

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No..... 259/01
R.A/C.P No.....
E.P/M.A No..... 242/01

1. Orders Sheet..... Pg..... to..... 05
MA 243/01 — 1 Page

2. Judgment/Order dtd..... Pg..... 1 to 12

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A..... Amended Pg..... 1 to 69
OA 259/01 → 1 to 64

5. E.P/M.P..... Pg..... 1 to 5

6. R.A/C.P..... Pg..... to.....

7. W.S..... R-1 + 2 Pg..... 1 to 5
R-2 Pg..... 1 to 7

8. Rejoinder..... against Affidavit Pg..... 1 to 17

9. Reply..... Pg..... to.....

10. Any other Papers..... Pg..... to.....

11. Memo of Appearance.....

12. Additional Affidavit..... 1 to 13
Counter Affidavit 1 to 12

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

2
28/12/2017
SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.

ORDER SHEET

APPLICATION NO. 259 OF 2001APPLICANT (s) Balvender SinghRESPONDENT (s) U. O. I GovtADVOCATE FOR APPLICANT(s) M. S. R. Sen, P. D. Borgohain, D. Maymehr,
S. SaikiaADVOCATE FOR RESPONDENT(s) Cafe

Notes of the Registry.

dated

Order of the Tribunal

17.7.01

~~Heard Smt. P. D. Bjuar Baruah, the
application is admitted.~~~~Call for the records. Issue notice on
the respondents to show cause as to why
the interim order as prayed for shall
not be passed, returnable by 7 days.~~~~List for order on 24.7.2001.~~*Pravin*
Member

Vice-Chairman

bb

16.7.01

Heard Smt. P. D. Bjuar Baruah, the
learned counsel for the applicant.The application is admitted, call
for the records. Issue notice on the
respondents to show cause as to why
the interim order as prayed for, shall
not be passed. Returnable by 7 days.

List for order on 24.7.2001.

K. C. Shaha

Member

Vice-Chairman

bb

This application is in form
but not in time. Condonation
Petition is filed or filed vide
M. P. No. C. P.
for Rs 5/- deposited vide
IPO/AC No. 067784
Dated..... 11/7/2001

D. Baruah

Enrich not furnished by the
applicant & advocate, Smt. P. D. Bjuar Baruah.
Notice prepared and sent to
Smt. P. D. Bjuar Baruah for giving the Exhortation
No. 1 to 3 by Regd. Ad.

Vide DIN No. 25774579dd 24/7/01*Pravin*
17/7/01

24.7.01 Heard Mrs P.D.Buzarbarua, learned counsel for the applicant and also Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. Mrs Buzarbarua has again prayed for an interim direction/ not to fill up the post of Director General of Forests in pursuance of the Departmental Promotion Committee meeting held on 30.4.2001.

Upon hearing learned counsel for the parties and considering the fact that the post of Director General of Forests is a key post, we are not inclined to pass any interim order ^{at this stage}. We however make it clear that any appointment to the post of Director General of Forests pursuant to the DPC that met on 30.4.2001 shall be subject to the outcome of this proceeding.

The respondents are however ordered to submit the written statement within 3 weeks from today.

List on 17.8.2001 for further orders.

Web-written statement
has been filed.

34
16.8.01

ICIC Shao

Member

Vice-Chairman

pg

17.8.91

Pleadings are complete. The case now be listed for hearing on 7/9/01. The applicant may file rejoinder, if any, within 10 days.

20.8.2001

Report has been
submitted by the
Report. 1 & 2.

mb

7.9.01

List on 26/9/01 for hearing.

I.C.I. (Chair)
Member

Vice-Chairman

39. 2001

mb

..... Respondent submitted
by the appellee to the affidavit
in opposition filed by respondents.

ICU Member

O.A. 259 of 2001

Notes of the Registry

Date

Order of the Tribunal

26.9.01

When the matter up for hearing Mr. S.R.Sen, learned counsel for the applicant submits that some new development has occurred in view of appointment in the post of Director General (Forest) and Special Secretary to the Ministry of Environment and Forests recently. He intends to file an amendment petition assailing the order of appointment and the incumbent.

List the matter again on 28.9.2001 for further order.

I C Usha

Member



Vice-Chairman

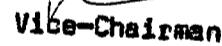
trd

28.9.01

List on 8/10/01 for order.

I C Usha

Member



Vice-Chairman

mb

8.10.01

The amendment application is filed.

The applicant shall take necessary steps.

List the matter on 20.11.2001 to enable the newly added respondents to file written statement, if any.

I C Usha

Member



Vice-Chairman

bb

20.11.01

Heard Mr.D.Mazumdar, learned counsel for the applicant and also Mr.A.Deb Roy, learned Addl. C.G.S.C. for the respondents and Mrs.B.Dutta, learned counsel for the State of Meghalaya.

The respondent Nos. 1 and 2 already filed written statement. Since, respondent no.3 is a Proforma respondents, they does

4/10/2001

The Amendment application
Ans been filed by the
applicant side Mise
Appli. NO. 244/2001

NS

4/10/01

Slips received.

10/10/01

Notice forwarded as per
order dtd 8/10/01 for
Respondent No 4

11/10/01

D No 3985

Dtd 16/10/01

Contd./-

Notes of the Registry	Date	Order of the Tribunal
	20.11.01	<p>not desire to file written statement separately. The respondent no.4 may file written statement, if any, within 4 weeks from today.</p> <p>List on 24/12/01 for order.</p> <p><i>I C Usha</i> Member</p>
<u>20.11.2001</u> <u>Respondent statis</u> Reply of respondent No. 1 & 2 to the respondent submitted by the Respondent No. 1 & 2.	24.12.01 mb	<p>Pleadings are complete. The case may now be listed for hearing. Notice on respondent No. 4 is x complete. Respondent No.4 is yet to file written statement</p> <p>List on 31.1.2002 for hearing.</p> <p><i>I C Usha</i> Member</p>
<u>vakalatnama has been filed by the Respondent No. 4.</u> <u>30/01/02</u>	31.1.2002 mb	<p>Mr. M. K. Chaudhury, learned counsel appearing for the respondent No.4 has prayed for a little accommodation for filing of written statement. The prayer was seriously opposed by Mr. S. R. Sen, learned Sr. counsel for the applicant.</p> <p>Considering the facts and circumstances of the case we, however, allow the respondents two weeks time to file written statement.</p> <p>The matter shall now be posted for hearing as agreed by the parties on 19.2.2002.</p> <p><i>I C Usha</i> Member</p>
<u>WLS filed on behalf of R. No. 1 & 2, other respondent not yet filed.</u> <u>30.1.02</u>	15.2.2002 bb	<p><i>I C Usha</i> Member</p>
<u>Reply on behalf of the Respondent No. 4 has been filed.</u> <u>15.2.2002</u>		<p><i>I C Usha</i> Member</p>

19.2.2002

The learned counsel for the parties argued the case at length. Considering the pleadings, we direct the respondents, namely the Union of India and the State of Meghalaya to produce the connected records, i.e. the DPC proceedings as well as the ACRs of the applicant pertaining to the periods 1998-99, 1999-2000, 2000-2001 and the ACRs those were acted upon.

List the case again on 7.3.02 for further hearing.

K C Sharma

Member

Vice-Chairman

nk m

7.3. Heard Mr. S. Risien, learned Counsel for the applicant & Mr. A. Debroy, S.C.G.S.C. for respondents No 1 & 2. Mr. M.K. Chaudhury, learned Counsel for respondent No 4 & Mr. B. Datta, S.C.G.A, Meghalaya.
Hearing Concluded.
Judgment reserved.

*By
A. Debroy
7.3.*

14.3.02

Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.

K C Sharma

Member
Vice-Chairman

bb

19.3.2002

copy of the Judgment
by letter sent to the
S.P.C. for delivery
to the applicant
as well as to the
C.G.S.C.
1/2.

Copy 21/1

85

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 259 of 2001

Date of Decision 14/3/2002

Shri Balvinder Singh, IFS

Petitioner(s)

Mr S.R. Sen, Mrs P.D. Bujar Baruah,

Mr D. Mazumdar and Mr S. Saikia

Versus-

Advocate for the
Petitioner(s)

The Union of India and others

Respondent(s)

Mr A. Deb Roy, Sr. C.G.S.C.,

Mrs B. Dutta, Government Advocate, Meghalaya

and Mr M.K. Choudhury for respondent No. 4. Advocate for the
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Vice-Chairman

No

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.259 of 2001

Date of decision: This the 14th day of March 2002

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

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

Shri Balvinder Singh, IFS,
Principal Chief Conservator of Forests,
Lower Lachumiere, Shillong.

.....Applicant

By Advocates Mr S.R. Sen, Mrs P.D. Bujar Baruah,
Mr D. Mazumdar and Mr S. Saikia.

- versus -

1. The Union of India, represented by the
Ministry of Environment and Forests,
New Delhi.

2. The Secretary to the Government of India,
Ministry of Environment and Forests,
New Delhi.

3. The State of Meghalaya, represented by the
Secretary, Government of Meghalaya,
Forests & Environment Department,
Shillong.

4. Shri S.K. Pande, IFS,
Director General of Forests &
Special Secretary to the Government of India,
New Delhi.

.....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
Mrs B. Dutta, Government Advocate, Meghalaya and
Mr M.K. Choudhury for respondent No.4.

.....

O R D E R

CHOWDHURY. J. (V.C.)

The legitimacy as well as the validity of the order dated 29.6.2001 passed by the Government of India, Ministry of Environment and Forests rejecting the representation of the applicant as well as the order of selection and appointment of respondent No.4 as Director General of Forests and Special Secretary to the Government of India are assailed in this application under Section 19 of the Administrative Tribunals Act, 1985. The relevant facts in a nutshell are put in down:

The applicant is the seniormost serving Indian Forest Service Officer, 1964 being the year of allotment in the Indian Forest Service (IFS for short) Cadre. Presently, the applicant is serving as Principal Chief Conservator of Forests, Meghalaya. His date of superannuation is 31.12.2002. The post of Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests fell vacant on the superannuation of the earlier incumbent. Steps were taken by the respondent Nos.1 and 2 for filling up of the post. The Selection Committee that met on 18.11.1996 prepared a panel of three suitable IFS Officers and recommended the name of the applicant to the Appointment Committee for appointment as Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests. The Ministry of Environment and Forests, Government of India advised the respondent No.3 to send the Vigilance Clearance, willingness of the officer etc. vide communication dated 10.1.1997. A copy of the said communication was also sent to the applicant, who expressed his willingness for appointment to the post. The Government of Meghalaya, however, expressed its inability to grant vigilance clearance on the ground that a Commission of enquiry was in progress to investigate into the allegations of large scale illicit felling of trees and theft of timber and encroachment of Government land in the Reserved Forests under Dainadubi Range of Garo Hills Forest Division, Tura. The Government of Meghalaya thereafter ordered for an enquiry under the All India Services (Discipline and Appeal) Rules, 1969. The applicant, therefore, could not be appointed as Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests, in view of the disciplinary proceeding and in his place the next officer in the panel, Shri C.P. Oberai, was appointed to the post who attained superannuation on 31.5.2001. The Disciplinary Authority by its order dated 8.5.2001 exonerated the applicant from the charges. Meanwhile, by communication dated 1.3.2001 the Government of India, Ministry of Environment and

Forests intimated the Chief Secretary, Government of Meghalaya that the Ministry of Environment and Forests had already undertaken the exercise of selection of an IFS officer for the central deputation post of Director General of Forests and Special Secretary (DGF&SS for short) in the pay of Rs.26,000/- fixed. The communication indicated the name of the applicant who was said to be under consideration. The Chief Secretary was accordingly requested to send the willingness of the officer to serve on central deputation as DGF&SS and also the willingness of the State Government to spare the services of the officer in the event of his selection, vigilance clearance and integrity Certificate. By communication dated 15.3.2001 the Principal Secretary to the Government of Meghalaya, Forest and Environment Department informed the Director, Ministry of Environment and Forest, Government of India that the applicant had given in writing his willingness to serve on Central deputation as DGF&SS and that the State Government would release the applicant in the event of his selection for such appointment. In the said communication it was also mentioned that a separate report on vigilance clearance and integrity of the applicant would be submitted shortly. As mentioned earlier vide Notification No.FOR.58/97/466 dated 8.5.2001 the applicant was exonerated from the charges. By Memorandum dated 8.5.2001 the Chief Secretary to the Government of Meghalaya conveyed the Government of India, Ministry of Environment and Forest that there was no vigilance case pending against the applicant and that nothing came to the notice of the Government of Meghalaya that cast reflection on the integrity of the applicant. The said Memorandum further reiterated the willingness of the officer to serve on deputation to the Government of India. The applicant addressed a representation to the Secretary, Government of India, Ministry of Environment and Forests on 9.5.2001 informing about the conclusion of the disciplinary proceeding and to appoint him in the post of DGF&SS, for which he was selected. The applicant thereafter moved this Bench for an appropriate direction

for.....

for considering his case for appointment to the post of DGF&SS, by way of and O.A. which was numbered and registered as O.A.No.187 of 2001. This Bench disposed of the said O.A. by order dated 22.5.2001 directing the respondents to consider and dispsoe of the representation of the applicant as per law. The applicant was also allowed to submit a fresh representation narrating his grievance within the time specified. The applicant also submitted a fresh representation on 26.5.2001. The Ministry of Environment and Forests disposed of the representation of the applicant by order dated 29.6.2001. In the said order the Ministry mentioned that notwithstanding the non-availability of the vigilance clearance and integrity certificate, the name of the applicant was not excluded from consideration. As regards the other claim of the applicant for appointment to the post of DGF&SS from the date Shri C.P. Oberai was appointed, on the ground that Shri Oberai was junior to him and since the applicant was exonerated from the charges, the authority informed that the proceedings of the Special Selection Committee meeting held on 18.11.1996 were nullified due to non-receipt of vigilance clearance from the Government of Meghalaya and that the second meeting of the Special Selection Committee was convened to make selection for the post of DGF&SS.

2. The applicant first assailed the order dated 29.6.2001 as well as the steps taken by the respondents for filling up the post in pursuance to the Selection Committee Meeting held on 30.4.2001 by way of this O.A. which was admitted by this Bench on 16.7.2001. The applicant prayed for an interim direction not to fill up the post of DGF&SS. The prayer of the applicant for staying of the process of selection on the basis of the Selection Committee meeting held on 30.4.2001 was not stayed, but the Tribunal ordered that any appointment to the post of DGF&SS would be subject to the outcome of the proceeding. It appears that during the pendency of the proceeding the post was filled up on the basis of the Selection Committee meeting

held.....

held on 30.4.2001 and the respondent No.4, Shri S.K. Pandey, IFS of 1965 batch of Himachal Pradesh Cadre was appointed to the post of DGF&SS in the Ministry of Environment and Forests with effect from 13.8.2001 until further orders. On the prayer of the applicant the application was allowed to be amended for assailing the appointment and selection of respondent No.4. In this application the applicant stressed that for all intents and purposes, the post of DGF&SS is a post of higher responsibility, of higher pay scale and therefore, the said post is a promotional post and since the applicant was selected for the post on the basis of the earlier selection the applicant is/was entitled for appointment in the said post immediately on conclusion of the departmental proceeding in his favour. The applicant contended that the accepted norms of sealed cover procedure ought to have been resorted to and the applicant was required to be appointed to the post on conclusion of the departmental proceeding in the light of the promotional guidelines.

3. Mr S.R. Sen, learned Sr. Counsel for the applicant pressed into service the policy guidelines containing the principles regarding the promotional guidelines of IFS. The learned Sr. Counsel, more particularly referred to the procedure to be followed in respect of officers against whom there was departmental proceeding pending investigation. It was submitted by the learned Sr. Counsel that on conclusion of the departmental proceeding the applicant was entitled for being appointed on the basis of the earlier selection. According to the learned Sr. Counsel the respondents fell into serious error in holding another selection on 30.4.2001.

4. We are not impressed with the above argument on two considerations. The applicant was selected earlier on the basis of a selection process initiated due to the retirement of Mohammed Faizuddin Ahmed, the then Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests. In terms of the Scheme known as "Central Staffing Scheme for Forestry Posts", the post of DGF&SS (the then Inspector General of Forests and.....

and Special Secretary) is also a Central Deputation Reserved Post of IFS. As per the norms such posts are to be filled up by means of a selection from amongst the eligible cadre officers and under no means the same can be termed as a promotional post. The guidelines of sealed cover procedure prescribed in the matter of promotion for members of IFS etc., in the circumstances, cannot be said to be applicable. The applicant was, in fact selected and found most suitable amongst the persons selected, but, unfortunately, for want of vigilance clearance he could not be selected and in his place Shri C.P. Oberai was appointed. We do not find any infirmity in the decision making process of the respondents in appointing Shri Oberai and on the superannuation of Shri Oberai the respondents took the right steps in the right direction for filling up the Central Deputation Post of the Reserved Post of IFS in terms of the Central Staffing Scheme. The other ground raised in this application is the legitimacy of the selection and empanelment thereunder and the appointment of respondent No.4 to the post of DGF&SS. Mr S.R. Sen, the learned Sr. Counsel for the applicant, submitted that the applicant's case was not fairly considered by the Selection Committee which met on 30.4.2001 and therefore, denied him equality before law prescribed by Articles 14 and 16 of the Constitution. The learned Sr. Counsel submitted that consideration in the matter of appointment and promotion means fair and genuine consideration and in the instant case denied the applicant from fair and legitimate consideration and therefore, the action of the respondents is violative of Articles 14 and 16 of the Constitution.

5. The application is seriously opposed by the respondents. The official respondents, namely the Union of India and the Secretary, Government of India, Ministry of Environment and Forests submitted their written statement denying and disputing the claim of the applicant. Similarly, the respondent No.4 submitted his written statement contesting

each.....

each of the claims of the applicant. Mr A. Deb Roy, learned Sr. C.G.S.C. submitted that the case of the applicant was duly considered by the Selection Committee when it met on 30.4.2001. Mr Deb Roy submitted that an officer is only entitled for consideration, but he does not have any fundamental right for being appointed to a post. In the written statement the official respondents stated that a Selection Committee meeting was held on 30.4.2001. At para 5.2 of the written statement the respondents mentioned that the Annual Confidential Dossiers of the applicant for the years 1998-99, 1999-2000 and 2000-2001 were received in the Ministry in the first half of June 2001. However, the ACRs for the previous years working backwards from 1998-99 were considered by the Committee before arriving at their decision, which was based entirely on merit. On behalf of respondent No.4 it was argued that the selection of respondent No.4 was made strictly in conformity with the norms. A writn submission alongwith a list of dates was also submitted on behalf of respondent No.4. On behalf of respondent No.4 it was also contended that the Selection Committee did not exclude the name of the applicant on 30.4.2001. His case was duly considered alongwiht others on merit. Since he was not found suitable he could not put his claim for appointment. It was also submitted that scope of judicial review in the area of decision of the Selection Committee is of limited nature, which can only be intervened on the grounds of illegality and malafide. Since there was no discernible irregularity or illegality in the process of selection and for want of any malice alleged against the respondents the process of selection under any circumstance could not have been assailed. The learned counsel for the respondent No.4 referred to the decisions rendered by the Supreme Court in Union of India and Another Vs. Samar Singh and others, reported in (1996) 10 SCC 555.

