982	
16	Peer Bashir Ahmed Quadri	1995	1988	1984	
17	Ajaz Ahmed Bhat		1989		Name included on provisional basis.
18	Subhash Chander Sharma	1995	1989	1985	
19	Suraj Prakash Sharma	1995	1989	1985	
20	Narinder Singh	1995	1990	1986	
21	Upinder Pachananda	1995	1990	1986	
22	Abdul Qayoom Khan	1995	1990	1986	
23	Ashok Kr. Gupta		1990		Integrity certificate withdrawn by the State Government.
24	Mohd. Shafiq Khan	1995	1990	1986	
25	Manu Raj Singh	1995	1990	1986	
26	Lalit Kr. Sharma	1995	1990	1986	
27	Manzoor Ahmed	1995	1990	1986	
28	Mukerjeet Sharma	1995	1990	1986	
29	Arun Kumar	1995	1990	1986	

*& Hosted
by Advocate*

OS

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S.No. per Select List	Name of the officer	Date of appointment			Remarks
		Original in all cases the date of appointment was 12.9.95	Proposed in all cases 31.12. of the year	Year of allotment (Pl. see note below)	
1	2	3	4	5	6
30	Asgar Inayatullah	1995	1990	1986	
31	A.R. Latoo	1995	1990	1986	
32	M.A. Hakak	1995	1992	1988	
33	Nazar Ahmed Hakeem	1995	1992	1988	
34	M.a. Tak	-	1992	1988	
35	A.G. Hajam	-	1992	1988	

Not so far appointed due to reasons stated against each. Will get the benefit of higher year of allotment only if appointed at a later stage and eligible for the benefit.

Not appointed so far.

The proposed years of allotment have been arrived at by applying Rule 4 of the I.F.S. (Regulation of Seniority) Rules, 1968 with reference to the 'deemed date of appointment' (Col. 3) and the Year of Allotment of the junior most Direct Recruit Officer, who commenced officiating in a senior post before the 'deemed date of appointment' of the promotee officer concerned.

Sd/- A.S.N. Murti,
Under Secretary to the Govt. of India.

Attested
A.S.N. Murti
Under Secretary

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From : S.C. Phatowali, I.F.S.,
Silviculturist,
C/o. O/O. Principal Chief Conservator of Forests,
Assam, Rehabari,
Guwahati and
9 others.

To : The Commissioner & Secretary to the Govt. of Assam,
Forest Department, Dispur,
Guwahati - 6.

Sub : Representation of Shri Sarat Ch. Phatowali, I.F.S. and 9 others for
refixation of year of allotment and date of appointment in the I.F.S.
Cadre.

Ref : Government letter No. FRE.35/99/72, dated 20.7.99.

Sir,

While referring to the subject cited above, I am to state that we the 10
(ten) Nos. of I.F.S. Officers of Assam submitted representation for refixation of year
of allotment and the date the appointment in the cadre on 31.3.99.

It is learnt that the Government of India in the Ministry of
Environment and Forests sought some comments in this regard from your end on
20.8.99. But till to-date, we have not received any information from any end.

I, therefore, request your honour kindly to look into the matter and
expedite action accordingly.

Yours faithfully,

S. C. Phatowali,
Silviculturist
On behalf of 9 other aspirants.

Attn: Mr.
John
Advocate

2nd Reminder

2/2

To :

S.C. Phatowali, I.F.S.,
 Deputy Conservator of forests,
 C/o. O/O. Principal Chief Conservator of Forests,
 Assam, Rehabari,
 Guwahati - 8 and
 9 others.

To

Shri Alok Jain, I.A.S.,
 Commissioner & Secretary to the Govt. of Assam,
 Forest Department, Dispur,
 Guwahati - 6.

Sub :

Representation of Shri Sarat Ch. Phatowali, I.F.S. and 9 others for refixation of year of allotment and date of appointment in the I.F.S. Cadre.

(Through Principal Chief Conservator of Forests, Assam)

Ref :

Govt. of India's letter No. 15011/02/99-IFS.II, dt. 20.8.99 and State Govt.'s letter No. FRE.35/99/72, dated 20.7.99.