6. The learned Sr. Government Advocate, Meghalaya, placed before us the ACRs of the applicant. Mr A. Deb Roy also placed before us the Annual Confidential Dossiers of the applicant vis-a-vis that of the respondent No.4, Shri S.K. Pandey and also Shri M.K. Sarma, the other person in the panel. The Selection Committee that was held on 30.4.2001 consisted of the Secretary, Ministry of Environment and Forests, the Secretary, Ministry of Personnel, Public Grievances and Pension, and the Secretary, Ministry of Science and Technology. The minutes mentioned that the Secretary, Department of Agricultural Research and Education and the Secretary, Ministry of Rural Development could not attend the meeting due to other commitments. The full contents of the minutes cited at pages 2 and 3 of the minutes are reproduced below:

"IV. The committee considered the following officers of the Indian Forest Service for the post of the Director General of Forests & Special Secretary:

S.No. 1	Name, Cdr & YOA 2	DoB 3	Remarks 4
i)	Balwinder Singh (Am: 1964)	05.12.1942	Vigilance Clearance not received from State Govt.
ii)	R.D. Sharma (MP: 1964)	06.12.1941	Unwilling for the post
iii)	V.R. Chitrappa (TN: 1964)	25.05.1943	
iv)	Jagjit Lamba (KTK: 1964)	20.07.1941	
v)	V.C. Mohapatra (OR: 1965)	20.08.1941	
vi)	S.K. Pandey (HP: 1965)	03.07.1942	
vii)	R.P. Singh (UP: 1965)	20.08.1942	Unwilling for the post
viii)	S.C. Johri (UTT: 1965)	02.12.1941	
ix)	D.S. Verma (GJ: 1965)	15.07.1941	
x)	S.K. Bali (MH: 1965)	24.12.1941	Service as PCCF is less than 2 years
xi)	K.N. Singh	29.06.1942	Unwilling for the post

1	2	3	4
xii)	M.K. Sharma (MH: 1965)	07.06.1943	
xiii)	D.C. Sud (RJ: 1966)	12.01.1944	
xiv)	M.L. Ramprakash (KTK: 1967)	08.01.1942	

V. Based on the scrutiny of service records inclusive of the Confidential Report dossiers of the officers mentioned in para IV and taking all relevant factors into consideration, the Committee recommended the following two officers in order of merit for appointment to the post of Director General of Forests and Special Secretary in the Ministry of Environment and Forests:-

S.No.	Name	YOA/Cdr	DoB
S/Shri			
i)	S.K. Pandey	1965: HP	03.07.1942
ii)	M.K. Sharma	1965: MH	07.06.1943

7. The Scheme for Staffing Posts included in the Central Deputation Reserve is delineated in the Scheme notified from time to time. By Memorandum No.A.12011/1/94-IFS-I dated 14.12.2000 the authority decided to bring out a modified scheme in consultation with the Union Public Service Commission. As per the Scheme the posts covered by the Scheme is ordinarily to be manned by officers borrowed on tenure basis and belonging to IFS Cadre/Joint Cadres of the States/Union Territories. For appointment to the posts covered under the Scheme except the post of Director General of Forests, Additional Director General of Forests and other posts carrying a pay scale of Rs.18,400-500-22,400/-, the selection was to be made by the Board. The Board Members were defined therein. For appointment to the posts carrying a pay scale of Rs.18,400-500-22,400 and above a Special Selection Committee consisting of (i) Secretary, Ministry of Environment and Forests, (ii) Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, (iii) Secretary,

Department.....

Department of Agricultural Research and Education (iv) Secretary, Department of Rural Development, Ministry of Rural Development and (v) Secretary, Ministry of Science and Technology is to make recommendation for such appointment. The DGF&SS is to work as a Member Secretary of the Committee and for consideration of the candidates for all posts falling within the purview of the Committee other than the post of Director General of Forests. On perusal of the Minutes of the meeting of the Special Selection Committee, it cannot be inferred that the committee, in fact, considered the case of the applicant for the post, more so, in view of the Remarks column, wherein it mentioned that 'vigilance clearance not received from the State Government'. Similarly, at serial (ii) in the Remarks column it was mentioned at 'unwilling for the post'. There was also a person at serial (x) against whom there was a remark that 'service as PCCF is less than 2 years'. In the circumstances it is difficult to accept the assertion of the respondents that the committee considered the case of the applicant also, more so on the own showing of the respondents the ACR Dossiers of the applicant for the years 1998-99, 1999-2000 and 2000-01 was not available before the Special Selection Committee. The ACR Dossiers were only received by the Ministry in the first half of June 2001, whereas the Selection Committee held its meeting on 30.4.2001. It is also difficult to accept the assertion made on behalf of the respondent Nos.1 and 2 at para 5.2 of the written statement to the effect that the ACRs for the previous years working backwards from 1998-99 were considered by the Committee before arriving at their decision, No

materials, save and except the bald statement made in the said para of the written statement were furnished before us stating that the applicant's case was considered duly. No reasons were assigned also as to how and why the said ACRs were considered. Considering the materials it is not possible to hold that the case of the applicant was fairly considered.

8. We are aware of the parameter of judicial review. Judicial review is meant to be exercised to uphold the rule of law and to remove the injustice. As per the Constitutional scheme enjoined in Articles 14 and 16 of the Constitution, every officer has a right to be considered for appointment subject to eligibility, though, as a matter of right he is not entitled to be appointed. But, he cannot be deprived from a fair consideration in conformity with the scheme of Articles 14 and 16. A lawful consideration within the meaning of Articles 14 and 16 is a just, fair and reasonable consideration, not a purported consideration. In our view the respondents faltered in its decision making process by not considering the case of the applicant in the right perspective and on that ground alone the impugned selection held on 30.4.2001 for the post of Director General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests cannot be sustained.

9. For the reasons stated above the appointment of respondent No.4 on the basis of the meeting of the Special Selection Committee held on 30.4.2001, in the circumstances, is set aside and quashed and the respondents are directed to make a Review selection considering.....

considering the case of those officers who were eligible as per the earlier process of selection including that of the applicant and select such person as per law. The respondents are directed to complete the Review selection as expeditiously as possible, preferably within two months from the date of receipt of the order. It is, however, made clear that till completion of the exercise the respondents may continue with the services of the respondent No.4 as a stop-gap arrangement so that public service does not suffer.

10. The application is allowed to the extent indicated. There shall, however, be no order as to costs.

K K Sharma
(K. K. SHARMA)
ADMINISTRATIVE MEMBER

D. N. Chowdhury
(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm

20

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. No. 259/2001

Shri Balvinder Singh, IFS ... Applicant

- Versus -

The Union of India & Ors. ... Respondents

**LIST OF DATES AND POINTS PUT FORWARD BY THE RESPONDENT NO. 4
— SHRI S.K. PANDE.**

The Applicant is presently working as the Principal Chief Conservator of Forests, Meghalaya. The Respondent No. 4 is presently working as the Director General of Forests and Special Secretary (DGF & SS) to the Government of India, New Delhi.

18.11.96 : Ministry of Environment & Forests, Government of India on the basis of the recommendation of a Selection Committee constituted for the purpose, prepared a panel of three suitable IFS officers for appointment to the post of Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests (the post of IGF & SS was subsequently redesignated as DGF & SS). The name of the Applicant was included in this panel. The said selection was for filling up the post of IGF & SS which was to fall vacant on 30.11.96.

30.11.96 : One Md. Faizuddin Ahmed, IFS who was holding the post of the DGF & SS retired on superannuation.

10.1.97 : Pursuant to the recommendation of the Ministry of Environment and Forests, a telegram was sent to the Secretary, Forests, Government of Meghalaya asking for submission of State vigilance clearance, willingness and upto date bio-data of the Applicant (Annexure-I to the O.A.).

27.1.97 : The Applicant submitted his willingness for appointment (Annexure-II to the O.A.).

16.6.97 : The Government of Meghalaya decided to hold an enquiry against the Applicant on charge of misconduct (Annexure-IV to the O.A.).

One Shri C.P. Oberoi, IFS, who is junior to the Applicant was given appointment to the post of Inspector General of Forests & Special Secretary to the Government of India, Ministry of Environment & Forests. Shri Oberoi was to retire on 31.5.2001.

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.ORDER SHEETAPPLICATION NO. 259 OF 2001APPLICANT(s) Balvendra SinghRESPONDENT(s) U. O. I. GovtADVOCATE FOR APPLICANT(s) M. S. R. Sen, P. D. Borghaon, D. Maynard,
S. SaikiaADVOCATE FOR RESPONDENT(s) Cafe

Notes of the Registry	dated	Order of the Tribunal
	19.2.2002	<p>The learned counsel for the parties argued the case at length. Considering the pleadings, we direct the respondents, namely the Union of India and the State of Meghalaya to produce the connected records, i.e. the DPC proceedings as well as the ACRs of the applicant pertaining to the periods 1998-99, 1999-2000, 2000-2001 and the ACRs those were acted upon.</p> <p>List the case again on 7.3.02 for further hearing.</p>

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Admn)

1.3.2001 : Ministry of Environment issued a communication dated 1.3.2001 informing the Secretary to the effect that the Ministry has already undertaken the exercise of selection of an IFS officer for central deputation to the post of DGF & SS and that the name of the Applicant was also under consideration. By that communication, the Government of Meghalaya was requested to submit the willingness of the Applicant to serve on central deputation as DGF & SS, willingness of the State Government to spare him, vigilance clearance and integrated certificate (Annexure-V to the O.A.).

30.4.2001 : The Selection Committee of the Secretary in the Ministry of Environment and Forests, Government of India met for recommendation of the names of suitable IFS officers for appointment to the post of DGF & SS. The name of the Applicant was duly considered.

8.5.2001 : The Government of Meghalaya dropped all charges framed against the Applicant (Annexure-VII to the O.A.).

8.5.2001 : Government of Meghalaya issued vigilance clearance and integrity certificate in favour of the Applicant (Annexure-VIII to the O.A.).

22.5.2001 : The Applicant filed the first case before this Hon'ble Tribunal being O.A. No. 187/2001 praying for a direction to consider his case for appointment to the post of DGF & SS. This O.A. was disposed of by order dated 22.5.2001 with a direction to the Respondent authorities to consider the representation of the Applicant submitted on 9.5.2001 and to pass necessary order thereon. The Applicant was also given liberty to file a fresh representation (Annexure-XI to the O.A.).

26.5.2001 : The Applicant filed a fresh representation making a claim to the post of DGF & SS (Annexure-XII to the O.A.).

29.6.2001 : Order of the Ministry disposing Applicant's representation (Annexure-XV to the O.A.). The Applicant was communicated that notwithstanding the non-availability of vigilance clearance, integrity certificate etc. at the time of meeting of the Selection Committee, his candidature has been duly considered on merit alongwith other candidates (Impugned).

20.8.2001 : The Respondent No. 4 Shri S.K. Pande was appointed to the post of DGF & SS with effect from 13.8.2001 (Annexure-XVI to the O.A.) (impugned).

31.7.2002 : The Respondent No. 4 Shri S.K. Pande will attain the age of superannuation.

31.12.2002 : The Applicant would attain the age of superannuation.

BRIEF POINTS OF THE RESPONDENT NO. 4

1. The post of DGF & SS is not a post for promotion of IFS officers. The highest post of promotion of IFS officers is the Principal Chief Conservator of Forests of a State.
2. In 1996, the Applicant was not finally selected for want of vigilance clearance and integrity certificate from the Government of Meghalaya. His selection was nullified due to non-receipt of vigilance clearance from the State Government.
3. On 30.4.2001, the Selection Committee did not exclude the name of the Applicant, but his case was duly considered along with others on merit. The Applicant was not found suitable and therefore he cannot claim appointment.
4. Sealed cover procedure is applicable only in case of promotion and not for selection for deputation on tenure. The post of DGF & SS is a selection post for deputation on tenure and therefore the question of following sealed cover procedure does not arise.
5. The decision of the Selection Committee can be interfered with only on the limited grounds of illegality and malafide. In the instant case, there is no illegality or irregularity in the process of selection and the Applicant has also not alleged malafide.

CASE LAW RELIED BY THE RESPONDENT NO. 4

(1996) 10 SCC 555 (*Union of India & Anr. -Vs- Samar Singh & Ors.*)

Filed by :

M.K. Choudhury
(*M.K. Choudhury*)
Advocate for the Respondent No.4

18.11.96

A War Selw

30.4.2001 Sec Selw. O.A. NO. 259 /2001

Shri Balvinder Singh,

pra 34 P/6

..... Applicant.

AER's nt sent by

-VS -

Union of India & Ors.

Methu G.

..... Respondents.

LIST OF DATES

Reply p 42 hrs

Applicant is serving as Principal Chief Conservator of Forest, Meghalaya.

He is the seniormost I.F.S. Officer with 1964 as his year of allotment.

AER 98-99 G.

30.11.96 Shri Mohammad Faizuddin Ahmed I.F.S. who was holding the post of Inspector of General of Forests and special Secretary to the Govt. of India, Ministry of Environment & Forest has retired on attaining the age of superannuation.

I G Forest +
Spt Sec G

How the post is
filled by

... Before the retirement of Shri Mohammad Faizuddin Ahmed, on the recommendation of the Departmental promotion Committee which met on 18.11.1996, the Ministry of Environment & Forest prepared a panel of 3 suitable I.F.S. Officers and recommended the name of applicant to the Appointment Committee for appointment to the post of Inspector General of Forest and Special Secretary to the Govt. of India, Ministry of Environment and Forests.

10.1.97 By an Express Telegram the Ministry of Environment and Forests, asked for submission of State Vigilance Clearance, willingness of the candidate with upon date biodata, from the Forest Secretary Govt. of Meghalaya with a copy of the Telegram to the applicant. I/15

27.1.97 Applicant conveyed his willingness in writing and requested the Principal Secretary for early submission of State Vigilance Clearance. II/16

10.9.96 Govt. of Meghalaya Expressed its inability to grant Vigilance clearance on the plea that a Commission of Enquiry was in progress to investigate into the allegation of large scale felling of trees and encroachment of Govt. land in Reserve Forests. III/17

16.6.97 An Enquiry was ordered against the applicant under Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969 Read with Article 311 of the Constitution of India. IV/20

Although the applicant was considered for promotion, due to non submission of vigilance clearance certificate his junior and the next officers in the panel Shri C.P. Obseroi, I.F.S. was appointed to the post of Inspector General of Forest and Special Secretary.

31.5.2001 Shri Oberoi is to retire from service
com Superannuation.

1.3.2001 Govt. of India, Ministry of Environment and V/22
Forests informed Chief Secretary, Govt. of
Meghalaya that the case of the applicant
for promotion is under consideration and
asked for certain documents to be submitted
by 15.3.2001.

- (a) Willingness of the Officer ;
- (b) Vigilance Clearance ;
- (c) Integrity certificate.

15.3.2001 Govt. of Meghalaya conveyed the willingness VI/23
of the applicant and informed that the
vigilance clearance certificate would be
submitted shortly.

8.5.2001 The Enquiry initiated against the applicant VII/24
was dropped and he was exonerated of the
charges.

The applicant was one of the members of the
State delegation from Meghalaya to study the
latest development in the cultivation and
industrial use of Bomboo to be held from
16-4-2001 in China

9.5.2001 Through Special Messenger vigilance clearance
was served upon the Respondent.

8.5.2001 Govt. of Meghalaya submitted the Vigilance VIII/26 Clearance to the Govt. of India after the return of the Chief Secretary Meghalaya on his return from China delegation.

30.4.2001 The Departmental promotion Committee not for recommendation of suitable candidates but dropped the name of the applicant for want of non-submission of Vigilance Clearance and integrity certificate by the Govt. of Meghalaya and in the result the DPC recommended the name of two persons -
(a) S. K. Panday
(b) S. K. Sharma.

9.5.2001 Applicant made a representation to the Govt. of India stating that since his name was recommended by the DPC that met on 18.11.96, he is entitled to be promoted to the post of Inspector General of Forests etc. now re-designated as Director General of Forests.

Petitioner approached the CAT at Guwahati

CAT passed order directing the respondents to consider case of the petitioner (Anx.XI)

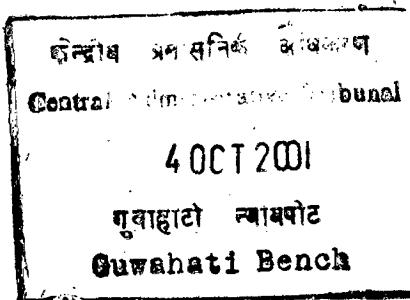
26.5.2001 Petitioner filed another Representation.
(Anx. XIII).

29.6.2001 Respondents disposed the Representation holding that proceedings of DPC (1996) has been nullified . Petitioner case has been considered on merit along with others. (Anx.XIII, XIV, XV)

20.8.2001 Present Incumbent has been appointed to the post- petitioner filed post present Application challenging (Anx. XV)

Main Points: Posts of Director General is a promotion post, having higher pay scale, more responsibilities.

Incumbent is not revicted back to the parent Depart. from this post put retires from the post.



Filed by the
Petitioner himself
A.D. 2001
3-10-2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

O. A. NO. 259 OF 2001

Shri Balvinder Singh, I.F.S.

- VERSUS -

Union of India and ors.

Details of the application (Amended)

Particulars of the Application

(i) Name of the applicant : Shri Balvinder Singh, I.F.S.

(ii) Father's Name : (Late) Shri Jagdip Singh

(iii) Age of the applicant : 58 years

(iv) Designation and office : Principal Chief Conservator
in which employed. of Forest, Meghalaya.

(v) ~~Office Address~~ : Principal Chief Conservator
of Forest, Meghalaya ,
Sylvan House ,
Lower Lachumare,
Shillong.

(vi) Address or service of : As above.
All Notices.

Balvinder Singh

Contd.....2/-

Respondents with Address :

1. Union of India, represented through the Ministry of Environment And Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi -110 003.
2. The Secretary to the Government of India, Ministry of Environment and Forests, Paryavaran Bhawan, C.G.O. Complex , Lodhi Road, New Delhi - 110 003.
3. State of Meghalaya , Represented through the Secretary, Government of Meghalaya, Forests and Environment Department , Shillong - 793 001
4. Shri S.K. Pande, I.F.S. Director General ^{of Forests} & Special Secretary to Govt. of India Paryavaran Bhawan, Lodhi Road, New Delhi-110 003.

..... Respondents

1. Particulars of the order against which the application is made.

2. The application is made against the holding of Departmental Promotion Committee on 30-4-2001 for selection of Candidate for appointment for the post of Director General of Forests and Special Secretary to the Government of India.

Contd.....3/-

Balwinder Singh

Order No.A-12026 /3/2000-IFS-1
Dated 29-6-2001, Govt. of
India, Ministry of Environment
and Forests. And order No.A 19011/
2/95-I.F.S. -I dated 20th Aug,
2001 issued by the Govt. of
India Ministry of Environment
and Forests, Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi -110007.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter took place at Shillong and as such, it is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The application is filed within the period of Limitation.

4. Facts of the case :

4.1 That the applicant is the seniormost Indian Forest Service Officer serving in the country, allotted to the year 1964 in the I.F.S. Cadre and at present serving as Principal Chief Conservator of Forests, Meghalaya. His date of super-annuation is 31-12-2002.

Balwinder Singh
The Petitioner earlier served on deputation to Government of India, Ministry of Environment and Forests, New Delhi, from 1964 to 1990, Co-Ordinator, Forest Soil cum Vegetation Survey and as Director Forest Education at Forest Research Institute and Colleges, Dehradun. During his deputation period,

he was awarded the Brandis prize for his outstanding Forest Research work in Forest Soil and Vegetation Co-relationship.

- 4.2 That the Petitioner has worked with utmost sincerity and dedication with full responsibility in the post held by him and has a good service record to his credit.
- 4.3 That the post of Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forest, the highest post in the Forest Service involving lot of responsibilities was held by one Shri Mohammed Faizuddin Ahmed, I.F.S. who proceeded on superannuation on 30-11-96.
- 4.4 That before the super-annuation of Mohammed Faizuddin Ahmed on 30-11-96, Ministry of Environment and Forests, Government of India on the basis of recommendation of the Departmental Promotion Committee of Secretaries to Govt. of India, which met on 18-11-96, made a panel of three suitable Indian Forest Service Officers and recommended the name of Your Petitioner to the Appointment Committee for appointment as Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests.
- 4.5 That consequent to the recommendation, Ministry of Environment and Forests, Govt. of India vide their letter Express Telegram F.No.12034 /3/96 - IFS-I , dated 10-1-1997 asked for submission of State

Balwinder Singh

Vigilance Clearance, willingness of the Officer with uptodate Bio-Data from the Forest Secretary to the Government of Meghalaya. Since the Candidature of your petitioner was being considered for appointment at the level of Secretary or equivalent posts under Central Government. A copy of the telegram dated 10-1-97 is annexed herewith as Annexure- I.

4.6 That since a copy of the telegram dated 10-1-97 was also endorsed to your petitioner, therefore, your Petitioner submitted his willingness for appointment at the level of Secretary or equivalent posts under Central Government and requested the Principal Secretary to the Government of Meghalaya, Forest and Environment Department for submission of State Vigilance clearance, on top most priority, vide his letter No. MPG. 24, dated 27-1-97.

A copy of the letter No. MPG 24, dated 27-10-97 is annexed herewith as Annexure- II.

4.7 That the Government of Meghalaya expressed its inability to grant vigilance clearance on the grounds that a Commission of Inquiry was in progress to investigate into the allegations of large scale illicit felling of trade and theft of timber thereof and encroachment of Govt. land in the Reserved Forests under Dainadubi Range of Garo Hills Forest Division, Tura.

A copy of Govt. Notification No. PQL 156/96/1 dated 10-9-96 is annexed herewith as Annexure- III.

Babu Singh

4.8 That thereafter, Govt. of Meghalaya, Forest and Environment Department vide their Notification No.FQR-58/97/6 dated 16-6-97 ordered an enquiry against the petitioner under Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969 read with Article 311 of the Constitution of India.

Copy of the Notification dated 16-6-97 is annexed herewith as Annexure -IV.

4.9 That though the petitioner was considered for appointment at the level of Secretary or equivalent Poets under Central Government but due to non-submission of Vigilance Clearance Certificate by the Government of Meghalaya he was deprived of his appointment to the said post and the next Officer in the panel Shri C.P. oboroi, I.F.S. who is Junior to the Petitioner was given appointment to the post of Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests.

4.10 That as the said Shri C.P.Oberoi, IFS, was to superannuate on 31-5-2001 as such, Govt. of India, Ministry of Environment and Forests vide their letter No.A.12026/3/2000-IPS-I dated 1-3-2000, informed the Chief Secretary to the Govt. of Meghalaya that the name of your Petitioner, Shri Balvinder Singh, IFS, serving in the State of Meghalaya is among the Candidates under consideration for the post of Director General of Forests and Special Secretary, Ministry of

Environment and Forests, Govt. of India and asked for submission of the following information/documents to the Ministry at the earliest by 15-3-2001.

- (i) Willingness of the Officer to serve on Central Deputation as Director General of Forests and Special Secretary and also willingness of the State Government to spare the service of the Officer(s) in the event of his selection.
- (ii) Vigilance Clearance.
- (iii) Integrity Certificate.

A copy of the letter No.A.12026/3/2000-IPS-I dated 1-3-2001 is annexed herewith as Annexure-V.

4.11 That Government of Meghalaya vide their letter No.RCC 13/93/269 dated 15-3-2001 informed Government of India Ministry of Environment and Forest that Shri Balvinder Singh, IFS (AM 64) has given in writing his consent and willingness to serve on Central Deputation as Director General of Forests and Special Secretary. The State Government will release the Officer, if selected for appointment. It was further informed that a separate report on vigilance Clearance and Integrity of the Officer is being submitted shortly.

A copy of the letter dated 15-3-2001 is annexed herewith as Annexure- VI.

4.12 That it may be submitted here that the enquiry initiated against the Petitioner vide Govt. Notification No.FOR-58/97/6 dated 16-06-97, after completion Order was8/-

passed vide Notification No.FOR-58/97/466 dated 8-5-2001, whereby the order was passed as follows :-

" On careful consideration of the matter and having regard to the explanation of the officer, the evidence on record, the circumstances of the case and the Enquiry Report, the Governor of Meghalaya, is pleased to drop all the charges framed against Shri Balvinder Singh, IFS, Principal Chief Conservator of Forest, vide Memo No.FOR-58/97/6 dated 16-6-97. The Officer is accordingly exonerated. "

A copy of the Notification No.FOR-58/97/446 dated 8-5-2001 is annexed herewith as Annexure-VII.

4.13 That it is submitted that as the charges against the Petitioner were not proved and the Petitioner was exonerated of all the charges levelled against him, under the law, the petitioner is entitled to all the benefits with regard to promotion etc. in his service career with effect from the date his junior were given promotion with all other benefits.

4.14 That a State delegation, lead by the Hon'ble Finance Minister, Meghalaya, visited China to study the latest developments in the cultivation and industrial use of bamboo, w.e.f. 16th April, 2001. The following Officers were also members included in the above said delegation and were outside the country on official tour to China w.e.f. 16th April to 29th April, 2001.

(i) Chief Secretary to the Government of Meghalaya.

ii) Principal Secretary to the Government of Meghalaya, Forests and Environment Department.

iii) Principal Chief Conservator of Forests, Meghalaya (Balvinder Singh).

4.15 That after return from China, Principal Secretary to the Government of Meghalaya, Forests & Environment Department processed all the ~~Re~~ papers desired by the Government of India, vide their letter No.A.12026/3/2000-IFS-I, dated 1st March, 2001 and consequently the Chief Secretary to the Government of Meghalaya, vide his D.O.No.CS/FOR/2001, dated 08-05-2001 submitted Vigilance Clearance and Integrity Certificate to the Government of India on 08-05-2001 through FAX and through a Special Messenger rushed the papers to New Delhi for delivery of post copy on 09-05-2001.

A copy of the Certificate dated 8-5-2001 and receipt issued by Ministry are annexed herewith as Annexures VIIIA and B respectively.

4.16 That the Petitioner on learning from reliable source that the Departmental Promotion Committee of Secretaries in the Ministry of Environment and Forest, which met on 30-4-2001 for recommendation of the names of suitable Indian Forest Service Officers for appointment to the post of Director General of Forests and Special Secretary to the Govt.of India, had dropped/excluded the name of Shri Balvinder Singh, I.F.S. for want of Vigilance Clearance and

Contd....10/-

Balvinder Singh

Integrity Certificate from the State Govt. had recommended the names of two persons namely - Shri S.K. Pandey, Principal, Chief Conservator of Forests, Himachal Pradesh and Shri S.K. Sharma, Additional Director General of Forests, Govt. of India, immediately filed a Representation dated 9-5-2001 to the Secretary, to the Government of India, Ministry of Environment and Forests, New Delhi.

4.17. That the petitioner vide his letter No.MPG.24 dated 9th May, 2001 made a representation to the Secretary to the Government of India, Ministry of Environment and Forests, New Delhi that since the State Government is pleased to issue Vigilance Clearance and Integrity Certificate after concluding the disciplinary proceedings against him, therefore, since he was the only Officer recommended for appointment to the post of Inspector General of Forests & Special Secretary to the Government of India (now re-designated as Director General of Forests) on the basis of the recommendation of the Departmental Promotion Committee of Secretaries to the Government of India, MCEF, which met on 18-11-1996, therefore, he must be given appointment to the post of Inspector General of Forests, Government of India, w.e.f. the date of appointment was made in favour of his junior in the panel i.e. Shri C.P. Oberoi, IFS at present Director General of Forests & Special Secretary to the Government of India. (Due to superannuation on 30-5-2001).

Balwinder Singh

Further, the Petitioner has fervently appealed to the Secretary to the Government of India, MOSF to dispense justice to him in the matter of giving consideration for selection to the post of Director General of Forests as he has been deprived of his legitimate due at that period of time in the year 1996 after the superannuation of Mohammed Faizuddin Ahmed, Indian Forest Service on 30-11-1996, due to reasons not attributable to him. The Disciplinary & Appeal Rules and Guidelines are amply clear about the manner in which relief is to be granted to an incumbent on honourable conclusion of any Disciplinary Proceedings. (In this context reference may be made to para 11 and Para 18 of General Guidelines for promotion etc. And Functioning of Screening Committee).

Copy of Representaion dated 9-5-2001 and Guideline for promotion to various grades are annexed herewith as Annexure- IX and X respectively.

4.18 That the petitioner duly approached the Central Administrative Tribunal, Guwahati, seeking justice and protection of his right and interest and the Hon'ble Central Administrative Tribunal vide its Order dated 22-5-2001 observed that since the Petitioner has made a representation, his representation is required to be considered and accordingly, directed the Respondents to consider the representation of the Petitioner submitted on 9-5-2001 and

Contd.....12/-

Balwinder Singh

pass necessary Order thereon. Petitioner was also given by the liberty to file a fresh Representation narrating all his grievances preferably within 10 days from the date of Order and directed the Petitioner to submit a copy of his earlier representation dated 9-5-2001, alongwith a copy of the Tribunal Order to enable the Respondents to consider his case as per law within ten days.

A xerox certified copy of the Order dated 22-5-2001 is annexed herewith as Annexure- XI.

4.19 That as per the direction of the Hon'ble Tribunal, Petitioner submitted a fresh Representation to the Secretary to the Govt. of India, Ministry of Environment and Forest, enclosing a copy of his earlier representation dated 9-5-2001 and the Order dated 22-5-2001 passed by the Tribunal.

Copy of the Representation dated 26-5-2001 is annexed herewith as Annexure- XII.

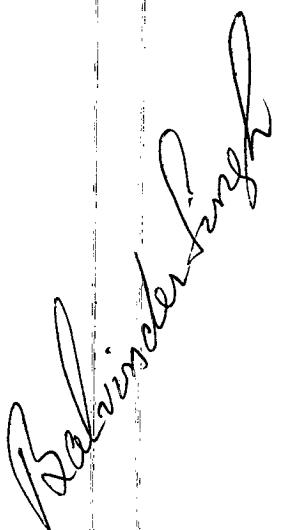
4.20 That the Under Secretary to the Govt. of Meghalaya , Forests and Environment Deptt. vide letter No.FOR.56/2001 /30 dated 9-7-2001 forwarded a copy of Order No.A-12026/3/2000-IFS-I dated 29-6-2001 to the Petitioner by which, petitioner's Representations have been disposed of.

Copy of the letter dated 9-7-2001 , letter dated 2-7-2001 and Order dated 29-6-2001 are annexed herewith as Annexures XIII, XIV and XV respectively.

4.21 That it is submitted that the Order No.A-12026/3/2000-IFS-I dated 29-6-2001 passed by Govt. of India, Ministry of Environment and Forest, issued under the signature of Director to the Government of India, is on the face of it bad in law and fact being arbitrary, bies passed without proper application of mind and not in accordance with the prescribed Rules.

4.22 That the applicant begs to state that he filed the instant Original Application No.259/2001 assailing the aforesaid order No.A-12026/3/2000-IFS-I dated 29-6-2001 before this Hon'ble Tribunal Praying inter alia for setting aside the said order as also for a direction to the respondents to promote/appoint ^{him} to the post of Director General of Forests w.e.f.27-297.

However during the pendency of the present O.A. No.259/2001 the Govt. of India vide order No.A.19011/2/95-IFS-I dated 20th August, 2001 promoted Shri S.K. Pandey, an Officer belonging to Himachal Pradesh Cadre of the Indian Forest Service to the Post of Director General of Forests and Special Secretary in the Ministry of Environment of Forests. with effect from the forenoon of 13-8-2001 until further orders. It is further mentioned in the appointment order that the appointment is subject to the final outcome of the Original Application No.259 of 2001 in Guwahati Bench of the Central Administrative Tribunal.



A copy of the order dated 20-8-01 is annexed herewith as annexure-XVI to this application.

4.23 That in view of the aforesaid subsequent events the applicant by filing M.P. No.243 and 244 of 2001 in this case sought for impleading Shri S.K. Pandey as respondent No.4 in this case and also to challenge the order of his appointment dated 20-8-2001 . While allowing these two petitions this Hon'ble Tribunal by order dated 28-9-2001 to ~~xx~~ further directed to file a fresh amended application incorporating all these facts. Hence this amended application.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That it is submitted that as per the Central Civil Service Rules and also the Central Govt. Rules regarding promotion of Members of the Indian Forest service and Acompensation of Departmental Promotion Committee - the laid down procedures to be followed in respect of Officer against whom Sisciplinary/ Court Proceedings are pending of ~~whixh~~ whose conduct is under Investigation is to keep the aassessment of the Departmental Promotion Committee (D.P.C.) in a sealed cover.

Further, it is submitted that as per laid down procedure for Sealed Cover Cases - on the conclusion of the Disciplinary case the sealed cover will be opened. In case the Officer is completely exonerated, the due date of his promotion will be determined, with reference to the date of promotion of his Junior, if necessary by reverting the Juniomost

5.1 Officiating person. Such Promotion would be with reference to the date of promotion of his junior and the officer will be paid arrear of salary and allowances.

Further, it is submitted that the rules also provide for six monthly Review of Sealed Cover case (Under CCs Rules) and Quarterly Review of Sealed Cover cases under the Central Govt. Guidelines for promotion of Indian Forest Service personnel.

5.2 That it is submitted that in the case of the Petitioner, the Respondents did not follow the laid down procedure and most illegally, arbitrarily, without proper application of their mind to the laid down procedures, failed to consider the case of the petitioner.

The authorities ought to have kept the recommendation of the Departmental Promotion Committee, which met on 18-11-96 recommending the name of the petitioner for appointment to the post of Inspector Central of Forest & And Special Secretary to the Govt. of India, Ministry of Environment and Forest.

Further, no 6(six) monthly/Quarterly review of sealed Cover Cases was ever done, The enquiry initiated against the petitioner was completed and final Order exonerating the petitioner was passed on 8-5-2001. As per the laid down Rules, the

authorities ought to have considered the case of the case of the Petitioner and as he has been exonerated of all the charges, he ought to have been given the promotion w.e.f. the date his junior Shri C.P. Oberoi was promoted.

5.3 That it is submitted that the action of the Respondents in stating that the decision/ proceedings of the first Committee meeting held on 18-11-96 has been nullified as the Petitioner could not be appointed due to non-availability of the required documents. Such a Statement, action is against the laid down rules and highly illegal as the Proceeding of the Departmental Promotion Committee cannot be nullified, as per the rules, Petitioner's case ought to have been kept in Sealed Cover.

5.4 That it is submitted that the Order passed by the Respondent disposing the Representation of the Petitioner is without the sanction of law, passed most arbitrarily, malafide, biased and in a most casual manner, against the laid down procedure and principles of law and requires to be set aside and quashed. It may be pertinent to mention here that the completed A.C. Rs of the petitioner for the year 98-99, 99-2000, 2000-2001 were sent by the Govt. of Meghalaya after 30-4-2001 and as such, those were not taken into consideration by the Departmental Promotion Committee.

5.5 That it is submitted that the Petitioner being the only person selected and considered for appointment to the post of Inspector General of Forests and Special Secretary to the Govt. of India on the basis of the recommendation of the Departmental Promotion Committee of Secretaries to the Govt. of India which met on 18-11-96, but due to the non-clearance of the Vigilance by the State Government due to the pending enquiry, he was not promoted to the said post, but after the conclusion of the said enquiry, whereby the Petitioner has been honourably exonerated of all the charges, under the provision. Rules of Central Services, Seal Cover Procedure in respect of persons under cloud the Petitioner is entitled for promotion and his due date of promotion will be w.e.f. the date his junior has been promoted for the post.

5.6 That as the petitioner was already selected, recommended and Considered for appointment in pursuance to the recommendation of the Departmental promotion Committee, which met in 1996, the holding of the second Departmental Promotion Committee on 30-4-2001 for selection and appointment to the post of Director General of Forests was not called for and as per the provisions of law for cases where sealed Cover Procedure is required to be adopted for persons under cloud, under six monthly review also the Petitioner deserves to be Promoted/appointed to

to post for which he was already selected. The action of the Respondents is not following the prescribed Sealed cover Procedure, shows the malafide intention of the Respondents, to deprive the Petitioner from his legitimate due, and appoint other person of their interest.

5.7 That the order dated 20-8-2001 appointing Shri S.K. Pandey as the Director General of Forests etc. is arbitrary, illegal, unreasonable and unsustainable in law in as much as Shri S.K.Pandey is junior to the applicant and the process of selecting and appointing him to the said post is vitiated by mala fide and extraneous consideration.

The order dt. 20.8.2001 is also bad on the ground that the Selection Committee did not consider the ACPs of three preceding years so far as the applicant is concerned i.e 2000-2001, 1999-2000, 1998-99.

5.8 That the respondent No.1 to 3 have acted illegally and in an unfair manner in issuing the order dated 20-8-2001 in as much the scaled cover procedure was not adopted in the case of the applicant and no reasons have been recorded for not following the sealed cover ~~process~~ procedure which smacks of mala fide and bias in favour of respondent No.4 and the prejudice, against the applicant as such the order dated 20-8-2001 is not sustainable in law.

6. Details of the Remedies exhausted :

The applicant filed Representation dated 9-5-2001 and 26/5/2001 to the Secretary to the Government

Contd.....19/-

of India, Ministry of Environment and Forests, New Delhi, Which has been disposed off vide order dated 29-6-2001 (Annexure XV to this application).

7. Matters filed in any other Court :

An application/ Petition was filed before this Tribunal being registered as C.A. No.187/2001 which has ~~xxx~~ disposed off vide order dated 22-5-2001. No other application has been filed in any other Court.

8. Relief sought :

(a) It is prayed that the Order No.A. 12026/3/2000- IFS I dated 29-6-2001 passed by Govt. of India, Ministry of Environment and Forests (Annexure-XV to this application) disposing of the applicant's representation, be set aside and quashed ;

(b) the order No.A.19011/2/95-IFS-I dated 20th August, 2001 issued by the Govt. of India, Ministry of Environment and Forests, may be set aside and quashed ;

(c) the applicant be accorded promotion/appointment to the post of the Inspector General of Forests (New Director General of Forests) as per the provision of Rules and Guidelines being followed by the Government of India w.e.f. 27-2-97 (AN) i.e. the date on which Shri G.P.obaroi (Officer Juniors to the applicant) was given appointment to the higher post of Inspector General of Forests.

H8

- 20 -

9. Interim Relief : Does not arise at this stage.

10. Particulars of the Postal Order :

Postal Order No.1 Demand Draft No.067784

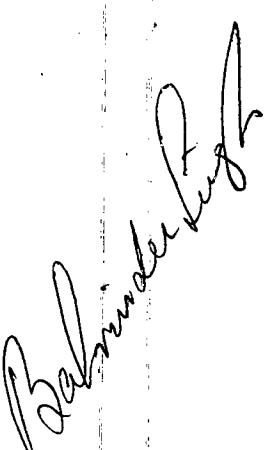
Date : 1-7-2001

Issued From : Central Bank, Shillong.

Payable at Guwahati (NBO)

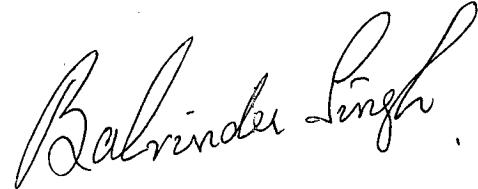
11. List of Enclosures :

1. Annexure - I
2. Annexure - II
3. Annexure - III
4. Annexure - IV
5. Annexure - V
6. Annexure - VI
7. Annexure - VII
8. Annexure - VIII A and B.
9. Annexure - IX
10. Annexure - X
11. Annexure - XI
12. Annexure - XII
13. Annexure - XIII
14. Annexure - XIV
15. Annexure - XV
16. Annexure - XVI

 Contd.....21/-

VERIFICATION

I Shri Balvinder Singh, I.F.S. , Son of
(Late) Jagdip Singh, aged about 58 years, working
as Principal Chief & Conservator of Forests,
Meghalaya, the Petitioner in this Petition, do
hereby solemnly verify that the statements made
in paras 1 to 10 of this petition are
true to the best of my knowledge and belief,
which are also matters of record and the rest
are my humble submission before the Court and I
sign this Verification this 3rd day of Oct.....
2001 .



DEPONENT

STATE

EXPRESS

TELEGRAM

FOREST SECRETARY
GOVT. OF MEGHALAYA
SHILLONG.

REPEAT

PRINCIPAL CHIEF CONSERVATOR OF FORESTS
GOVT. OF MEGHALAYA
SHILLONG.

F.NO.12034/3/96 - IFS I (.) FROM A S N MURTI UNDER SECRETARY (.)
CANDIDATURE OF FOLLOWING IFS OFFICER OF YOUR STATE CADRE BEING
CONSIDERED FOR APPOINTMENT AT THE LEVEL OF SECRETARY OR EQUIVA-
LENT POSTS UNDER CENTRAL GOVT. OF INDIA (.) MINISTRY URGENTLY
NEEDS FOLLOWING DOCUMENTS IN RESPECT OF SHRI BALVINDER SINGH
INDIAN FOREST SERVICE LATEST BY TWENTYFIFTH JANUARY 1997 POSI-
TIVELY (AA) STATE VIGILANCE CLEARANCE (BB) WILLINGNESS OF THE
OFFICER WITH UPTO DATE BIODATA (.) MATTER MOST URGENT

PARYAVARAN

N.T.T.N

No.12034/3/96-IFS-1



(P.C.MANGAIN)
SECTION OFFICER
Min.of Env. and Forests
Paryavaran Bhavan, Lodi Road,
New Delhi, Dated 10th Jan 1997.

23
19

Appendix - II

GOVERNMENT OF MEGHALAYA
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS: SHILLONG

NO. MHD. 24

Dated: Shillong, January 27, 1997

From : Shri Balvinder Singh, IFS.,
Principal Chief Conservator
of Forests, Meghalaya, Shillong.

To : The Principal Secretary to the Govt. of Meghalaya,
Forest and Env. Depty.

Sub : Appointment at the level of Secretary or Equivalent
Posts under Central Govt. of India.

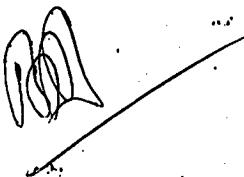
Ref : State Express Telegram No. F. No. 12034/3/96 - from
Shri P.C. Mangain, Section Officer, Min. of Env.
& Forests, Paryavaran Bhavan, Lodi Road, New
Delhi, dated 10-1-97.