Sir,

While referring to the subject cited above, I am to state that we, the 10 (ten) Nos. of I.F.S. officers of Assam submitted representation on 31.3.99 for refixation of year of allotment and the date of appointments in the cadre.

It is learnt that the Government of India in the Ministry of Environment and Forests sought some comments of the Assam - Meghalaya Joint Cadre Authority in this regard. But till to-date, no action has been initiated by the department.

I, therefore, request you kindly to look into the matter and expedite action at your earliest convenience.

Yours faithfully,

S. C. Phatowali,
 Deputy Conservator of Forests.

Cc to :

Shri R. Sanehwal, Under Secretary to the Govt. of India, Ministry of Environment and Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi - 110 003 for favour of his kind information with a request to look into the matter and do the needful at the earliest.

S. C. Phatowali,
 Deputy Conservator of Forests.

o/c
 A. H. H. S.
 Lin. from
 Advocate

GOVERNMENT OF ASSAM
 OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS:
 REHABARI :: GUWAHATI-8

No.FE.24/36/99,

Dated Guwahati, the 29th May, 2000.

From : P. Lahan, I.F.S.,
 Principal Chief Conservator of Forests,
 Assam.

To

The Commissioner and Secretary to the Govt. of Assam,
 Forest Department, Dispur,
 Guwahati - 6.

Sub : Representation of Shri Sarat Ch. Phatowali, I.F.S. and 9 others for
 refixation of year of allotment and date of appointment in the I.F.S. cadre.

Sir,

While forwarding herewith a reminder notice dated 4.5.2000 of Shri S.C. Phatowali, I.F.S. on the representation of 10 I.F.S. Officers of Assam forwarded to the Government vide this office letter No. FE.24/36/99, dated 31.3.1999, I am to request you kindly to look into the matter and communicate the Joint Cadre Authority's view as sought for by the Government of India at your earliest convenience since the matter is resting with the State Government for a considerable period.

The officers concerned are also pressing hard for early decision on the representations submitted by them, so that they may derive the benefits, if eligible, as claimed by them.

Yours faithfully,

29/05/2000
 (P. Lahan),
 Principal Chief Conservator of Forests,
 Assam :: Guwahati.

*Postponed
 29/05/2000
 Reference*

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUJARATI BENCH

Misc. Petition No. 12/95 (in O.A. 161/94)

Date of Order: This the 2nd day of February, 1995.

Justice Shri M.G. Chaudhari, Vice-Chairman
Shri G.L. Sangliyin, Member (Administrative)Shri N.K. Sharma & Ors. Applicants.

By Advocate Mr. B.K. Sharma with Mr. S. Sarma and Mr. B. Mehta.

- Versus -

Union of India & Ors. Respondents.

By Advocate Mr. M.Z. Ahmed

On No. ORDERCHAUDHARI J (V.C.)

Mr. B.K. Sharma for the applicant (original respondent)

Mr. M.Z. Ahmed for the respondents (original applicants)

1. ~~Original Application~~ Application in reply filed by the applicants to the petition, taken on record.

Heard counsel.

2. Original Application has been filed by the three applicants for quashing and setting aside the Select List prepared by the Selection Committee on 30-3-94 on the ground that respondent Nos. 5, 6, 8 & 9 have been wrongly included therein whereas the applicants have been excluded illegally although they are senior to the said respondents. On being satisfied that a *prima facie* case for consideration has been disclosed, we admitted the application on 16-8-94 and issued notice to the respondents to show cause against the interim relief prayed in M.P.No.147/94. Meanwhile by order dated 22-12-94 we directed that any promotion given to respondents 5, 6, 7 & 8 in pursuance of the impugned Select list shall be subject to further orders in the said petition.

contd/-

Attested /
Advocate
Anu. Advocate

3. A show cause reply was filed on behalf of respondent Nos.5,7,8 & 9 and after hearing Mr.S.Sharma for Mr.B.K.Sharma and Mr.M.Z.Ahmed the learned counsel for the applicants we passed the interim order on 24-1-95 as follows : -