Sir,
As desired by Shri A.S.N. Hurti, Under Secy., Govt. of
India, Min. of Env. & Forests, New Delhi, vide (BB) ., I hereby
categorically state that I am willing for consideration for
appointment at the level of Secretary or Equivalent Posts under
Central Govt. of India. Further, I am enclosing herewith my
uptodate bio-data as desired. Regarding (AA), State Vigilance
Clearance may kindly be sent from your end.
The matter may be treated on "TOPMOST PRIORITY".

Yours faithfully,

Sd/-
Principal Chief Conservator
of Forests, Meghalaya
Shillong.

Enc: as above



GOVERNMENT OF MEGHALAYA
POLITICAL DEPARTMENTNOTIFICATION
ORDERS BY THE GOVERNOR

No. POL. 156/96/1,

Dated Shillong, the 10th Sept., 1996.

Whereas reports have been received alleging that large scale illicit felling of trees and theft of timber thereof and encroachment of Government land has been taking place in the Reserved Forests under Rainadubi range of Dang Hills Forest Division of the State, resulting in huge losses to the State Exchequer.

Whereas it is considered necessary to assess the losses thus suffered and inquire into the factors that led to such losses and to fix responsibility on the functionaries responsible for protection of the Reserved Forests.

Therefore, the Governor of Meghalaya is pleased to constitute a one man Inquiry Commission to be headed by Shri Ranjan Datta, I.A.S., Principal Secretary, Finance etc. with the following terms of reference:

- i. Assess the total numbers of trees felled, land encroached and the losses suffered by the Government therefrom;
- ii. Inquire into and ascertain the factors that led to the destruction and damage to Government properties and losses suffered therefrom;
- iii. Fix responsibility for the lapses if any, of the Government officials that resulted in the aforementioned widespread losses; and ascertaining involvement of persons other than Government officials, if any, for such losses; and
- iv. Suggest remedial measures such that cases do not recur in future.

The Commission shall submit its report within a period of 30 days from the date of issue of this Notification.

SD/- K.K. SINHA
Chief Secretary to the Govt. of Meghalaya,

16/7/96-77
16/7/96

Contd...?/-

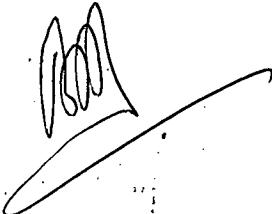
153 25 -21-
Mem. No. F.O.L. 199/10/1 (A), Dated Shillong, the 10 Sept., 1990.

Copy forwarded to :-

1. The Private Secretary to Chief Minister for favour of information of Chief Minister.
2. Private Secretary to Minister-in-Charge Forest for favour of information of the Minister.
3. Shri Ramon Dutta, I.A.S., Principal Secretary, M.I.S. Finance Department, for favour of information and necessary action.
4. Principal Secretary Forests and Environment Deptt. (necessary instruction may kindly be issued for providing all the necessary assistance in this matter. The expenditure involved in the working of the Commission shall be met from the Budget of the Directorate of Forest and Environment Department. The Secretariat and other assistance that may be required by the Commission shall be made available by the F.C.C.F., Meghalaya.
5. The Private Secretary to Chief Secretary to Govt. of Meghalaya, Shillong.
- ✓ 6. The Principal Chief Conservator of Forests Meghalaya, Shillong, for information and necessary action.
7. The Director, Printing & Stationery Govt. of Meghalaya for favour of publication in the next issue of the Gazette.

By Orders of the Governor of Meghalaya,

Commissioner & Secretary to the Govt. of Meghalaya,
Political Department



22 26 /
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111
54
// COPY //

GOVERNMENT OF MEGHALAYA
POLITICAL DEPARTMENT
....

NOTIFICATION
ORDERS BY THE GOVERNOR

NO.POL.15c/96/1,

Dated Shillong, the 18th Sept.1996.

Whereas reports have been received allowing that large scale illicit felling of trees and theft of timber thereof and encroachment of Government land has been taking place in the Reserved Forests under Dainadubi range of Garo Hills Forest Division of the State, resulting in huge losses to the State Exchequer.

Whereas it is considered necessary to assess the losses thus suffered and inquire into the factors that led to such losses and to fix responsibility on the functionaries responsible for protection of the Reserved Forests.

Now, therefore, the Governor of Meghalaya is pleased to constitute a one man Inquiry Commission to be headed by Shri I.A.S. Principal Secretary, Finance etc. with the following terms of reference :-

- i Assess the total number of trees felled, land encroached and the losses suffered by the Government therefrom ;
- ii Inquire into and ascertain the factors that led to the destruction and damage, to Government properties and losses suffered therefrom ;
- iii Fix responsibility for the lapses if any, of the Government officials resulted in the aforementioned widespread losses ; and ascertaining involvement of persons other than Government officials if any, for losses ; and
- iv. Suggest remedial measures so that such cases do not recur in future.

The Commission shall submit its report within a period of 30 days from the date of issue of this Notification.

Ad/- K.K.SINHA
Chief Secretary to the Govt. of Meghalaya

Memo No.POL.

Dated Shillong, the 10th Sept.1996.

Copy forwarded to :-

1. The Private Secretary to Chief Minister for favour of information of the Chief Minister.
2. Private Secretary to Minister-in-Charge Forest for favour of information of the Minister.
3. Shri Rangan Datta, I.A.S. Principal Secretary, Finance Department, for favour of information and necessary action.
4. Principal Secretary Forest and Environment Department. Necessary instruction may kindly be issued for prevailing all the necessary assistance in this matter. The expenditure involved in the working of the Commission shall be met from the Budget of the Directorate of Forest and Environment Department. The Secretariat and other assistance that may be required by the Commission, shall be made available by the P.C.C.F. Meghalaya.
5. The Private Secretary to Chief Secretary to Govt. of Meghalaya, Shillong.
6. The Principal Chief Conservator of Forests, Meghalaya, Shg. for information and necessary action.
7. The Director, Printing & Stationery Govt. of Meghalaya, for favour publication in the next issue of the Gazette.

By Orders of the Governor of Meghalaya.

Sd/-Commissioner&Secretary to the Govt.of Megh. Political Deptt.

POLITICAL DETERMINANT

MOTIFICATION
ORDERS BY THE GOVERNOR

NO.B01.15C\90\J. Meafey Shillford, the 18th of Sept. 1810.

of the State, resulting in the loss of state experience.

Whereas it is considered necessary to assess the losses from such fires for the purpose of fire insurance and to fix responsibility for loss, it is proposed that the following steps be taken:

Following are the names of the referees :-
I.T.S. Prudhvi Reddy, Secretary, Finance etc. with the
constituents as one man Imdumiriy Commisssion to be headed by Giri
Hou, therefore, this Committee of referees is necessary to

assess the total number of fires to Jeff, and
micrograph and the losses suffered by the Government
per fire; and

losses suffered by either side ;
desertion and damage to cover up boudaries being
induced into going across the frontier may be the

for possession ; any
of persons other than Government officials if the
meat is being withheld by Government officials ; any
meat intended for export ; any meat intended for
Government officials if the meat is stored
in a place not officially
designated in the store
fix responsibility for the losses if any of the
iii

vi. **Guidelines for remitting messages to firms in each case of top record in future.**

a period of 30 days from the date of issue of this notification.

Chief Secretary to the Govt. of Madras
Ag - K.K.SIMEA

Copy to Commissioner to be :-
Memos No. B.C.R.

1. The private secretary to Chief Minister for favor of future

2. Private members to minimize -in-charge forces for favor of
of the chief minister.

3. Shri Rajan Singh, I.A.S., Principal Secretary, Finance Department, said that the Government had issued a circular to the District Administrators to take necessary steps to implement the recommendations of the Committee.

4. *Biotic* *Geodiversity* *Forest* *and* *Navigation* *of* *Desert* *Wadis*.

of forest and mountainous desert areas. The desert areas are often covered with scrubby vegetation, while the forest areas are dominated by tall, thin trees.

2. The private secretary to China's secretary to Soft, of Mongolia, was responsible for the P.C.C.F. Mediation.

6. The Chinese East Chief Commissioner of Mongolia, Mr. Tang Shou-chen, has been recalled to Peking.

...and the following day, the 20th, the 100th and 101st Regiments, with the 10th and 11th Regiments, were sent to the front to reinforce the 1st and 2nd Regiments.

-25-27, Annexure RT.

GOVERNMENT OF MEGHALAYA
FOREST AND ENVIRONMENT DEPARTMENT

ORDERS BY THE GOVERNOR
MEMORANDUM

Dated Shillong, the 16th June, 1997

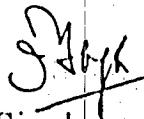
No. FOR. 58/97/6 : The Governor of Meghalaya proposes to hold an enquiry against Shri B. Singh, I.F.S., Principal Chief Conservator of Forests, Shillong, under Rule 8 of the All India Services (Discipline and Appeal) Rules 1969 read with article 311 of the Constitution of India, as to why any of the penalties specified in Rule 6 of the aforesaid Rules should not be imposed on him on charges of misconduct. The substance of the imputations of misconduct in respect of which the enquiry is proposed to be held is set out in the statement of articles of charge enclosed at Annexure -I. A statement of imputations of misconduct in support of the articles of charge is enclosed at Annexure-II. A list of documents by which the articles of charge are proposed to be sustained is enclosed at Annexure -III.

2. Shri B. Singh is hereby directed to submit within ten days of the receipt of this memorandum, a written statement of his defence, and also to state as to whether he desires to be heard in person.
3. Shri B. Singh is informed that an enquiry will be held in respect of those articles of charge as are not admitted by him. He should therefore specifically admit or deny each article of charge.
4. Shri B. Singh is further informed that if he does not submit the written statement of defence within the stipulated period and does not want to be heard in person or otherwise fails or refuses to comply with the provisions of Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969 or the orders/directions issued in pursuance of the said Rules, the enquiry against him may be held ex parte.



5. The receipt of the Memorandum may be acknowledged.

By order and in the name of the Governor,

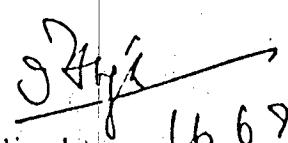

(J. P. Singh) 6.6.92
Principal Secretary to the Government of Meghalaya, Forest Department.

To,

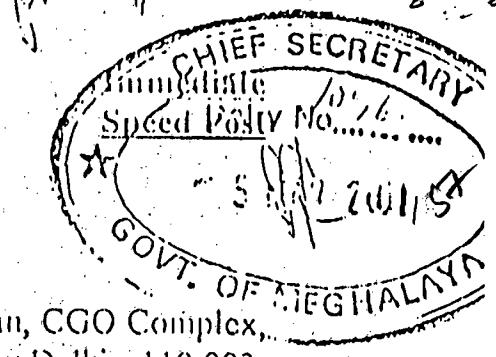
Shri B. Singh, I.F.S.,
Principal Chief Conservator of Forests, Meghalaya,
Shillong, PIN 793001.

Copy to:-

Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, New Delhi for kind information.


(J. P. Singh) 6.6.92
Principal Secretary to the Government of Meghalaya, Forest Department.

Annexure - V



No.A.12026/3/2000-IFS-I
Government of India
Ministry of Environment & Forests

Paryavaran Bhawan, CCO Complex,
Lodi Road, New Delhi - 110 003.

Dated the 1st March, 2001

To

The Chief Secretary,
Government of Meghalaya, Shillong

Sub: Selection of an IFS officer for appointment to the post of Director General
of Forests & Special Secretary, MoEF - regarding.

Sir,

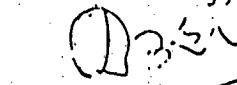
I am directed to say that the Ministry of Environment and Forests has already undertaken the exercise of selection of an IFS officer for the central deputation post of the Director General of Forests & Special Secretary in the pay of Rs.26,000/- fixed. The following officer(s) of your state cadre are among the candidates under consideration for the post:-

Shri Balvinder Singh, IFS (AM:64)

2. I am accordingly to request you to kindly send the following information/documents to the Ministry at your earliest by 15th of March, 2001:-

- i) Willingness of the officer to serve on central deputation as Director General of Forests and Special Secretary and also the willingness of the State Government to spare the services of the officer(s) in the event of his selection;
- ii) Vigilance Clearance;
- iii) Integrity Certificate.

Yours faithfully,


(R.B.S. Rawat)
Director

30/26 Annexure - VI
GOVERNMENT OF MEGHALAYA
FOREST & ENVIRONMENT DEPARTMENT, SHILLONG

No. RCC.13/93/269

Camp: New Delhi, the 15th Mar. 2001

From : Shri P.J.Bazeley,
Principal Secretary to the Govt of Meghalaya
Forest & Environment Department, Shillong.

To : Shri R.B.S.Rawat
Director, Ministry of Environment & Forest
Govt of India, New Delhi.

Sub : Selection of IFS Officer for appointment to the post
Director General of Forests & Environment & Special
Secretary, MoEF-regarding.

Ref : Your letter No.A.12026/3/2000-IFS-1 dated 1.3.2001

Sir,

In referring to your captioned communication, I am directed to say that Shri Balvinder Singh IFS(AM-'64) has given in writing, his consent and willingness to serve on Central deputation as Director General of Forest & Special Secretary. The State Government will release the said Officer, if selected for such appointment. A copy of letter dated 8.3.2001 received from Shri Balvinder Singh in this regard is enclosed.

A separate report on vigilance clearance and integrity of the Officer is being submitted shortly.

Yours faithfully,



(P.J.Bazeley)

Principal Secretary to the Govt of Meghalaya
Forest & Environment Department, Shillong



for immediate kind attention of
Shri R.B.S. RAWAT, Director
G.O.M. Min. of Env. & Forests.

-21- 31
Annex-VII

GOVERNMENT OF MEGHALAYA
FOREST & ENVIRONMENT DEPARTMENT

NOTIFICATION

No. FOR.58/97/466

Dated Shillong, the 8th May, 2001.

Read

- (1) Memorandum under Rule 8 of the AIS (Discipline & Appeal) Rules, 1969 (as adopted by Government of Meghalaya) under Article 311 of the Constitution of India served on Shri B. Singh, IFS vide Government letter No. FOR. 58/97/6 dated 16.06.97.
- (2) The Written Explanation dated 25.06.97 submitted by Shri B. Singh, IFS.
- (3) The Report of the Forest Inquiry Commission on the charges against Shri B. Singh, IFS and findings thereon as submitted by Justice T.C. Das (Retd).

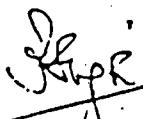
Conclusion -

The charges drawn up against the Officer have not been factually made out and substantiated beyond doubt.

ORDER

On careful consideration of the matter and having regard to the explanation of the Officer, the evidence on record, the circumstances of the case and the Enquiry Report, the Governor of Meghalaya is pleased to drop all the charges framed against Shri B. Singh, IFS, Principal Chief Conservator of Forest vide Memorandum No. FOR.58/97/6 dated 16.06.97.

The Officer is accordingly exonerated.


[J.P. Singh]

Chief Secretary to the Government of Meghalaya.



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60

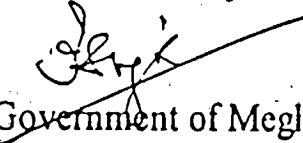
Memo No. FOR.58/97/466-A

Dated, Shillong the 8th May, 2001.

Copy forwarded to -

1. Private Secretary to Chief Minister Meghalaya for information of the Chief Minister.
2. Private Secretary to Minister forest & Environment, Meghalaya, Shillong.
3. Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, New Delhi.
4. Shri B. Singh, Principal Chief conservator of Forests, Meghalaya, Shillong.
5. Director of Printing & Stationery, Meghalaya for publication in Meghalaya Gazette.
6. Personnel & AR (A) Department for information.
7. Political Department with reference to I/D No. FOR.58/97 dated 08.05.2001.

By order etc.,


Chief Secretary to the Government of Meghalaya.



Annexure - VIII - 33/29
6
S. J. P. Singh, I.A.S.
CHIEF SECRETARY
GOVERNMENT OF MEGHALAYA
SHILLONG-793001
D.O No. CS/FOR/2001



(0364) 224801 (Office)
(0364) 223083 (Residence)
Fax (0364) 225978
e-mail : cs-megha@x400.nicgw.nic.in

Dated 08.05.2001

To.

The Secretary Environment & Forest,
Government of India,
Paryavaran Bhawan,
C.G.O. Complex,
New Delhi
Fax - 011-4360678

Subject:- Selection of IFS Officer for appointment to the Post of Director General
Special Secretary Ministry of Environment and Forest.

Sir,

With reference to your letter No. 12026/3/2000-01 IFS-I dated 1st March 2001, I wish to convey that there is no vigilance case pending against Shri Balvinder Singh, IFS, PCCF Meghalaya. Nothing has come to the notice of Govt. that casts reflection on the integrity of Shri B. Singh, IFS.

The officer is willing to serve on deputation to Govt. of India.

This for favour of information & necessary action at your end.

Your faithfully,

(Shri J. P. Singh)

Copy:-

By post for Confirmation to the Secretary Environment & Forest,
Govt. of India, New Delhi.

(Shri J. P. Singh)

Forest & Environment,
Govt. of Meghalaya,

Shillong

OT

Received letter no. CS/FOR/2001 dt 8. May 2001
from Chief Secy Meghalaya to Secy, E&F, GOI.
on 9/5/2001

AB

10
21/5/2001
सचिव कार्यालय
Office of the Secretary
भृत्यराज कर्त्तव्य संचालन
Ministry of Environment & Forest
पर्यावरण और वन, भारत
भृत्यराज/ New Delhi

351 - 31-
GOVERNMENT OF MEGHALAYA Annexure 26 - P.C. 3
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
MEGHALAYA: SHILLONG

No. MPG. 2/1

Dated Shillong, 09 May 01.

From,

Balvinder Singh IFS,
Principal Chief Conservator of Forests,
Meghalaya, Shillong

To,

The Secretary to the Government of India,
Ministry of Environment & Forests,
Paryavaran Bhawan, C.G.O. Complex,
Lodhi Road, New Delhi – 110 003.

(Through proper channel).

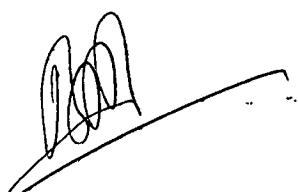
Sub: SELECTION/APPOINTMENT TO THE POST OF DIRECTOR GENERAL OF FORESTS & SPECIAL SECRETARY, M.O.E.F.

Sir,

I am to request you to kindly recall that during the year 1997, when the post of Inspector General of Forests (now re-designated as Director General of Forests) had fallen vacant, mine was the sole name recommended by the Departmental Promotion Committee (meeting held on 18-11-96) and forwarded to the Appointment Committee of Cabinet for appointment as Inspector General of Forests, Government of India. However, to my utter disadvantage, I could not be favoured with the appointment order to the said post. The reason for this deprivation was attributed to non issuance of Vigilance and Integrity Certificate by the State Government for reasons not known to me. Subsequently, Disciplinary Proceedings were initiated against me and in the mean time Shri C.P. Oberoi was given appointment to the post, which I believe must have been done in total conformity to the Statutory Rules/procedure for promotions.

Shri C.P. Oberoi is to superannuate on 31-05-2001. The Government of India vide their letter No.A12026/3/2000-IFS-I, dated 01-03-2001 had indicated that my candidature is again under consideration and sought for my willingness, the State Government's willingness to spare my services and also the Vigilance/Integrity Certificate.

The State Government have been pleased to conclude my Disciplinary Proceedings exonerating me fully of all the charges. The Vigilance/Integrity Certificate has also been furnished vide Chief Secretary's, Government of Meghalaya, D.O. No.CS/FOR/2001, dated 08/05/2001.



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In this context, I fervently appeal to you to dispense with justice to me in the matter of giving consideration for selection for the post of Director General of Forests as I have been deprived of my legitimate dues at that point of time, due to reason not attributable to me. The Disciplinary & Appeal Rules are amply clear about the manner in which relief is to be granted to an incumbent on honourable conclusion of any Disciplinary Proceedings. Hence I presume I shall get rightful consideration from you in the imminent appointment process.

Anticipating your kind consideration,

Yours faithfully;

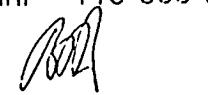

(BALVINDER SINGH)
Principal Chief Conservator of Forests
Meghalaya, Shillong.

Memo.No. MPG. 24 - A

Dated Shillong, 09 May 01.

Copy to :

Hon'ble Shri T.R. Balu, Union Minister for Environment & Forests, Government of India, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi - 110 003 for his kind attention and necessary action.


Principal Chief Conservator of Forests
Meghalaya, Shillong.

Memo No. MPG. 24 - B

Dated Shillong 09 May 01.

Copy in advance to the Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi - 110 003.

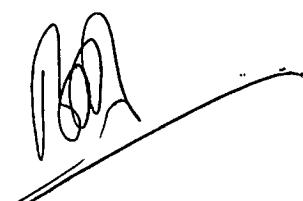

Principal Chief Conservator of Forests,
Meghalaya, Shillong.

Memo No. MPG. 24 - C

Dated Shillong 09 May 01.

Copy in advance to the Director General of Forests & Special Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi - 110 003.


Principal Chief Conservator of Forests,
Meghalaya, Shillong.



35
37 ANNEXURE-II
No.20019/91/2000-IFS.II
Government of India
Ministry of Environment & Forests
Dated 8 JAN 2001
GOVT. OF MEGHALAYA

To

New Delhi, dated the 22nd December, 2000.

The Chief Secretaries of all the
State Governments and Union Territories.

Subject : Indian Forest Service - Promotion to various grades
Guidelines regarding.

Sir,

I am directed to say that the Central Government has issued detailed guidelines for functioning of Departmental Promotion Committees (DPCs) and for promotion of members of the Indian Forest Service to the Senior Scale and Super time Scale from time to time. These guidelines, inter alia, lay down conditions for determining the eligible officers' suitability for different grades in the Service, crucial dates of promotion in these grades, composition and working of the DPCs, procedures to be adopted in cases of officers against whom disciplinary/court proceedings are pending or whose conduct is under investigation etc.

In view of the multiplicity of these guidelines, it has been decided to consolidate the same at one place and also modify them to take care of the changes which have since taken place in the structure of the Service. Accordingly, the relevant guidelines for the Indian Forest Service as contained in Annexures I and II are being issued.

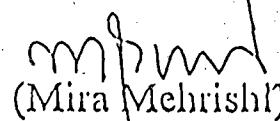
It is requested that in the interest of uniformity and objectivity, these guidelines may be followed strictly, while granting promotion to the members of the Indian Forest Service in different grades. Members of the DPCs may also be suitably briefed on these guidelines at the time the meetings are held. Prior approval of the Central Government must be obtained before any deviation

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from any of these guidelines, (b) is contemplated/proposed in except
circumstances.

Yours faithfully,


(Mira Mehrishi)

Joint Secretary to the Government of India

Copy to the Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training) w.r.t. their endorsement No. 20011/4/92-AIS.II, dated the 28th March, 2000.

PRINCIPLES REGARDING PROMOTION OF MEMBERS OF THE INDIAN FOREST SERVICE AND COMPOSITION OF DEPARTMENT PROMOTION COMMITTEES

I. APPOINTMENT TO SENIOR TIME SCALE

An officer is eligible for appointment to the Senior Time Scale on completion of 4 years' service, subject to the provisions of rule 6(A) of the (Recruitment) Rules, 1966. A Committee consisting of the Principal Conservator of Forests and two officers, of at least Chief Conservator of Forests level of the State Government concerned, shall evaluate the performance of eligible officers for deciding their suitability for promotion to posts in Senior Time Scale. Subject to availability of posts, this scale can be allowed from or after 1st January during the relevant year in which officers become eligible for this scale.

II. APPOINTMENT TO THE JUNIOR ADMINISTRATIVE GRADE

An officer is eligible for appointment in the Junior Administrative Grade on completing 9 years of service. This grade is non-functional and shall be admissible without any screening, as a matter of course, to all the officers on the Senior Time Scale from 1st January of the relevant year, except in cases where any disciplinary/criminal proceedings are pending against the officer.

III. APPOINTMENT TO THE SELECTION GRADE

An officer of the Junior Administrative Grade shall be eligible for appointment to the Selection Grade on completion of 13 years of service as per the proviso to rule 3(3) of the IFS (Pay) Rules, 1968. A Committee consisting of the Chief Secretary, Principal Secretary-in-charge of Forest, Principal Conservator of Forests of the State Government and Additional Principal Conservator of Forests wherever available, shall screen the eligible members of the Service for promotion in this grade. This grade will be available from or after 1st January of the relevant year subject to availability of vacancies in this grade.



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68 IV. PROMOTION TO THE POST OF CONSERVATOR OF FORES

The members of the Service who are working in the Select Grade and have completed 14 years of service shall be eligible for appointment to the post of Conservator of Forests in the scale of Rs. 16400-450-20000 *at any time during the year* of their eligibility, subject to availability of vacancies in this grade. The Screening Committee to consider officers for promotion in this scale would consist of the Chief Secretary, Principal Secretary looking after the work of Forests and Principal Chief Conservator of Forests in State Government and Additional Principal Chief Conservator of Forests wherever available as members.

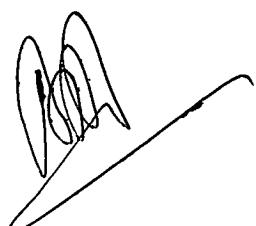
V. PROMOTION TO THE POST OF CHIEF CONSERVATOR OF FORESTS

The zone of consideration for promotion in this grade may consist of the officers who have completed 18 years' service. Promotion of officers thus cleared could be made *at any time during the relevant year*, provided vacancies in this grade are available. The Screening Committee to consider officers for promotion in this scale will consist of Chief Secretary, Principal Secretary looking after the work of Forests, Principal Chief Conservator of Forests and one officer in the grade of Additional Principal Chief Conservator of Forests or holding higher post working in the Forest Department in State Government concerned, as members.

In case no officer is available with requisite number of years of service, the DPC may make appropriate relaxation in this regard after seeking approval of Government of India.

VI. PROMOTION TO THE POST OF ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS.

The zone of consideration for promotion in this grade would consist of all the members of the Service who have completed 25 years of service. Appointment in this grade would be made from amongst the officers thus cleared, *at any time during the relevant year* and subject to the provisions of rule 9(7) of the I.F.S. (Pay) Rules, 1968. The Screening Committee for this purpose shall consist of the Chief Secretary, Principal Secretary looking after the work of Forests and Principal Chief Conservator of Forests and one non-I.F.S. Officer of the rank of Chief Secretary serving in the State /Additional Director General of Forests, Ministry of Environment & Forests, Government of India when the former is not available.



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PROMOTION TO THE POST OF PRINCIPAL CHIEF CONSERVATOR
OF FORESTS.

The zone of consideration for promotion in this grade would consist of all the members of the Service who have completed 28 years of service. Appointment in this grade would be made from amongst the officers thus cleared, at any time during the relevant year and subject to the provisions of rule 9(7) of the I.F.S. (Pay) Rules, 1968. The Screening Committee for this purpose shall consist of the Chief Secretary, Principal Chief Conservator of Forests and Principal Secretary looking after the work of Forests and an officer not less than the rank of Additional Secretary in the Government of India/Additional Director General of Forests, Ministry of Environment & Forests, Government of India when the former is not available.

In case no officer is available with requisite number of years of service, the DPC may make appropriate relaxation in this regard after seeking approval of Government of India.



GENERAL GUIDELINES FOR PROMOTION ETC. AND FUNCTIONING OF SCREENING COMMITTEES

1. FUNCTIONS OF SCREENING COMMITTEES

It should be ensured while making promotions that suitability of candidates for promotion is considered in an objective and impartial manner. For this purpose, Screening Committees (hereafter referred to as Committees) as mentioned in Annexure I should be formed for different grades whenever an occasion arises for making promotions/confirmations etc. The Committees so constituted shall adjudicate the suitability of officers for:-

(a) Promotions in various grades, including ad-hoc promotions in cases where disciplinary proceedings/criminal prosecutions are prolonged;

(b) Confirmation; and

(c) Assessment of the work and conduct of probationers for the purpose of determining the suitability for retention in service or their discharge from service or extending their probation.

The Committee shall also undertake the Quarterly review cases which have been placed in the Sealed Cover, as prescribed in para 19 supra.

2. FREQUENCY AT WHICH COMMITTEES SHOULD MEET

Meetings of the Committees should be convened at regular intervals to draw panels for filling up vacancies arising during the course of a year. For this purpose, it is essential for the concerned State Government to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like ACRs, integrity certificates, seniority list etc. for placing before the Committees. Meetings of the Committees may be convened every year on a pre-determined date e.g. 1st of May or June. All the cadres should lay down a time schedule for holding the Committee meetings and the Secretary-in-charge of the Personnel Department of the State Government and Principal Chief Conservator of Forests shall ensure that they are held regularly. Holding of these meetings should not be delayed or postponed on one or the other administrative ground or on the ground that the necessary material for placement before the Committees is not ready. The requirement of convening regular meetings of the Committees can be dispensed with only after a certificate

196

s been issued by the Secretary-in-charge of the Personnel Department or the Principal Chief Conservator of Forests to the effect that there are no vacancies to be filled by promotion or no officers are due for promotion/ confirmation during the year in question.

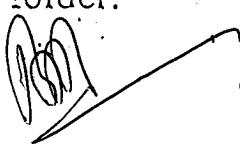
3. DETERMINATION OF VACANCIES

It is essential that the number of vacancies in respect of which a panel is to be prepared should be estimated as accurately as possible. For this purpose, the vacancies to be taken into account should be the clear vacancies arising in a grade due to death, retirement, resignation, promotions and deputation. As regards vacancies arising due to deputation, only those cases of deputation for periods exceeding one year should be taken into account, taking due note of the number of deputationists likely to return to the cadre. Rarely short term vacancies arising as a result of the officers proceeding on leave, training or on deputation for a short-term period or as a result of over-utilisation of the sanctioned State Deputation Reserve not approved by the central Government, should not be taken into account for the purpose of preparation of a panel. In cases where there has been a delay in holding the committee meetings for a year or more, vacancies should be indicated year-wise separately, by also including the names of officers in the zone of consideration who would have been eligible and available for consideration had the meeting(s) of the DPC taken place in time but have since retired or expired.

4. PAPERS TO BE PUT UP FOR CONSIDERATION BY COMMITTEES

4.1 The proposals should be completed and submitted to the Committee cell in time. No proposal for holding a Committee meeting should be sent until and unless at least 90% of the up-to-date and complete ACRs are available. Every effort should be made to keep the ACR dossiers up-to-date. If this aspect is advanced as the reason for not holding the Committee meetings in time, the officer referred in para 2 above would be responsible for monitoring and the completion of the ACR dossiers as per the existing instructions in this regard. In respect of cases relating to confirmation and assessment of the work and conduct of probationers, they would ensure the timely submission of the Assessment Reports etc.

4.2 The folder of ACRs/Assessment Reports should be checked to verify whether the ACRs for individual years/relevant periods are available. If the ACR for a particular year/particular period is not available and for valid/justifiable reasons it cannot be made available, a certificate should be recorded to that effect and placed in the folder.



4.3 The integrity certificate on the lines indicated below, should be furnished to the Committees constituted to consider cases for promotion or confirmation:-

"The records of service of the following officers, who are to be considered for promotion/confirmation in the grade, have been carefully scrutinised and it is certified that there is no doubt about their integrity."

If there are names of persons in the list of eligible candidates, whose integrity is suspected or has been held in doubt at one stage or the other, the fact should specifically be recorded by the officer-in-charge of the Personnel Department and brought to the notice of the Committee. The integrity certificate would be withheld only in cases where one or the other contingencies as indicated in para 11.1 supra has arisen. It should be ensured that the information thus furnished is factually correct and complete in all respects. Cases where incorrect information has been furnished, should be investigated and suitable action taken against the person responsible for it.

5. CONSIDERATION OF OFFICERS ON DEPUTATION ETC.

The names of officers who are on deputation for a period exceeding one year shall also be included in the list submitted to the Committee for consideration for promotion/confirmation in case they fulfil the prescribed eligibility conditions. In cases where a certain number of years of service in the lower grade is prescribed as a condition for becoming eligible for consideration for promotion to the higher grade and/or for confirmation, the period of service rendered by an officer on deputation should be treated as comparable service in his cadre for the purposes of promotion as well as confirmation. This is subject to the condition that the deputation is with the approval of the competent authority and it is certified that but for deputation, the officer would have continued to be in the relevant grade in his cadre. The same would apply in cases of officers who are on leave/study leave duly sanctioned by the competent authority or training under the various training schemes which are treated as duty for all purposes.

6. PROCEDURE TO BE OBSERVED BY COMMITTEES

Each Committee should decide its own method and procedure for objective assessment of the suitability of the candidates. While merit has to be recognised and rewarded, advancement in an officer's career should not be regarded as a matter of course. It should be earned by dint of hard work, good



45

conduct and result oriented performance as reflected in the annual confidential report and based on strict and rigorous selection process. The misconception about "Average" performance also requires to be cleared. While "Average" may not be taken as adverse remark in respect of an officer, it cannot also be regarded as complimentary to the officer. Such performance should be regarded as routine and undistinguished. Nothing short of above-average and noteworthy performance should entitle an officer to recognition and suitable rewards in terms of career progression.

7. CONFIDENTIAL REPORTS

7.1 The Annual Confidential Reports are the basic inputs on the basis of which assessment is to be made by each Committee. The evaluation of ACRs should be fair, just and non-discriminatory. The Committee should consider ACRs for equal number of years in respect of all officers falling within the zone of consideration for assessing their suitability for promotion. Where one or more ACRs have not been written for any reason, the Committee should consider the available ACRs. If the Reviewing Authority or the Accepting Authority as the case may be, has over-ruled the Reporting Officer or the Reviewing Authority respectively, the remarks of the Accepting Authority should be taken as the final remarks for the purposes of assessment. While making the assessment, the Committee should not be guided merely by the overall grading that may be recorded in the ACRs but should make its own assessment on the basis of the overall entries made in the ACRs.

7.2 In the case of each officer, an overall grading should be given which will be either "Fit" or "Unfit". There will be no benchmark for assessing suitability of officers for promotions.

7.3 Before making the overall grading, the Committee should take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any higher authority has been conveyed to him. Similarly, the Committee would also take note of the commendations received by the officer during his service career. The Committee would also give due regard to the remarks indicated against the column of integrity.

The list of candidates considered by the Committee and the overall grading thus assigned to each candidate would form the basis for preparation of the panel for promotion.



66

8. PREPARATION OF YEAR-WISE PANELS WHERE THE COMMITTEE HAVE NOT MET FOR A NUMBER OF YEARS

8.1. Where for any reasons beyond control, the Committee has not met in a year(s) even though vacancies arose during that year(s), the first Committee that meets thereafter should follow the procedures indicated below:-

(a) Determine the actual number of vacancies that arose in each of the previous year(s) immediately preceding and the actual number of vacancies proposed to be filled in the current year separately.

(b) Consider in respect of each of the years only those officers including the officers who have retired/died in the meanwhile, who would be within the zone of consideration with reference to the vacancies of each year starting with the earliest year onwards.

(c) Prepare a panel by placing the panel of the earlier year above the one for the next year and so on.

8.2. Where a Committee has already met in a year and further vacancies arise during the same year, the following procedure should be followed:-

(a) For vacancies, due to death, voluntary retirement, new creations etc. belonging to the category which could not be foreseen at the time of placing the facts and the matter before the Committee, another meeting of the Committee should be held for drawing up a panel for the vacancies thus arising. If, for any reason, the Committee cannot meet for the second time, the procedure of drawing up of year-wise panel, as indicated above, may be followed when it meets next for preparing panels in respect of vacancies that arise in the subsequent year.

(b) In cases of non-reporting of vacancies due to error or omission, whereby such an error artificially restricted the zone of consideration, a Review DPC should be held taking into consideration the total vacancies in the year.

(c) For the purpose of evaluating the merit of the officers, while preparing year-wise panels, the scrutiny of the record of the service of the officer should be limited to the records that would have been available had the Committee met at the appropriate time. However, if on the date of such meeting, departmental proceedings against an officer are in progress and the sealed cover procedure is to be followed, such procedure should be observed even if departmental proceedings were not in existence in the year to which the



vacancy related. The officer's name should be kept in the sealed cover till the proceedings are finalized.

Part 10 (d) While promotions will be made in the order of the consolidated panel, such promotions will have only prospective effect if it is in a functional grade, involving higher duties and responsibilities, even in cases where the vacancies relate to earlier years. In cases of promotions in non-functional grades, not involving higher duties and responsibilities, promotions may be allowed from the due dates retrospectively.

9. CONFIRMATION

In the cases of confirmation, which is now a one-time affair during one's entire service, the Committee should not determine the relative merit of officers but it should assess the officers as "Fit" or "Not Yet Fit" for confirmation in their turn on the basis of their performance as assessed with reference to their records of service. In case the Committee finds a probationer 'Not Yet Fit', it shall record reasons for the same.

10. PROBATION

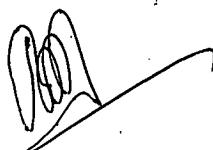
In the case of probation, the Committee should not determine the relative grading of officers but only decide whether they should be declared to have completed the probation satisfactorily within the meaning of the IFS (Probation) Rules, 1968. If the performance of any probationer is not satisfactory, the Committee may advise whether the period of probation should be extended or whether he should be discharged from service, within the meaning of these Rules.

11. PROCEDURE TO BE FOLLOWED IN RESPECT OF OFFICERS

AGAINST WHOM DISCIPLINARY/COURT PROCEEDINGS ARE PENDING OR WHOSE CONDUCT IS UNDER INVESTIGATION

11.1 At the time of consideration of the cases of officers for promotion, details of such officers in the zone of consideration falling under the following categories should be specifically brought to the notice of the concerned Screening Committees :-

- (a) Officers under suspension;
- (b) Officers in respect of whom a chargesheet has been issued and disciplinary proceedings are pending;



48

(c) Officers in respect of whom prosecution for criminal charge is pending.

11.2 The Screening Committee shall assess the suitability of the officers coming within the purview of the circumstances mentioned above, alongwith other eligible candidates, without taking into consideration the disciplinary case/criminal prosecution which is pending. The assessment of the Committee including "Unfit for Promotion" and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "FINDINGS REGARDING THE SUITABILITY FOR PROMOTION TO THE SCALE OF IN RESPECT OF SHRI..... NOT TO BE OPENED TILL THE TERMINATION OF THE DISCIPLINARY CASE/CRIMINAL PROSECUTION AGAINST SHRI....." The proceedings of the Committee need only contain the note "THE FINDINGS ARE CONTAINED IN THE ATTACHED SEALED COVER." The same procedure will be adopted by the subsequent Screening Committees till the disciplinary case/criminal prosecution against the officer concerned is concluded.

12. ADVERSE REMARKS

12.1 Where adverse remarks in the Confidential Report of the officer concerned have not been communicated to him, this fact should be taken note of by the Committee while assessing * the suitability of the officer for promotion/confirmation. In a case where a decision on the representation of an officer against adverse remarks has not been taken or the time allowed for submission of representation is not over, the Committee may defer the consideration of the case until a decision on the representation is arrived at.

12.2 An officer whose increments have been withheld or who has been reduced to a lower stage in the time-scale, cannot be considered on that account to be ineligible for promotion as the specific penalty of withholding promotion has not been imposed on him. The suitability of the officer for promotion should be assessed by the Committee as and when occasions arise. They will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of overall service records of the officer and the fact of the imposition of the penalty, he should be considered for promotion or not. Even where the Committee considers that despite the penalty the officer is suitable for promotion, the officer may be promoted only after the currency of the penalty.



69 - 45

13. VALIDITY OF THE COMMITTEE PROCEEDINGS WHEN ONE MEMBER IS ABSENT

In such cases and provided that the Chairman was not absent, the proceedings of the Committee shall be legally followed and can be acted upon. It should, however, be ensured that the member was duly invited but he absented himself for one reason or the other and there was no deliberate attempt to exclude him from the Committee's deliberations and provided further that the majority of the members constituting the Committee represented in the meeting.

14. PROCESSING OF RECOMMENDATIONS OF THE COMMITTEES

14.1 The recommendations of the Committee are advisory in nature and should be duly placed before the State Government for approval. There may, however, be occasions when the State Government may find it necessary to disagree with the recommendations. In any case, however, the decision to agree or disagree with the recommendations should be taken within a period of 3 months from the date the Committee forwards its recommendations.

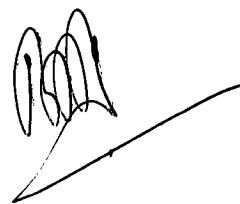
14.2 Where the State Government proposes to disagree with the recommendations of the Committee, it may refer the matter again to the Committee for reconsideration of their earlier recommendations. If the Committee re-iterates its earlier recommendations giving also the reasons in support thereof, the State Government shall take a decision either to accept or to vary the recommendations of the Committee, by giving reasons to be recorded in writing, and such a decision shall be final.