"Heard. We are not inclined to stay the operation of the Select List of 1994 in respect of respondents 5,6,7 and 8. However, if they are promoted during the pendency of this application their promotion shall be subject to such orders as may be passed in the Original Application. As far as respondent No.9 is concerned Mr.Ahmed contends that his name has been illegally included in the Select List because his date of birth being 1-9-39 and as he had attained the age of 54 years on 1-9-93 he could not be eligible for being considered In para 7 of the show cause reply which is also filed on his behalf it is merely stated that he was not barred by age without pointing out any basis for making that statement. Hence the operation of the impugned Select List to the extent of selection of respondent No.9 J.C.Dey is hereby stayed until further orders in O.A.161/94."

4. By the present Misc. Petition filed on 27-1-95, the respondent No.9 has applied for modification/alteration and/or cancellation of the aforesaid order dated 24-1-95, contending The petition was moved with notices, Mr.Ahmed objected that the application may not be entertained as the said order was passed after hearing the respondent No.9 and therefore

contd/-

is binding upon him. However we directed notice to be served and placed the petition for hearing to-day. Mr. Ahmed reiterated the objection to hear the petition for any alteration of the said order besides making submissions on merits to oppose the same. He submitted that the order as passed is fully justified. In that connection Mr. B. K. Sharma submits that at the earlier hearing the relevant proviso has not been considered by us and therefore the respondent No. 9 is seeking the modification or alteration of the said order on that ground. He also submits that the order dated 24-1-93 having stated that that was subject to further orders it is open to the respondent No. 9 to seek the modification of that order even at this stage. The learned counsel further submits that as the name of the respondent No. 9 has already been forwarded to the Central Government for promotion to IFS and it is under active consideration of the Central Government the order of stay would cause seriously prejudice to him and therefore in the interest of justice the petition may be heard. We are satisfied that the prayer of the respondent No. 9 should be heard in the interest of justice.

5. Mr. B. K. Sharma the learned counsel for the petitioner, draws our attention to 2nd proviso to clause 3 of Regulation 5 of the IFS (Appointment by Promotion) Regulations 1956, which is as follows:-

"Provided further that a member of the State Forest Service who has attained the age of fifty four years on the first day of January of the year in which the Committee meets shall be considered by the Committee, if he was eligible for consideration on the first day of January of the year or any of the years immediately preceding the



Attwok
for
Mr. Acharya

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year in which such meeting is held but could not be considered as no meeting of the Committee was held during such preceding year or years."

Mr. Sharma refers to Annexure 4 of the Original Application and contends that the Selection Meeting held on 7-3-94 in fact was the reconvened meeting for the year 1993 and that as on the day on which the 1993 meeting was held i.e. 30-3-93 the respondent No.9 had not reached the age of 54 years he was eligible for being considered by virtue of the 2nd proviso. He submits that when the earlier order was passed only principal clause 3 was noticed but the 2nd proviso does not appear to have been considered and therefore as the order of stay halts the process of promotion it ought to be modified suitably so that the process may continue.

6. Mr. Ahmed the learned counsel for the original applicants however vehemently opposes any modification of the order. He submits that the status quo as has existed may not be disturbed as the order that has already been passed is just and fair and deserves to be continued having regard to the following circumstances:

- (1) The meeting of 1993 could not be reconvened as there is no rule which permits such reconvening of the meeting and therefore, the meeting held on 7-3-94 must only be regarded as the meeting validly held on which date admittedly even under 2nd proviso to clause 3 the respondent No.9 would not be eligible having crossed the prescribed age limit of 54 years.

contd/-

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(2) The names of the applicants were included in the select list of 1991 as well as of 1993 but their names have not been included on the list prepared on 7-3-94 arbitrarily.

(3) The respondent No.9 did not fall within the zone of consideration for selection at the meeting held on 7-3-94.

7. The above aspects urged by Mr. Ahmed *prima facie* do merit consideration and for that reason we have already admitted the original application. All these questions however can be properly examined at the hearing of the application and cannot be gone into at this interim stage.