15. VIGILANCE CLEARANCE WHILE IMPLEMENTING THE COMMITTEE RECOMMENDATIONS

A clearance from vigilance angle should be available before making actual promotion or confirmation of officers approved by the Committee to ensure that no disciplinary proceedings are pending against the officers concerned.

16. ORDER IN WHICH PROMOTIONS TO BE MADE

The officers placed in the approved panels for promotion are to be considered for appointment to higher grades in the order of their inter-se position in the respective panels, except in cases where disciplinary/court proceedings are pending against an officer. The procedure to be adopted in cases



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of officers against whom disciplinary/court proceedings are pending has been laid down in the succeeding paragraphs.

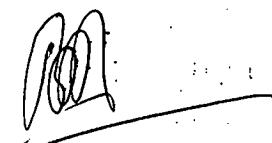
17. PROMOTION OF OFFICERS ON DEPUTATION

If a panel contains the name of an officer who is 'away' from the cadre and is on deputation in public interest for a period exceeding one year, including an officer who has gone on study leave/training, the officer shall be eligible for his regaining the temporarily-lost promotion in the higher grade on his return to the cadre. It has to be borne in mind that seniority of members of Indian Forest Service which is initially fixed, is not to undergo any change throughout their career and early or late promotion of an officer vis-a-vis other officer(s) in a particular grade is to have no impact on their seniority. Therefore, such an officer need not be reconsidered by a fresh Committee, if subsequently held, while he continues to be on deputation/study leave/training. This would be irrespective of the fact whether or not he has got the benefit of proforma promotion under the 'Next-Below Rule'.

18. SEALED COVER CASES - ACTION AFTER COMPLETION OF DISCIPLINARY/CRIMINAL PROSECUTION

18.1. If the proceedings of the Committee for promotion contain findings in a sealed cover, on conclusion of the disciplinary case/criminal prosecution, the sealed cover or covers shall be opened. In case the officer is completely exonerated, the due date of his promotion will be determined with reference to the findings of the Screening Committee kept in sealed cover/covers and, with reference, to the date of promotion of his next 'junior' on the basis of such findings. The officer shall be promoted even if it requires to revert the junior-most officiating person. Such promotion would be with reference to the date of promotion of his junior and in these cases, the officer will be paid arrears of salary and allowances.

18.2. If a penalty is imposed on the officer as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next Screening Committee in the normal course, having regard to the penalty imposed on him. In such cases, the question of arrears may be decided by taking into account all the facts and circumstances of the disciplinary/criminal proceedings. Where arrears of salary, a part thereof are denied, the reasons for doing so shall be recorded.



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19. QUARTERLY REVIEW OF SEALED COVER CASES.

It is necessary to ensure that the disciplinary case/criminal prosecution instituted against an officer is not unduly prolonged and all efforts to expeditiously finalize the proceedings are taken so that the need for keeping the cases of officers in sealed cover/covers is limited to the barest minimum. The concerned State Governments shall comprehensively review such cases on the expiry of three months from the date of convening of the first Screening Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also after every three months. The review shall, inter-alia, cover the progress made in the disciplinary proceedings/criminal prosecution, and further measures required to be taken to expedite their completion. The material/evidence collected in the investigations would also be scrutinised to determine in cases involving suspension whether there is a prima-facie case for initiating disciplinary action or sanctioning prosecution against the officer. If as a result of such a review, the State Govt. comes to a conclusion that there is prima-facie no case, the sealed cover would be opened and the officer concerned would be given his due promotion with reference to the position assigned to him by the DPC.

Same procedure is to be followed in considering the cases of confirmation.

20. AD HOC PROMOTIONS IN CASES WHERE DISCIPLINARY PROCEEDINGS/CRIMINAL PROSECUTIONS ARE PROLONGED

As appointment of the members of the Indian Forest Service to various grades is made on regular basis and the provision of one-time confirmation exists in their cases, the concept of grant of ad hoc promotion is alien to them. Unlike Central Government servants, ad hoc promotions are not to be allowed in their cases even if the disciplinary cases/criminal prosecutions instituted against them are found to have been prolonged. In their cases, only quarterly review of their disciplinary/criminal cases is to be undertaken and efforts are to be made to expedite their completion.

21. SEALED COVER PROCEDURE APPLICABLE TO OFFICERS IN WHOSE CASES CONTINGENCIES OF PARA 11.1 SUPRA ARISE BEFORE ACTUAL PROMOTION.

In the case of an officer recommended for promotion by the Screening Committee where any of the circumstances mentioned in para 11 above arise before actual promotion, sealed cover procedure would be



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followed. The subsequent Committee shall assess the suitability of such officers along with other eligible candidates and place their assessment in sealed cover. The sealed cover/covers will be opened on conclusion of the disciplinary case/criminal prosecution. In case the officer is completely exonerated, he would be promoted as per the procedure outlined in para 18 above and the question of grant of arrears would also be decided accordingly. If any penalty is imposed upon him as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover shall not be acted upon, as outlined in para 18.2 above.

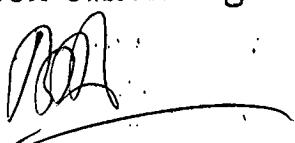
22. VALIDITY OF THE PANEL

A panel for promotion recommended by the Committee and approved by the State Governments shall be valid till all the officers placed in the panel have been promoted. This will, of course, exclude officers who are away on deputation but they do not opt to rejoin the cadre in the higher post or are on study leave or training.

23. REVIEW COMMITTEE MEETING

23.1 The proceedings of any Committee may be reviewed only if the Committee had not taken all the material facts into consideration or if material facts were not brought to their notice or if there were grave errors in the procedure followed by them. Special review may also be done in cases where adverse remarks in an officer's ACRs are expunged or modified. The Review Committee would consider only those officers who were eligible as on the date of meeting of the Original Committee. They would also restrict their scrutiny of the ACRs for the period relevant to the first Committee meeting. If any adverse remarks relating to the relevant period were toned down or expunged, the modified ACRs should be considered as if the original adverse remarks did not exist at all. Before doing so, the appointing authority would scrutinise the relevant cases with a view to decide whether or not a review by the Committee is justified, keeping in mind the nature of the adverse remarks toned down or expunged. While considering a deferred case or review of the case of a superseded officer, if the Committee finds the officer fit for promotion/confirmation, it would place him at the appropriate place in the relevant panel after taking into account the toned-down remarks or expunged remarks, as the case may be.

23.2 If the officers placed junior to the above-said officer have been promoted, the latter should be promoted immediately and if there is no vacancy, the junior-most person officiating in the higher grade should be reverted to



accommodate him. On promotion, his pay should be fixed at the stage it would have reached had he been promoted from the date the officer immediately below him was so promoted, but no arrears for the past periods would be admissible. In the case of confirmation, if the officer concerned is recommended for confirmation on the basis of a review, he should be confirmed from the due date.

24. AVAILABILITY OF VACANCIES

Whenever promotions are vacancy based, while computing the available vacancies for filling up the same by promoting officers, placed in the panel, care should be taken to ensure that the total ex-cadre posts created in various grades for the purpose do not exceed in sum the permissible quota of State Deputation Reserves indicated in the respective Cadre Schedules. Provisions of rule 9(7) of the IFS (Pay) Rules, 1968 would also require to be followed while making promotions in the highest grade of the Service.

25. SUPERSESSION OF OFFICERS

If an officer has not been included in the panel for promotion to any of the grades, the detailed reasons for his supersession may be recorded in writing. Such officers would be eligible for reconsideration after earning two more reports, except in the case of promotion in the grade of Principal Chief Conservator of Forests, in which case an officer would be eligible for reconsideration after earning only one more report.

(Signature)

ANNEXURE - I 54 - 50 - ~~50~~ - 1
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH ANNEXURE - XI
Original Application No. 187 of 2001

Date of Order : This is the 22nd Day of May, 2001 SV xx

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

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

Shri Balvinder Singh, I.F.S.
Principal Chief Conservator
of Forests, Meghalaya,
Sylvan House,
Lower Lachumiers, Shillong

... Applicant.

By Advocate Mr. S. R. Sen

- Vs -

1. Union of India,
represented through
the Ministry of Environment
and Forests, Paryavaran Bhawan,
C.G.O. Complex, Lodi Road,
New Delhi - 110 003.

2. The Secretary
to the Government of India,
Ministry of Environment and
Forests, Paryavaran Bhawan,
C.G.O. Complex, Lodi Road,
New Delhi - 110 003.

3. State of Meghalaya,
Represented through
the Secretary, Government of
Meghalaya, Forests and Environment
Department,
Shillong - 793 001.

... Respondents.

By Mr. B.C. Pathak, Addl.C.G.S.C.,
Mrs. B.Dutta, Govt. Advocate, Meghalaya.

O R D E R

CHOWDHURY J.(V.C.)

This application is under Section 19 of the
Administrative Tribunals, 1985 asking for a direction to
consider the case of the applicant for the promotion to
the post of Inspector General of Forests and Special
Secretary (presently redesignated as Director General of

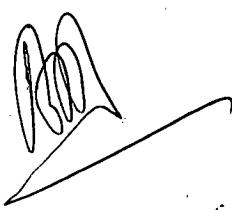
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Forests and Special Secretary). In this application, the applicant submitted that he is the seniormost Indian Forest Service Officer serving in the country (allotted to the year 1964). He is presently serving as Principal Chief Conservator of Forests, Meghalaya. When the post of Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests, fell vacant on 30-11-96 a DPC was held and a panel of three suitable Indian Forest Service Officers were made. The concerned authority recommended the name of the applicant to the appointment Committee for appointment as Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests. Consequent to the recommendation the concerned authority sought for the Vigilance Clearance Certificate from the Forest Secretary to the Government of Meghalaya. The Government of Meghalaya expressed its inability to grant vigilance clearance on the grounds that a Commission of Inquiry was in progress pertaining to the investigation of the allegations of large scale illicit felling of trees and theft of timber thereof and encroachment of Govt. land in the Reserved Forests under Dainadubi Range of Garo Hills Forests Division, Tura.

2. The Government of Meghalaya, as a matter of fact ordered an Inquiry against the applicant under Rule 8 of the All India Services (Discipline and Appeal). Because of the non-submission of the Vigilance Clearance Certificate, the applicant was passed over and next Officer in the panel Shri C.P. Oberoi, I.F.S. an Officer



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junior to him was preferred. It has now been stated that the disciplinary proceeding was conducted, the applicant was exonerated and vide order dated 8-5-2001, Forest and Environment Deptt., Govt. of Meghalaya cleared the name of the applicant. The present incumbent (Inspector General of Forests and Special Secretary) is also to supersede on 31-5-2001. By communication dated 1-3-2001, Ministry of Environment and Forests, Government of India informed the Chief Secretary to the Govt. of Meghalaya that the Ministry of Environment and Forests had decided to undertake the exercise of selection of an Officer for the post of Director General of Forests and Special Secretary and amongst the candidates the applicant's name was also under consideration. The Government of India accordingly, asked for the following information :-



- i) Willingness of the officer to serve on central deputation as Director General of Forests and Special Secretary and also the willingness of the State Government to spare the services of the officer(s) in the event of his selection ;
- ii) Vigilance Clearance ;
- iii) Integrity Certificate.

The Government of Meghalaya, in turn, informed the Government of India vide letter dated 15-3-2001 about the consent and willingness of the officer to serve on Central deputation. By the said letter the Govt. of Meghalaya also informed that it would release the officer, if selected for the appointment. By the said communication, the Govt. of Meghalaya, said that vigilance clearance was being submitted shortly. The disciplinary proceeding against the applicant dropped on 8-3-2001 and Govt. of Meghalaya,



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by its communication dated 8-5-2001 sent back the Vigilance Clearance Certificate to the respondents.

3. By this application the applicant now sought for a direction on the respondents to consider his case for the post since as on 8-5-2001 he was eligible to be considered. Mr. S.R.Sen, learned Senior counsel appearing for the applicant submitted that the applicant had already submitted a representation before the authority narrating all his grievances. Since he had made a representation, we are of the opinion that his representation is atleast required to be considered.

4. We have heard Mr. B. C. Pathak, learned Addl. C.G.S.C. appearing for the respondents No.1 & 2 and Mrs. B. Dutta, learned Gvt. Advocate appearing for the State of Meghalaya. Considering all the aspects of the matter, we are of the opinion that ends of justice would be met if, we direct the authorities to consider the case of the applicant as per his representation filed on 9-5-2001. Accordingly, we direct the respondents to consider the representation of the applicant, submitted on 9-5-2001 and pass necessary order thereon. The applicant may also submit a fresh representation narrating all his grievances, preferably, within ten days from today. The applicant is directed to submit a copy of the representation dated 9-5-2001 alongwith this order of this Tribunal to enable the respondents to consider his case as per law within ten days. The respondents are also directed to consider and dispose the said representation preferably within two months.

from the receipt of the order as per law. Till comple-
tion of the aforesaid exercise, we order upon the
respondents not to make the regular appointment in the
post of Director General of Forests and Special Secre-
tary to the Government of India when the said post falls
vacant on 31-5-2001 on the superannuation of Shri C.
P. Oberoi, Director General of Forests and Special
Secretary to the Govt. of India.

With this, the application accordingly stands
disposed of. No order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Certified to be true Copy

প্রধানিক পরিষিক্ষা

Section Officer (S)

শাস্ত্রীয় অধিকারী (প্রাধানিক পরিষিক্ষা)
Central Administrative Tribunal

শাস্ত্রীয় প্রাধানিক পরিষিক্ষা
Guwahati Bench, Guwahati-8
প্রাধানিক প্রাধানিক পরিষিক্ষা

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Government of Meghalaya
Office of the Principal Chief Conservator of Forests,
Meghalaya; Shillong.

No. MPG. 24

Dated Shillong 26th May 2001

From,

**Balvinder Singh IFS,
Principal Chief Conservator Forests,
Meghalaya; Shillong.**

To,

**The Secretary to the Government of India
Ministry of Environment of Forests;
Paryavaran Bhawan, C.G.O. Complex
Lodhi Road; New Delhi - 110 003**

Sub: Selection of an I.F.S. officer for appointment to the post of Director General of Forests & Special Secretary, Ministry of Environment & Forests regarding.

Ref: Direction of Central Administrative Tribunal Guwahati Bench, vide their order dated 22nd of May, 2001 in original Application No. 187 of 2001 - Submission of fresh application.

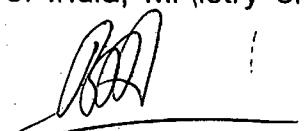
Sir,

Inviting reference to the subject and direction of Central Administrative Tribunal, Guwahati Bench order dated 22nd of May 2001 in original application No. 187 of 2001, (A copy of this order is enclosed as Annexure - 1) I have the honour to submit herewith my fresh representation, narrating all grievances as under: -

1. Shri Mohammed Faizuddin Ahmed, Indian Forest service, Inspector General of Forests & Special Secretary to the Government of India, Ministry of Environment & Forests proceeded on superannuation on 30-11-1996.
2. Before his superannuation i.e. 30.11.1996, Ministry of Environment & Forests, Government of India, on the basis of the recommendations of the Departmental Promotion Committee of Secretaries to Government of India, meeting held on 18.11.1996, made a panel of three suitable Indian Forest Service officers and recommended the name of Shri Balvinder Singh, I.F.S, to the appointment Committee (A.C.C), for appointment as Inspector General of Forests & Special Secretary to the Government of India, Ministry of Environment & Forests.



3. To the best of my knowledge the Appointment Committee (A.C.C) also cleared the name of Shri Balvinder Singh I.F.S., for his appointment to the above said post.
4. Consequent to the Completion of the above stated process, Ministry of Environment & Forests, Government of India, vide their express Telegram F. No. 12034/3/96 - IFS - I, dated 10th January 1997 (copy enclosed as Annexure - 2) asked for submission of state Vigilance clearance, Willingness of the officer with up-to-date Bio-data, from the Forest Secretary to the Government of Meghalaya, since the candidature of Shri Balvinder Singh, I.F.S. (Assam-Meghalaya-1964) was being considered for appointment at the level of Secretary or equivalent posts under Central Government.
5. Since a copy of Express Telegram F.No. 12034/3/96 - I.F.S. - I dated 10th January 1997 was also endorsed to Shri Balvinder Singh, IFS, Principal Chief Conservator of Forests, Government of Meghalaya, Shillong, therefore, Shri Balvinder Singh, IFS, submitted his willingness for appointment at the level of Secretary or equivalent posts under Central Government and requested the Principal Secretary to the Government of Meghalaya, Forests & Environment Department for submission of state Vigilance clearance, on top most priority. A copy of my letter No. MPG . 24 dated 27.01.1997 is enclosed as Annexure - 3.
6. At this stage Government of Meghalaya, did not submit the State Vigilance Clearance and other Certificates for reasons best known to the State Government and Government of India.
7. Thereafter Government of Meghalaya, Forests & Environment Department vide their Notification No. FOR. 58/97/6 dated 16th June, 1997 ordered an enquiry against Shri Balvinder Singh I.F.S, Principal Chief Conservator of Forests, Meghalaya, under Rule - 8 of the All India Services (Discipline & Appeal) Rules, 1969 read with Article - 3 II of the Constitution of India.
8. Consequent to the non-submission of vigilance clearance certificate by the Government of Meghalaya, Shri Balvinder Singh IFS, Principal Chief Conservator of Forests was deprived of his appointment to the Govt. of India, at the level of Secretary or equivalent posts.
9. As a result of the above stated circumstances, to the best of my knowledge, the Committee of Secretaries to Govt. of India again met on 27th of January, 1997 to resolve the issue of selection to the post of I.G.F. & Special Secretary to Govt. of India. In this meeting, the name of Shri Balvinder Singh I.F.S, was dropped and the name of the next officer in the Panel prepared on 18.11.1996, recommended for appointment in the above said post. Finally Shri C.P. Oberoi I.F.S was appointed as I.G.F. & Special Secretary to Govt. of India, Ministry of Environment forests w.e.fr. 27.02.1997 (A.N).



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10. Shri C.P. Oberoi, IFS is to superannuate on 31.05.2001, Govt. of India, Ministry of Environment & Forests, vide their letter No. A. 12026/3/2000 - IFS - I, dated 1st March 2001, informed the Chief Secretary to the Govt. of Meghalaya that the name of Shri Balvinder Singh IFS, serving in the state of Meghalaya is among the candidates under Consideration for the posts of Director General of Forests & Special Secretary, MOEF, Govt. of India and asked for Submission of the following information/documents to the Ministry at the earliest by 15th March 2001:

- (i) Willingness of the Officer to Serve on Central Deputation as Director General of Forests & Special Secretary and also the Willingness of the State Govt. to spare the services of the officer (s) in the event of his selection.
- (ii) Vigilance clearance.
- (iii) Integrity Certificate

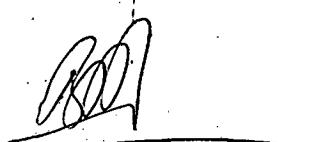
A copy of above stated letter is enclosed as Annexure - 4

11. Government of Meghalaya, vide their letter No. RCC. 13/93/269 dated 15th March 2001 informed Govt. of India, Ministry of Environment & Forests that Shri Balvinder Singh IFS (AM-64) has given in writing his consent and Willingness to serve on Central Deputation as Director General of Forests & Special Secretary. The State Govt. will release the officer, if selected for such appointment. The State Govt. further informed that a separate report on vigilance clearance and Integrity of the Officer is being submitted shortly. A copy of the above said letter is enclosed as Annexure - 5.

12. A State delegation lead by the Hon'ble finance Minister Meghalaya, visited China to study the latest developments in the cultivation and industrial uses of Bamboo, w.e.f 16th April 2001 to 29th April 2001. The following officers were also members included in the above said delegation and were outside the country on official tour to China with effect from 16th April 2001 to 29th April 2001.

- (i) Chief Secretary to the Government of Meghalaya.
- (ii) Principal Secretary to the Government of Meghalaya, Forests Environment Department.
- (iii) Principal Chief Conservator of Forests; Meghalaya.

13. After return from China, Principal Secretary to the Government of Meghalaya, Forests & Environment Department processed all the



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papers desired by the Govt. of India Vide their letter No. A 12026/3/2000 - IFS - I, dated 1st March 2001 and Consequently the Chief Secretary to the Govt. of Meghalaya, vide his D.O. No. CS/FOR/2001 dated 08.05.2001 submitted vigilance clearance and Integrity certificate to the Govt. of India, MOEF, on 08.05.2001, through fax and through a special messenger, rushed the papers to New Delhi for delivery of post copy on 09.05.2001.