8. We are satisfied that since 2nd proviso was not noticed and the entire process of promotion has come to the stayed the interim order needs to be modified. Even when the said interim order was passed we were not inclined to stay the process of promotion in progress on the basis of the impugned Select list and therefore we have made a limited order as regards respondent Nos.5,6,7 and 8 directing that the promotion if given in the meanwhile to them or any of them in pursuance of the impugned select list that will be subject to the further orders. Ordinarily we would have made similar order in respect of respondent No.9 also but for the fact that our attention was drawn ^{only} ~~to~~ order to clause 3 of Regulations 5. That requires reconsideration in the light of 2nd proviso now pointedly brought to our notice. *Prima facie* if the meeting held on 7-3-94 is found to be validly reconvened meeting of 1993 will be necessary to examine whether the impugned list can still be held

contd/-

Attested
Anil Kumar
Advocate

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to be valid or not. It cannot therefore be presumed at this stage that 2nd proviso may not necessarily apply. That being the position it would not be proper to stay the process of promotion which may lead to creating several complications in the event the list is not quashed in inclusion of respondent No.9. Therein is not found illegal. At the same time interest of the applicants can be adequately safeguarded by making a similar order as passed in respect of other respondents. In the circumstances we are satisfied that the interim order dated 24-1-94 in respect of respondent No.9 should be modified.

9. In the result the interim order dated 24-1-95 is modified to the extent to respondent No.9 as follows:

"The interim stay of the operation of the impugned select list to the extent of respondent No.9 is vacated. Instead it is ordered that in the event the respondent No.9 is promoted during the pendency of the Original Application No.161/94 on the basis of the impugned select list such promotion shall be subject to the result of and the orders passed on the application (O.A.161/94).

This order shall be without prejudice to the rights and contentions of the parties at the hearing of the Original Application. Subject to the aforesaid modification in respect of respondent No.9 only the rest of the order on 24-1-95 is maintained and shall operate till the final hearing of O.A. No.161/94.

The Misc. Petition is disposed of in terms of the above order. Copy to be furnished to the counsel for the parties.

The affidavit in reply filed by the applicants to the petition is taken on record.

Certified - true copy

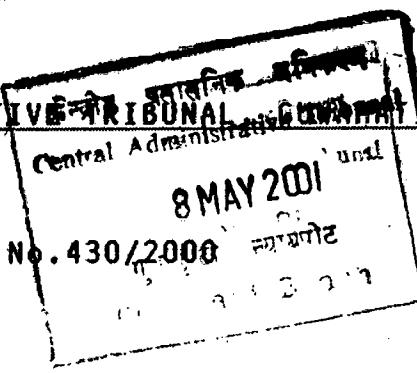
8/1/95

Sd/- VICE CHIEFMAN

Section Officer (Int)
Central Administrative Tribunal
Gwalior (M.P.)

Sd/- MEMBER (ADM)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL



BENCH

96
B.C. Pathak
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati

Shri S. C. Phatowali

..... Applicant

Versus

Union of India & Others

..... Respondents

S.No.	Description	Page No.
01	Reply to the Original Application	01 to 15

THROUGH

B.C. Pathak
(B.C. Pathak)
Addl. Central Govt. Standing Counsel,
'Udayan', 1st Floor,
Ganeshguri, R.G.B. Road (Main),
GUWAHATI - 781005

ax

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A. No.430/2000

Shri S. C. Phatowali

..... Applicant

Versus

Union of India & Others

..... Respondents

Reply on behalf of Respondent No.1 & 2

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 No.1 & 2. 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, it is submitted that the impugned order dated 15.9.99 was passed by the respondent No.1 keeping in view the facts and circumstances of the case.

Signature

(रवीन सानेहवाल)
(R. SANEHWAL)
प्रदर्शनी/Under Secretary
मिनिस्टरी ऑफ एंवरनमेंट
गवर्नमेंट ऑफ इंडिया
न्यू डिल्ली-110001
दिल्ली-110001

(B. C. Pjth. No. 101/2000)
Addl. Central Govt. Standee
Central Administrative Tribunal
Guwahati Bench : Guwahati

4. As regards para-2, the answering respondent do not dispute the jurisdiction of this Hon'ble Tribunal.

5. As regards para-3, the answering respondent has no comments to offer.

6. In reply to paras 4.1 to 4.3, it is submitted that the averments made therein primarily relate to respondent No.3 and will be met by them.