14. It is learnt that departmental promotion committee of the Secretaries to the Govt. of India met on 30th April 2001, for recommending the names of suitable Indian Forest Service officers for appointment to the post of Director General of Forests & Special Secretary to the Govt. of India. In the process, the name of Shri Balvinder Singh I.F.S. was dropped/excluded for want of non-submission of vigilance clearance and Integrity certificate by the State Govt.
15. Vide my letter No. MPG, 24 dated 9th May, 2001, I submitted, a representation to the Secretary to the Govt. of India, Ministry of Environment & Forests New Delhi, that since the State Government was pleased to issue vigilance clearance and Integrity certificate after concluding the disciplinary proceedings pending against me, and exonerating me fully of all the charges, therefore, since I was the only officer recommended for appointment to the post of Inspector General of Forests & Special Secretary to the Government of India (now re-designated as Director General of Forests) on the basis of the recommendation of the Departmental Promotion Committee of Secretaries to the Government of India, MOEF, which met on 18.11.1996, therefore I must be given appointment to the post of Inspector General of Forests, Govt. of India, w.e.f. the date appointment was made in favour of my junior in the panel i.e. Shri C.P. Oberoi I.F.S at present Director General of Forests & Special Secretary to the Govt. of India. (Due to superannuate on 30.05.2001). I fervently appeal to your goodself to dispense justice to me on the basis of the Rules and law applicable in my case after perusal of all related records since I have been deprived of my rightful promotion from the year 1996/1997, due to reasons not attributable to me. The Discipline & Appeal Rules and Guidelines are amply clear about the manner in which relief is to be granted to an incumbent on honourable conclusion of any disciplinary proceedings.

Anticipating your kind consideration.

Yours faithfully

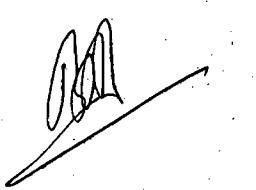
(BALVINDER SINGH)
Principal Chief Conservator of Forests
Meghalaya, Shillong.



No. MPG 24 (2)

Dated Shillong, 26th May 2001.

Copy to : Vice Chairman, Central Administrative Tribunal, Guwahati Bench,
in Compliance to their order dated 22nd Day of May, 2001 in
original Application No. 187 of 2001.


(BALVINDER SINGH)

Principal Chief Conservator of Forests
Meghalaya, Shillong.

GOVERNMENT OF MEGHALAYA
FORESTS & ENVIRONMENT DEPARTMENT

NO.FOR. 56/2001/30 Dated Shillong, the 9th July, 2001

From :- Under Secretary to the Govt. of Meghalaya,
Forests & Environment Department.To : Shri B.Singh, IFS
Principal Chief Conservator of Forests,
Meghalaya, Shillong.Subject :- Selection of an IFS Officer for appointment
to the Post of Director General of Forests
and Special Secretary in the Ministry of
Environment & Forests- Representation of
Shri Balvinder Singh, IFS (A.M 1964) reg.

Sir,

In inviting a reference to the ^{letter} No.A. 12026/3/2000-IFS-I dt. 2.7.2001 received from the Under Secretary to the Government of India, Ministry of Environment & Forests, New Delhi on the subject mentioned above, I am directed to forward herewith a copy of Order No.A- 12026/3/2000-IFS-I dt. 29.6.2001 as desired by the Ministry.

Yours faithfully,

Under Secretary to the Govt. of Meghalaya,
Forests & Environment Department

Memo NO.FOR. 56/2001/30-A Dated Shillong, the July, 2001

Copy forwarded to the Under Secretary to the Govt. of India, Ministry of Environment & Forests, Parivaran Bhavan, C.G.O.Complex, Lodhi Road New Delhi, 110003 for information with reference to the Ministry's letter mentioned above.

By order etc.,

Under Secretary to the Govt. of Meghalaya,
Forests & Environment Department

.....

BY SPEED POST

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
PARYAVARAN BHAVAN, C.G.O. COMPLEX
LODHI ROAD, NEW DELHI-110003

A.12026/3/2000-IFS-I

July 2, 2001

The Principal Secretary(Forests)
Government of Meghalaya,
Secretariat,
Shillong - 793001

Subject :- Selection of an IFS officer for appointment to the post of Director General of Forests and Special Secretary in the Ministry of Environment and Forests- representation of Shri Balvinder Singh, IFS (AM:1964)- reg.

Sir,

I am directed to refer to the order dt. 22nd May, 2001 of the Hon'ble Guwahati Bench of the Central Administrative Tribunal in OA. 187/2001 in the matter of Shri Balvinder Singh vs. Union of India & others and to representations bearing NO. MPG.24 dt. 9.5.2001 and NO.MPG.24 dt. 26.5.2001 from Shri Balvinder Singh IFS (AM: 64) on the above subject and to send herewith two copies of this Ministry's Order of even number dt. 29.6.2001 disposing of the representations of the Member of the Service ad directed by the Hon'ble Tribunal Bench vide its Order dt. 22.5.2001 It is requested that one copy of the order may please be served on Shri Balvinder Singh, IFS (AM: 1964) under the acknowledgement, which may please be forwarded to the Ministry for record.

Yours faithfully,

Sd/-

(G.P.Halder)

Under Secretary to the Govt. of India

Encl : as above.



Annex- XV 14
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No.A-12026/3/2000 - IFS - I

Government of India

Ministry of Environment & Forests
Parivarjan Bhawan, CGO Complex,
Lodi Road, New Delhi - 110003.

June 29, 2001

ORDER

Whereas there is a post of Director General of Forests & Special Secretary(DGF&SS) in the Ministry of Environment & Forests, New Delhi in the scale of pay of Rs.26,000/- fixed to be filled up on deputation tenure basis by an IFS Officer as per Central Staffing Scheme of the Ministry of Environment & Forests for Central Deputation Reserve posts for Indian Forest Service; and

Whereas the post fell vacant on the afternoon of 31.5.2001 with superannuation of Shri C.P. Oberai, IFS (AGMUT: 64) and the Ministry of Environment & Forests is in the process of selection of a suitable IFS Officer for appointment to the post of (DGF&SS); and

Whereas Shri Balwinder Singh, IFS (AM:64) is one of the officers who expressed his willingness to serve on deputation at the Centre as DGF&SS and in respect of whom the Government of Meghalaya has expressed their willingness to spare the services of the officer in the event of his selection as DGF&SS, but could not submit the vigilance clearance and integrity certificate till the Selection Committee met on 30.4.2001, but could send the same on 10th May, 2001; and

Whereas Shri Balwinder Singh, IFS (AM:64) submitted a representation bearing No. MPG.24, dated 09.5.2001 to the Ministry of Environment & Forests stating that on the earlier occasion when the post fell vacant on 30.11.1996, he was selected for the post but could not be appointed to the post of DGF&SS as the State Government of Meghalaya could not issue vigilance clearance and integrity certificate in respect of him at that time and has appealed for dispensing justice to him this time in the matter of giving consideration for selection for the post, which he was deprived of in 1996-97 for reasons not attributable to him; and

Whereas the Ministry of Environment & Forests has also received a copy of the Order dated 22.5.2001 of the Hon'ble CAT Guwahati Bench in O.A. No.187/2001 in the matter of Balwinder Singh Vs. Union of India and others, wherein the Hon'ble Tribunal Bench while disposing of the said Application of Shri Balwinder Singh, has directed the Ministry of Environment & Forests to consider the representation dated 09.5.2001 of the Applicant and pass necessary orders

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theron. The Hon'ble Tribunal Bench has also permitted him to submit a fresh representation preferably within ten days narrating his grievances and directed the Ministry of Environment & Forests to consider and dispose of the representation preferably within two months as per law and till then not to make regular appointment to the post of DGF&SS; and

Whereas in pursuance of the relief given to him by the Hon'ble CAT Bench, Shri Balwinder Singh, IFS (AM:64) has submitted a fresh representation bearing No.MPG-24, dated 26.5.2001 wherein he has explained the circumstances under which although he was selected for the post of DGF&SS (then designated as IGF&SS) which fell vacant on 30.11.1996, he was not appointed to that post at that time because of non-submission of vigilance clearance and integrity certificate in his favour by the State Government due to institution of an enquiry against him under Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969 read with Article 311 of the Constitution. This time also, when the post again fell vacant on 31.5.2001 due to superannuation of Shri C.P. Oberai, in response to Ministry's query he has given his consent to serve as DGF&SS in the Ministry in the event of his selection and the State Government has also given their concurrence to spare his services in the event of his selection, but could not send the vigilance clearance and integrity certificate before the Selection Committee met on 30.4.2001, but only on 10th May, 2001, due to which Shri Balwinder Singh, IFS apprehended that his name had been excluded/dropped from the selection. He has also submitted in para 15 of his representation dated 26.5.2001 that since he was the only officer recommended for appointment to the post of IGF&SS in November 1996, therefore, he must be given appointment to the post of DGF&SS with effect from the date of appointment of his junior, namely, Shri C.P. Oberai to the post.

Now, both the representation dated 09.5.2001 and 26.5.2001 of Shri Balwinder Singh, IFS (AM:64) have been carefully considered by the competent authority in the Ministry of Environment & Forests. As regards his apprehension that his name has been excluded/dropped from consideration by the Special Selection Committee for non-availability of vigilance clearance/integrity certificate at the time of the meeting, Shri Balwinder Singh is informed that notwithstanding the non-availability of these documents at the time of the meeting, his candidature has been duly considered on merit along with other candidates available for the post. His name has not been excluded from consideration on the ground of non-availability of vigilance clearance/integrity certificate. As regards his contention in para 15 of his representation, dated 26.5.2001 for his appointment to the post of DGF&SS from the date Shri C.P. Oberai was appointed on the ground that Shri C.P. Oberai is junior to him and he has been exonerated in the enquiry against him, Shri Balwinder Singh, IFS is informed that the proceedings of the Special Selection Committee meeting held on 18.11.1996 were nullified due to non-receipt of vigilance clearance from the State Government of Meghalaya. The second

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meeting of the Special Selection Committee was convened to make selection for the post of DGF&SS. As such the argument extended that Shri Balwinder Singh should be given the benefit as he is not tenable. When Shri Balwinder Singh was selected in 1996 for appointment to the post of IGF&SS, but could not be given vigilance clearance/integrity certificate by the State Government and therefore, could not be appointed to the post. Shri C.P. Oberai, IFS (AGMUT: 64) was duly selected by the Selection Committee to hold the post and he was approved for appointment to the post. With the appointment of Shri C.P. Oberai to the post of IGF&SS, Shri Balwinder Singh, IFS lost his right for appointment to that post at that time.

(R.B.S. Rawat)

Director to the Government of India

Shri Balwinder Singh,
Principal Chief Conservator of Forests,
Government of Meghalaya,
Shillong,
MEGHALAYA



69 Annexure - Part XVI

(TO BE PUBLISHED IN PART I SECTION (II) OF THE GAZETTE OF INDIA)

No.A.19011/2/95-IFS-I
Government of India
Ministry of Environment and Forests

OSD(F&E)
KJ
27/08

Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi - 110 003.

Dated the 20th August, 2001

NOTIFICATION

The President is pleased to appoint Shri S.K. Pande, an officer belonging to the 1965 batch of the Himachal Pradesh cadre of the Indian Forest Service to the post of Director General of Forests and Special Secretary in the Ministry of Environment of Forests with effect from the forenoon of 13.08.2001, until further orders. The appointment is subject to the final outcome of the Original Application No.259 of 2001 in the Guwahati Bench of the Central Administrative Tribunal.

Sd/-
(G.P. Haldar)
Under Secretary to the Govt. of India

To

The General Manager,
Government of India Press,
Faridabad (Haryana) - alongwith Hindi version.

Copy to:

- i) The Chief Secretary of all the States/UTs.
- ii) Secretary (Forests), all the States/UTs.
- iii) All Ministries/Departments of the Government of India.
- iv) All subordinate offices /autonomous bodies of the Ministry of Environment and Forests.
- v) Accountant General, Himachal Pradesh, Shimla.
- vi) Principal Chief Conservator of Forests, Government of Himachal Pradesh, Shimla.
- vii) Pay and Accounts Officer, MoEF, New Delhi.
- viii) DDO, Ministry of Environment and Forests, New Delhi. Shri S.K. Pande, IFS (H.P.65), DGF & SS will draw pay in the scale of Rs.26,000/- (fixed).
- ix) PS to MEF
- x) PPS to Secretary (E&F)/Spl Secretary, MoEF.
- xi) PPS to DGF & SS.
- xii) Spare copies/Guard file.

NH
28/8/01
10,999
28/8
G.P. Haldar
Under Secretary to the Govt. of India

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ^{Formerly} Administrative Tribunal
GUWAHATI BENCH : : : : : GUWAHATI

98
9 JUL 2001

গুৱাহাটী অধিবক্তৃতা
Guwahati Bench

O.A. NO. 259

2001.

Sri Balvinder Singh, IFS

.... Applicant

-VERSUS-

Union of India and others.

.... Respondents.

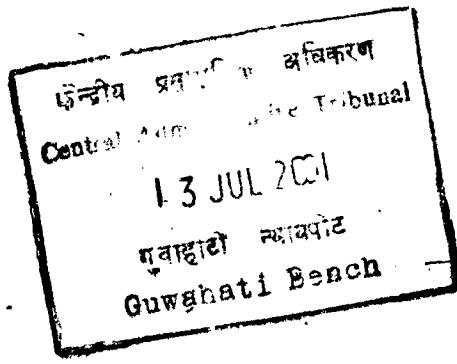
INDEX

Sl.No.	Annexures	Particulars of the Documents	Page No.
1.	Application		1 to 17.
2.	Annexure .. 1		18.
3.	Annexure .. II		19.
4.	Annexure .. III		20.
5.	Annexure .. IV		21 to 24.
6.	Annexure .. V		25.
7.	Annexure .. VI		26.
8.	Annexure .. VII		27 to 28.
9.	Annexure .. VIII		29 to 30.
10.	Annexure .. IX		31 to 32.
11.	Annexure .. X		33 to 49
12.	Annexure .. XI		50 to 54.
13.	Annexure .. XII		55 to 59.
14.	Annexure .. XIII		60.
15.	Annexure .. XIV		61.
16.	Annexure .. XV		62 to 64.

Filed by:-

Dated of filing

Advocate.



Filed by the applicant
through
Sonal
Barkha
Advocate
29
13-07-2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O. A. NO. 259 OF 2001

Shri Balvinder Singh, I.F.S.

Applicant

= VERSUS =

Union of India & Ors.

Respondent

Details of the application

Particulars of the Application

(i) Name of the applicant : Shri Balvinder Singh, I.F.S.

(ii) Father's Name : (Late) Shri Jagdip Singh

(iii) Age of the applicant : 58 years

(iv) Designation and Office

in which employed : Principal Chief Conservator
of Forest, Meghalaya.

(v) Office Address : Principal Chief Conservator
of Forest, Meghalaya,
Sylvan House,
Lower Lachumiere,
Shillong.

(vi) Address of service of
All Notices

Respondents with Address

Central Admin. Court of India
13 JUL 2000
Guwahati Bench
As above.

: 1. Union of India,
represented through
the Ministry of
Environment And Forests,
Paryavaran Bhawan,
C.G.O. Complex,
Lodhi Road,
New Delhi - 110 003.

2. The Secretary
to the Government of India,
Ministry of Environment
and Forests, Paryavaran
Bhawan, C.G.O. Complex,
Lodhi Road,
New Delhi - 110 003.

... Respondents'

3. State of Meghalaya,
Represented through
the Secretary, Government
of Meghalaya, Forests and
Environment Department,
Shillong - 793 001.

... Proforma Respondent

1. Particulars of the Order
against which the application
is made.

The application is made against the holding of Departmental Promotion Committee on 30.4.2001 for selection of Candidate for appointment for the post of Director General of Forests and Special Secretary to the Government of India.

The Committee of
Secretaries met on
30.4.2001 at
New Delhi.

Order No. A-12026/3 /2000-
IFS-1 Dated 29.6.2001,
Govt. of India, Ministry of
Environment and Forests.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter took place at Shillong and as such, it is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The application is filed within the period of Limitation.

4. Facts of the case :

4.1 That the applicant is the seniormost Indian Forest Service Officer serving in the country, allotted to the year 1964 in the I.F.S. Cadre and at present serving as Principal Chief Conservator of Forests, Meghalaya. His date of super-annuation is 31.12.2002.

The Petitioner earlier served on deputation to Government of India, Ministry of Environment and Forests, New Delhi, from 1984 to 1990, as Co-ordinator, Forest Soil cum Vegetation Survey and as Director Forest Education at Forest Research Institute and Colleges, Dehradun. During his deputation period, he was awarded the Brandis Prize for his outstanding Forest Research work in Forest Soil and Vegetation Co-relationship. (Gen)

4.2 That the Petitioner has worked with utmost sincerity and dedication with full responsibility in the post held by him and has a good service record to his credit.

4.3 That the post of Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forest, the highest post in the Forest Service involving lot of responsibilities was held by one Shri Mohammed Faizuddin Ahmed, I.F.S. who proceeded on superannuation on 30.11.96.

4.4 That before the super-annuation of Mohammed Faizuddin Ahmed on 30.11.96, Ministry of Environment and Forests, Government of India on the basis of recommendation of the Departmental Promotion Committee of Secretaries to Govt. of India, which met on 18.11.96, made a panel of three suitable Indian Forest Service Officers and recommended the name of your Petitioner to the Appointment Committee for appointment as Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests.

4.5 That consequent to the recommendation, Ministry of Environment and Forests, Govt. of India vide their letter Express Telegram F.No.12034/3/96 - IFS-I, dated 10.1.1997 asked for submission of State Vigilance, Clearance, willingness of the Officer with upto date Bio-Data from the Forest Secretary to the Government of Meghalaya. Since the Candidature of your Petitioner was being considered for appointment at the level of Secretary or equivalent posts under Central Government. A copy of the telegram dated 10.1.97 is annexed herewith as Annexure I.

4.6 That since a copy of the telegram dated 10.1.97 was also endorsed to your Petitioner, therefore, your Petitioner submitted his willingness for appointment at the level of Secretary or equivalent posts under Central Government and requested the Principal Secretary to the Government of Meghalaya, Forest and Environment Department for submission of State Vigilance Clearance, on top most priority, vide his letter No. MPG.24, dated 27.1.97.

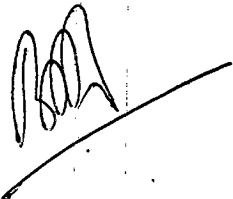
A copy of the letter No. MPG 24, dated 27.10.97 is annexed herewith as Annexure II.

4.7 That the Government of Meghalaya expressed its inability to grant vigilance clearance on the grounds that a Commission of Inquiry was in progress to investigate into the allegations of large scale illicit felling of trees and theft of timber thereof and encroachment of Govt. land in the Reserved Forests under Dainadubi Range of Garo Hills Forest Division, Tura.

A copy of Govt. Notification No.POL 156/96/1, dated 10.9.96 is annexed herewith as Annexure III.

4.8 That thereafter, Govt. of Meghalaya, Forest and Environment Department vide their Notification No.FOR-58/97/6 dated 16-6-97 ordered an enquiry against the Petitioner under Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969 read with Article 311 of the Constitution of India.

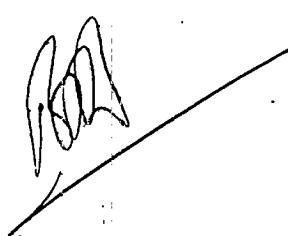
Copy of the Notification dated 16.6.97 is annexed herewith as Annexure IV.



4.9 That though the Petitioner was considered for appointment at the level of Secretary or equivalent posts under Central Government but due to non-submission of Vigilance Clearance Certificate by the Government of Meghalaya he was deprived of his appointment to the said post and the next Officer in the panel Shri C.P.Oberoi, I.F.S. who is junior to the Petitioner was given appointment to the post of Inspector General of Forests and Special Secretary to the Government of India, Ministry of Environment and Forests.

4.10 That as the said Shri C.P.Oberoi, IFS, was to superannuate on 31.5.2001 as such, Govt. of India, Ministry of Environment and Forests vide their letter No.A.12026/3/2000-IFS-I dated 1-3-2001, informed the Chief Secretary to the Govt. of Meghalaya that the name of your Petitioner, Shri Balvinder Singh, IFS, serving in the State of Meghalaya is among the Candidates under consideration for the post of Director General of Forests and Special Secretary, Ministry of Environment and Forests, Govt. of India and asked for submission of the following information/documents to the Ministry at the earliest by 15.3.2001 :

(i) Willingness of the Officer to serve on Central Deputation as Director General of Forests and Special Secretary and also willingness of the State Government to spare the services of the Officer(s) in the event of his selection.



(ii) Vigilance Clearance.