7. In reply to paras 4.3.1 to 4.3.5, it is submitted that the averments made therein pertain to various rules and regulations framed to regulate the Indian Forest Service (IFS) and are matters of record.

8. In reply to para 4.4, it is submitted that the averments regarding service rendered by the applicant in the Assam State Forest Service pertain to respondent No.3 and will be met by them.

9. In reply to paras 4.5 to 4.8, it is submitted that as per rule-8 of the IFS (Cadre) Rules, 1966 (hereinafter referred to as the 'Cadre Rules'), every cadre post shall be filled by a cadre officer, unless otherwise provided in these rules. Situations

Chandulal

(रवीना सांकेतिकल)
(R. SANKETIKAL)
उच्च सचिव/Under Secretary
कांगड़ा संसाधन मंत्रालय
Ministry of Env. & Forests
भारत सरकार
कांगड़ा, दिल्ली

where a non-cadre officer could be posted on a cadre post have been given in rule-9 of the Cadre Rules. Provisions of rule-9 are extricated below:

"9. Temporary appointment of non-Cadre officers to cadre posts:-

(1) A cadre post in a State shall not be filled by a person who is not a cadre officer except in the following cases; namely:-

(1)(a) if there is no suitable cadre officer available for filling the vacancy;

Provided that when a suitable cadre officer becomes available, the person who is not a cadre officer, shall be replaced by the cadre officer;

Provided further that if it is proposed to continue the person, who is not a cadre officer, beyond a period of three months, the State Government shall obtain the prior approval of the Central Govt. for such continuance;

(1)(b) if the vacancy is not likely to last for more than three months;

Provided that if the vacancy is likely to exceed a period of three months, the State Government shall obtain the prior approval of the Central Govt. for continuing the person who is not a cadre officer beyond the period of three months.

(2) A cadre post shall not be filled by a person who is not a cadre officer except in accordance with the following principles, namely:-

(2)(a) if there is a Select List in force, the appointment or appointments shall be made in the order of names of the officers in the Select List;

(2)(b) if it is proposed to depart from the order of names appearing in the Select List, the State Government shall forthwith make a proposal to

Ch. Anand

(लेखा अधिकारी)
(R. C. N. ANAND)
पर्यावरण उपराज्यमन्त्री
पर्यावरण मंत्री
Minister of Environment
E. 10, Parliament House
New Delhi-110001

that effect to the Central Government together with reasons therefor and the appointment shall be made only with the prior approval of the Central Government:

(2)(c) if a Select List is not in force and it is proposed to appoint a non-Select List officer, the State Government shall forthwith make a proposal to that effect to the Central Govt. together with reasons therefor and the appointment shall be made only with the prior approval of the Central Government.

(3) Where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding six months, the Central Govt. shall report the full facts to the Union Public Service Commission with the reasons for holding that no suitable officer is available for filling the post and may in the light of the advice given by the Union Public Service Commission give suitable directions to the State Government concerned."

It is amply clear from rule-9 that the State Government is empowered to post a non-cadre officer on a cadre post for a period of three months only and beyond that prior approval of the Central Government/UPSC is mandatory. Since in the case of the applicant, no such approval was obtained in regard to his officiation on cadre post prior to his appointment to the IFS, if any, he is not entitled to the benefit of such officiation for the purposes of determination of his seniority in the IFS.

10. In reply to para 4.9 to 4.12, it is submitted that the applicant was promoted to the IFS in March, 1995. Had he had any grievance in regard to

Chandru

(राजनीतिज्ञान)
(R. SANDEEPAL)

मंत्र सचिव/Under Secretary

स्थानीय संसद, भृत्य

Ministry of Env. & Forests

मंत्रालय, सरकार ऑफ इंडिया

काशीपुर, नई दिल्ली

(01)

his promotion to the IFS he should have represented to the appropriate authority at that point of time. Raising the issue pertaining to the years 1967 onwards at this belated stage is clearly barred by limitation. It is, therefore, submitted that the present application be dismissed on ground of laches and delay.

11. In reply to para-4.13, it is submitted that separate Select Lists are prepared for promotion of SFS officers belonging to Assam-Meghalaya depending upon the availability of vacancies in each segment. It is further submitted that the seniority of SFS officers in different States is not common. Each State Forest Service has its separate seniority List and promotions from each State Forest Service to the IFS are made depending upon the promotion vacancies available in that State.

12. In reply to para 4.15 to 4.17, it is submitted that the averments made therein are matters of record.

13. In reply to para 4.18 , it is submitted that the Select List comes into force only when it is finally approved by the UPSC. Select List prepared on 7.3.94 on the basis of which the applicant was

C. S. Anil Kumar

(राजीव साहेबराल)
(R. S. SAHEBRAO)
प्रशासकीय सचिव (Under Secretary)
राजीव साहेबराल
मिनिस्टरी ऑफ वन्स एंड फोरेस्ट
प. इन्डिया
बॉर्डर्स, न्यू डिल्ही

promoted to the IFS was finally approved by the uPSC on 23.11.94. Hence, it is this date when the aproved list came into existence. Thereafter, on the basis of proposals received from the State Government that the applicant alongwith others, whose names were included in the said Select List, were appointed to the IFS vide notification dated 24.3.95.

14. In reply to para 4.19 to 4.22, it is submitted that officiation on a cadre post by a non-cadre officer is to be counted for the purposes of determination of his seniority on induction into the IFS only if such officiation is in accordance with the Cadre Rules which requires prior approval of the Central Government/UPSC if such officiation exceeds the period of three months. As regards Cadre Reviews, it is submitted that the same would depend upon the receipt of such proposals from the State Government concerned. Due to delay in receipt of proposals from the State Government, generally the cadre reviews are not conducted in time.

15. As regards para 4.23, it is submitted that the averements made therein are matters of record.

16. In reply to para 4.24 to 4.27, it is reiterated that officiation of the applicant on the

Chairman

(महाप्रभु)
(Dr. M. N. S. R. A.)
Chairman
Central Selection Committee
Ministry of Home Affairs
Government of India
New Delhi

cadre post, if any, prior to his induction into the IFS would have been counted for the purposes of determination of his seniority in the Service only if such officiation had been in accordance with rule-9 of the Cadre Rules which requires prior approval of the Central Government/UPSC in case such officiation exceeds three months. Since this was not the position in so far as the applicant is concerned, he cannot claim benefit of such officiation in matters concerning his seniority in the IFS.

17. In reply to para 4.28, it is submitted that the delay in conducting the cadre review generally occur due to non-receipt of proposals from the State Government concerned in time.

18. In reply to para 4.28.1 to 4.28.5, 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

Chandul

(राजीव लालेन्द्रनाथ)
(R. LALENDRNATH)
अधिकारी, विद्युत विभाग
कार्यालय, नई दिल्ली
मिनिस्टरी of विद्युत विभाग
विद्युत विभाग, नई दिल्ली
विद्युत विभाग, नई दिल्ली

Reserve also. The Jabalpur Bench of this Hon'ble Tribunal before whom the matter again came up for examination held that the State Deputation Reserve was also covered under the Senior duty posts. The SLP filed against the judgment was discussed by the Supreme Court. The Central Government, therefore, 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 as personal to that individual case. 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."

It may be seen that the components of Senior duty posts under the State Government and the Central Deputation Reserve (Item 1 & 2 of the Cadre Strength Regulations) were included towards computing promotion posts in the IFS cadre from 22.2.89 onwards. This was done to bring the the Recruitment Rules for the IFS at par with the IAS and the IPS where the Recruitment Rules provided for Item 1 & 2 (i.e. Senior duty posts and the Central Deputation Reserve) to be reckoned for calculating the number of promotions posts.

Chandru

(राम चंद्र)

(R. CHANDRU)

मुख्य अधिकारी

संसदीय विभाग

मंत्री

राज्य सभा

संसदीय विभाग

19. It is submitted that 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 Hon'ble Tribunal held that the matter was time-barred. The relevant portion of the judgment of the Hon'ble Tribunal 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

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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."

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.

20. It is further submitted that the Tamil Nadu Administratice Service officers Association filed

Chandru

(रामा चन्द्रमास)
(R. CHANDRU)
कर्मचारी/प्रतिनिधि - Tary
विभागीय सचिव
Ministry of Environment & Forests
भारत सरकार
नई दिल्ली - Delhi

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 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

Chandul
(चंदूल राज्यपाल)
(१८८८-१९०५)
प्रबन्ध संस्कृत विद्यालय
काशी विद्यालय
Muzaffarpur
संस्कृत विद्यालय
काशी विद्यालय

writ of mandamus to encadring 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."

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.

21. As regards paras 4.29 and 4.30, it is submitted that the averments made therein are repetition of what the applicant has submitted in his earlier paragraphs of the application. It is true that the cadre review should take place regularly. However, there could be reasons beyond the control of the State Government, who are supposed to forward review proposals to the Central Government, with the result the cadre review could not be conducted at a regular interval of time.

22. As regards paras 4.31, it is denied that the case of the applicant is of such a hardship as would require the Government of India to invoke the provisions of rule-3 of the All India Services (Conditions of Service - Residuary Matters) Rules, 1960.

23. As regards paras 4.32 to 4.33, it is submitted that the averments made therein are matters

Chawdhry
(R. S. Chawdhry)
महाराजा राजेन्द्र
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Ministry of
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राजीव गांधी
राजीव गांधी

of record. The representation of the applicant was duly considered and the impugned order dated 15.9.99 was passed by the Government of India.

24. As regards para-4.34, it is denied that the impugned order dated 15.9.99 was passed without considering the facts and circumstances of the case. The said order was passed keeping in view the relevant facts and circumstances of the case.

25. In reply to paras 4.35 to 4.37, it is denied that the case of the applicant could be equated with those of promotee IFS officers of J&K cadre. In the case of J&K cadre, no promotions were made from the SFS to the IFS for nearly 16 years. When at last promotions were made in 1995 the officers concerned represented to the Government of India to fix their seniority in the IFS appropriately keeping in view the hardships caused to them due to the promotions to the IFS having not been made over a long period. Their representations were duly examined by the Government of India and keeping in view the facts and circumstance of their case their seniority in the IFS was appropriately revised. The case of the applicant is not of such a nature as would warrant relaxation of rules.

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Government of India

26. In reply to para-5, it is submitted that the grounds urged by the applicant are more or less repetition of what he has already submitted in the previous paragraphs of the application. The answering respondent has fully explained the position in the preceding paragraphs.

27. Paragraphs 6 & 7 of the applicant need no comments, being formal.

28.. As regards paras 8 & 9, it is submitted that in view of the position explained in the foregoing paragraphs, the applicant is not entitled to any relief or interim relief, prayed for. The instant application is devoid of any merit and deserves to be dismissed with costs. In fact, it deserves to be dismissed on ground of laches and delay alone.

29. Paras 10 & 11 need no reply.

PRAYER

In view of the position explained in the foregoing paragraphs, the instant application is devoid of any merit. It is, therefore, respectfully prayed that the same be dismissed by this Hon'ble

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(राजा चमुण्ड)

(R. K. CHAMUNDI)

अगर चमुण्ड/Chamund (Secretary)

पंजाब

Minister of Law & Justice

अगर चमुण्ड/Chamund

कर्मी, अगर चमुण्ड

Tribunal by awarding costs in favour of the answering respondent.

Chandru

For Respondent No. 1 & 2

(राम साहेब)

(R. S. SANEHWAL)

मंत्री सचिव, पर्यावरण विभाग

पर्यावरण विभाग

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पर्यावरण विभाग

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 2nd day of May, 2001.

Chandru

For Respondent No.1 & 2

(राम साहेब)

(R. S. SANEHWAL)

मंत्री सचिव, पर्यावरण विभाग

पर्यावरण विभाग

मंत्री सचिव, पर्यावरण विभाग

पर्यावरण विभाग