(iii) Integrity Certificate.

A copy of the letter No.A.12026/3/2000-IFS-I

dated 1-3-2001 is annexed herewith as Annexure V.

4.11 That Government of Meghalaya vide their letter No. RCC 13/93/269 dated 15.3.2001 informed Government of India, Ministry of Environment and Forest that Shri Balvinder Singh, IFS (AM 64) has given in writing his consent and willingness to serve on Central Deputation as Director General of Forests and Special Secretary. The State Government will release the Officer, if selected for appointment. It was further informed that a separate report on vigilance Clearance and Integrity of the Officer is being submitted shortly.

A copy of the letter dated 15.3.2001 is annexed herewith as Annexure VI.

4.12 That it may be submitted here that the enquiry initiated against the Petitioner vide Govt. Notification No.FOR-58/97/6 dated 16.06.97, after completion Order was passed vide Notification No.FOR-58/97/466 dated 8.5.2001, whereby the Order was passed as follows -

" On careful consideration of the matter and having regard to the explanation of the Officer, the evidence on record, the circumstances of the case and the Enquiry Report, the Governor of Meghalaya, is pleased to drop all the charges framed against Shri Balvinder Singh, IFS, Principal Chief Conservator of Forest, vide Memo No.FOR-58/97/6 dated 16.6.97.



The Officer is accordingly exonerated".

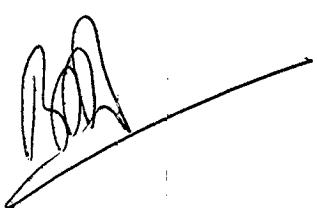
A copy of the Notification No.FOR-58/97/446
dated 8.5.2001 is annexed herewith as Annexure VII.

4.13 That it is submitted that as the charges against the Petitioner were not proved and the Petitioner was exonerated of all the charges levelled against him, under the law, the Petitioner is entitled to all the benefits with regard to promotion etc. in his service career with effect from the date his junior were given promotion with all other benefits.

4.14 That a State delegation, lead by the Hon'ble Finance Minister, Meghalaya, visited China to study the latest developments in the cultivation and industrial use of bamboo, w.e.fr. 16th April, 2001. The following Officers were also members included in the above said delegation and were outside the country on official tour to China w.e.fr. 16th April to 29th April, 2001.

- (i) Chief Secretary to the Government of Meghalaya,
- (ii) Principal Secretary to the Government of Meghalaya, Forests and Environment Department,
- (iii) Principal Chief Conservator of Forests, Meghalaya (Balvinder Singh)

4.15 That after return from China, Principal Secretary to the Government of Meghalaya, Forests & Environment Department processed all the papers desired by the Government of India, vide their letter No.A.12026/3/2000-IFS-I, dated 1st March, 2001 and consequently the Chief Secretary to the Government

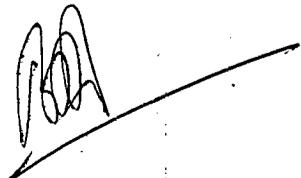


Government of Meghalaya, vide his D.O.No.CS/FOR/2001, dated 08.05.2001 submitted Vigilance Clearance and Integrity Certificate to the Government of India on 08.05.2001 through FAX and through a Special Messenger rushed the papers to New Delhi for delivery of post copy on 09.05.2001.

A copy of the Certificate dated 8.5.2001 and receipt issued by Ministry are annexed herewith as Annexures VIIIA and B respectively.

4.16 That the Petitioner on learning from reliable source that the Departmental Promotion Committee of Secretaries in the Ministry of Environment and Forest, which met on 30.4.2001 for recommendation of the names of suitable Indian Forest Service Officers for appointment to the post of Director General of Forests and Special Secretary to the Government of India, had dropped/excluded the name of Shri Balvinder Singh, I.F.S. for want of Vigilance Clearance and Ingegrity Certificate from the State Govt. had recommended the names of two persons namely - Shri S.K.Pandey, Principal, Chief Conservator of Forests, Himachal Pradesh and Shri S.K.Sharma, Additional Director General of Forests, Govt. of India, immediately filed a Representation dated 9.5.2001 to the Secretary, to the Government of India, Ministry of Environment and Forests, New Delhi.

4.17 That the Petitioner vide his letter No.MPG.24 dated 9th May, 2001 made a representation to the Secretary to the Government of India, Ministry of Environment and Forests, New Delhi that since the State Government is



pleased to issue Vigilance Clearance and Integrity Certificate after concluding the disciplinary proceedings against him, therefore, since he was the only Officer recommended for appointment to the post of Inspector General of Forests & Special Secretary to the Government of India (now re-designated as Director General of Forests) on the basis of the recommendation of the Departmental Promotion Committee of Secretaries to the Government of India, MOEF, which met on 18.11.1996, therefore, he must be given appointment to the post of Inspector General of Forests, Government of India, w.e.f. the date of appointment was made in favour of his junior in the panel i.e. Shri C.P. Oberoi, IFS at present Director General of Forests & Special Secretary to the Government of India. (Due to superannuation on 30.5.2001). Further, the Petitioner has fervently appealed to the Secretary to the Government of India, MOEF to dispense justice to him in the matter of giving consideration for selection to the post of Director General of Forests as he has been deprived of his legitimate due at that period of time in the year 1996 after the superannuation of Mohammed Faizuddin Ahmed, Indian Forest Service on 30.11.1996, due to reasons not attributable to him. The Disciplinary & Appeal Rules and Guidelines are amply clear about the manner in which relief is to be granted to an incumbent on honourable conclusion of any Disciplinary Proceedings. (In this context reference may be made to Para 11 and Para 18 of General Guidelines for promotion etc. And Functioning of Screening Committee).

Copy of Representation dated 9.5.2001 and Guideline for promotion to various grades are annexed herewith as Annexure IX and X respectively.

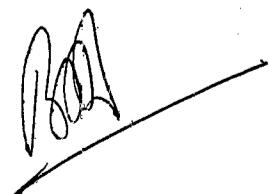
4.18 That the petitioner duly approached the Central Administrative Tribunal, Guwahati, seeking justice and protection of his right and interest and the Hon'ble Central Administrative Tribunal vide its Order dated 22.5.2001 observed that since the petitioner has made a representation, his representation is required to be considered and accordingly, directed the Respondents to consider the representation of the Petitioner submitted on 9.5.2001 and pass necessary Order thereon. Petitioner was also given the liberty to file a fresh Representation narrating all his grievances preferably within 10 days from the date of Order and directed the Petitioner to submit a copy of his earlier representation dated 9.5.2001, alongwith a copy of the Tribunal Order to enable the Respondents to consider his case as per law within ten days.

A xerox certified copy of the Order dated 22.5.2001 is annexed herewith as Annexure XI.

4.19 That as per the direction of the Hon'ble Tribunal, Petitioner submitted a fresh Representation to the Secretary to the Govt. of India, Ministry of Environment and Forest, enclosing a copy of his earlier representation dated 9.5.2001 and the Order dated 22.5.2001 passed by the Tribunal.

Copy of the Representation dated 26.5.2001 is annexed herewith as Annexure XII.

4.20 That the Under Secretary to the Govt. of Meghalaya, Forests and Environment Deptt. vide letter No.FOR.56/2001/30 dated 9.7.2001 forwarded a copy of Order No.A-12026/3/2000-



No.A-12026/3/2000-IFS-I dated 29.6.2001 to the Petitioner by which, Petitioner's Representations have been disposed of.

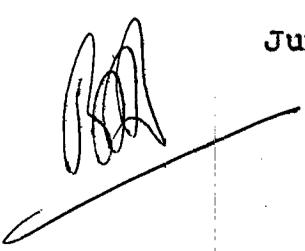
Copy of the letter dated 9.7.2001, letter dated 2.7.2001 and Order dated 29.6.2001 are annexed herewith as Annexures XIII, XIV and XV respectively.

4.21 That it is submitted that the Order No.A-12026/3/2000-IFS-I dated 29.6.2001 passed by Govt. of India, Ministry of Environment and Forest, issued under the signature of Director to the Government of India, is on the face of it bad in law and fact being arbitrary, bias, passed without proper application of mind and not in accordance with the prescribed Rules.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That it is submitted that as per the Central Civil Service Rules and also the Central Govt. Rules regarding Promotion of Members of the Indian Forest Service And Composition of Departmental Promotion Committee - the laid down procedures to be followed in respect of Officer against whom Disciplinary/Court Proceedings are pending or whose conduct is under Investigation is to keep the assessment of the Departmental Promotion Committee (D.P.C.) in a sealed Cover.

Further, it is submitted that as per laid down procedure for Sealed Cover Cases - on the conclusion of the Disciplinary case the sealed cover will be opened. In case the Officer is completely exonerated, the due date of his promotion will be determined, with reference to the date of Promotion of his Junior, if necessary by reverting the Juniomost Officiating



Officiating person. Such Promotion would be with reference to the date of promotion of his junior and the officer will be paid arrear of salary and allowances.

Further, it is submitted that the rules also provide for six monthly Review of Sealed Cover Cases (Under CCS Rules) and Quarterly Review of Sealed Cover cases under the Central Govt. Guidelines for promotion of Indian Forest Service personnels.

5.2 That it is submitted that in the case of the Petitioner, the Respondents did not follow the laid down procedure and most illegally, arbitrarily, without proper application of their mind to the laid down procedure, failed to consider the case of the Petitioner.

The authorities ought to have kept the recommendation of the Departmental Promotion Committee, which met on 18.11.96 recommending the name of the Petitioner for appointment to the post of Inspector General of Forest And Special Secretary to the Govt. of India, Ministry of Environment and Forest.

Further, no 6(six) monthly/Quarterly review of Sealed Cover Cases was ever done. The enquiry initiated against the Petitioner was completed and final Order exonerating the Petitioner was passed on 8.5.2001. As per the laid down Rules, the authorities ought to have considered the case of the Petitioner and as he has been exonerated of all the charges, he ought to have been given, the promotion w.e.f. the date his junior Shri C.P.Oberoi was promoted.

5.3 That it is submitted that the action of the Respondents in stating that the decision/proceedings of the first Committee meeting held on 18.11.96 has been nullified as the Petitioner could not be appointed due to non-availability

non-availability of the required documents. Such a Statement, action is against the laid down rules and highly illegal as the Proceeding of the Departmental Promotion Committee cannot be nullified, as per the rules, Petitioner's case ought to have been kept in Sealed Cover.

5.4 That it is submitted that the Order passed by the Respondent disposing the Representation of the Petitioner is without the sanction of law, passed most arbitrarily, malafide, biased way, in a most casual manner, against the laid down procedure and principles of law and requires to be set aside and quashed. It may be pertinent to mention here that the completed A.C.Rs of the Petitioner for the year 98-99, 99-2000, 2000-2001 were sent by the Govt. of Meghalaya after 30.4.2001 and as such, those were not taken into consideration by the Departmental Promotion Committee.

5.5 That it is submitted that the Petitioner being the only person selected and considered for appointment to the post of Inspector General of Forests and Special Secretary to the Govt. of India on the basis of the recommendation of the Departmental Promotion Committee of Secretaries to the Govt. of India which met on 18.11.96, but due to the non-clearance of the Vigilance by the State Government due to the pending enquiry, he was not promoted to the said post, but after the conclusion of the said enquiry, whereby the Petitioner has been honourably exonerated of all the charges, Under the provision, Rules of Central Services, Seal Cover Procedure in respect of persons under claud the petitioner is entitled for promotion and ~~xxxxxx~~ his due date of promotion will be w.e.f. the date his junior has been promoted for the post.



5.6 That as the Petitioner was already selected, recommended and considered for appointment in pursuance to the recommendation of the Departmental Promotion Committee, which met in 1996, the holding of the second Departmental Promotion Committee on 30.4.2001 for selection and appointment to the post of Director General of Forests was not called for and as per the provisions of law for cases where sealed Cover Procedure is required to be adopted for persons under cloud, under six monthly Review also the Petitioner deserves to be promoted/appointed to the post for which he was already selected. The action of the Respondents in not following the prescribed Sealed Cover Procedure, shows the malafide intention of the Respondents, to deprive the Petitioner from his legitimate due, and appoint other person of their interest.

6. Details of the Remedies exhausted :

The applicant filed Representation dated 9.5.2001 and /5/2001 to the Secretary to the Government of India, Ministry of Environment and Forests, New Delhi, which has been disposed off vide Order dated 29.6.2001 (Annexure XV to this application).

7. Matters filed in any other Court :

An Application/Petition was filed before this Tribunal being registered as O.A. No.187/2001 which has disposed off vide Order dated 22.5.2001. No other application has been filed in any other Court.

8. Relief sought :

It is prayed that the Order No.A.12026/3/2000-IFS I dated 29.6.2001 passed by Govt. of India, Ministry of Environment and Forests (Annexure XV to this Petition) disposing the Petitioner's

Petitioner's representation, be set aside and quashed and the Respondents be directed not to process any further in relation to the matter of appointment of an Officer to the post of Director General of Forests and Special Secretary to the Government of India in pursuance to the Departmental Promotion Committee, which met on 30.4.2001 in New Delhi, till disposal of this application/Petition.

And the Petitioner be accorded promotion/appointment to the post of the Inspector General of Forests (Now Director General of Forests) as per the provision of Rules and Guidelines being followed by the Government of India w.e.f. 27.2.97 (AN) i.e. the date on which Shri C.P.Oberoi (Officer Junior to the Petitioner) was given appointment to the higher post of Inspector General of Forests.

9. Interim Relief :

Further proceeding/processing of papers related to the appointment of an Officer to the post of Director General of Forests in pursuance to the Departmental Promotion Committee, which met on 30.4.2001 be stayed till disposal of this petition.

10. Particulars of the Postal Order :

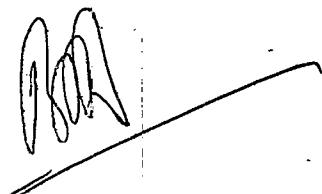
Postal Order No. Demand Draft No. 067784.

Date : 1.7.2001

Issued From: Central Bank, Shillong.

Payable at = Guwahati (NBO)

11. List of Enclosures :



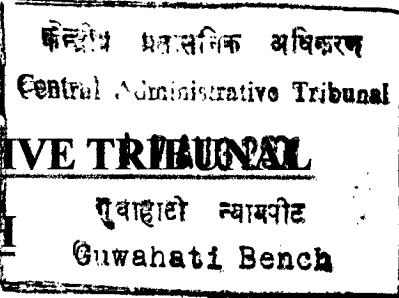
11. List of enclosures :

1. Annexure I
2. Annexure II.
3. Annexure III.
4. Annexure IV.
5. Annexure V.
6. Annexure VI.
7. Annexure VII.
8. Annexure VIIA and B.
9. Annexure IX
10. Annexure X.
11. Annexure ~~IX~~ XI.
12. Annexure XII.
13. Annexure XIII.
14. Annexure XIV.
15. Annexure XV.

VERIFICATION

I, Shri Balvinder Singh, I.F.S. Son of (Late) Jagdip Singh, aged about 58 years, working as Principal Chief Conservator of Forests, Meghalaya, the Petitioner in this Petition, do hereby solemnly verify that the statements made in Paras 1 to 7 of this petition are true to the best of my knowledge and belief, which are also matters of record and the rest are my humble submission before the Court and I sign this Verification this 13th Day of July, 2001.


BALVINDER SINGH
DEPONENT



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

COUNTER AFFIDAVIT OF THE RESPONDENT NO.1 & 2 TO THE ORIGINAL
APPLICATION NO.259/2001

IN THE MATTER OF

Shri Balvinder Singh

Applicant

Vs.

Union of India and Others

Respondent

INDEX

<u>S.No.</u>	<u>Contents</u>	<u>Page No.</u>
01.	Reply of the Respondent	1-5
02.	Prayer	5
03.	Verification	6
04.	Annexure-R.1.1	

Through

16/87-1
(Arunesh Deb Roy)

Sr. Central Govt. Standing Counsel

CAT Guwahati Bench.

1

**ORIGINAL APPLICATION NO.259/2001 IN THE CENTRAL
ADMINISTRATIVE TRIBUNAL (CAT), GUWAHATI BENCH**

7
Filed by

16/810
(A. DEBROY)
Sr. C. J. C.
C. A. T., Guwahati Bench

Shri Balvinder Singh

Applicant

Vs

Union of India & others

Respondents

Reply on behalf of Respondents No.1 & 2

I, G.P. Haldar, aged 53 years, son of Shri Krishna Prasad Haldar, working as Under Secretary in the Ministry of Environment and Forests, Government of India, Paryavaran Bhawan, New Delhi do hereby solemnly affirm and say as under:

2. That I am Under Secretary in the Ministry of Environment and Forests, Government of India, New Delhi and having been authorized, I am competent to file this reply on behalf of Respondent No.1 and 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 Application and understood the contents thereof. Save and except whatever has been specifically admitted in this reply, rest of the averments will be deemed to have been denied and the Applicant should be put to strict proof of whatever claims to the contrary.
- 3.1 Indian Forest Service (IFS) is one of the three All India Services constituted under the All India Services Act, 1951. The Service is organised into cadres, one each for a State or a group of States/Union Territories. The conditions of Service of persons appointed to the Service are governed by the rules and regulations framed under the All India Services Act, 1951.
- 3.2 The strength and composition of each cadre of IFS are determined from time to time as per provisions in the IFS (Cadre) Rules, 1966 and IFS (Fixation of Cadre Strength) Regulations, 1966. Each cadre consists of a certain number of Senior Duty Posts plus 20% of the Senior Duty Posts as Central Deputation Reserve plus 25% of the Senior Duty Posts as State Deputation Reserve plus 20% of the Senior Duty Posts as Leave, Training and Junior Reserve. As the All India Services are common to both the Union and the States, the Union Government draws upon the services of the Officers of the All India Services to meet its requirement of manpower from this pool of Central Deputation Reserve of each Cadre.
- 3.3 Ministry of Environment and Forests is the Cadre Controlling Authority at the

Central level in respect of Indian Forest Service. A number of posts under this Ministry including its sub-ordinate offices and some other Ministries have been identified to be held exclusively by Indian Forest Service officers on deputation tenure basis. For systematic manning of these posts, the Respondent has formulated a Scheme known as "Central Staffing Scheme for Forestry Posts", which was first notified in January, 1984 and amended several times. The latest amendment of the Scheme was carried out in December, 2000 and a copy of the Scheme as amended in December, 2000 is enclosed as Annexure -R-1. It may, therefore, be clearly understood that appointment to these Central Deputation Reserve posts of Indian Forest Service is not by way of promotion of IFS Cadre officers, which they get in their respective cadres but by means of selection of eligible officers from all the cadres for a fixed tenure. With this background in view, the Respondent proceeds to reply to the averments made in the Original Application in the succeeding paragraphs.

4. i) In reply to averments made in Para 4.1, the Respondent has no comments to offer.

ii) No comments in reply to averments made in Para 4.2

iii) The averments made in para 4.3 are not denied.

iv) In reply to averments made in para 4.4, the Respondent submits that the Committee of Secretaries, which the Applicant has referred to as the Departmental Promotion Committee is not the Department Promotional Committee, but the Special Selection Committee of the Central Forestry Established Board as provided in the Central Staffing Scheme of the Ministry of Environment & Forests.

v) In response to averments made in para 4.5 and 4.6 of the Application, it is submitted that the telegram annexed as Annexure-I to the Application has nothing to do with the Applicant's selection/appointment to the post of Director General of Forests & Special Secretary (then called the Inspector General of Forests and Special Secretary). It was in connection with the empanelment of officers for appointment to the posts at the level of Secretary to the Government of India under the Central Staffing Scheme of the Department of Personnel and Training, which is distinct from the Central Staffing Scheme of the Ministry of Environment and Forests for Central Deputation Reserve posts for Indian Forest Service, which includes the post of Director General of Forests and Special Secretary. Asking for vigilance clearance from the State Government also does not indicate that the officer was empanelled as Secretary to Government of India.

vi) Averments made at Para 4.7 and 4.8 are matters of record and need no comments from the replying Respondent.

vii) Averments made in para 4.9 are misleading inasmuch as the post of Director General of Forests and Special Secretary under the Ministry of Environment and



Forests is covered under the Central Staffing Scheme of the Ministry of Environment and Forests and not under the Scheme of the Department of Personnel and Training. Therefore, even if the petitioner had been empanelled for appointment at Secretary level under the Scheme of the Department of Personnel and Training, it would not confer any right on any person for appointment as Director General of Forests/Inspector General of Forests and Special Secretary. Recommendations of the Selection Committee which recommended Shri Balvinder Singh in 1996 for the post of Inspector General of Forests were nullified as Shri Balvinder Singh was not granted Vigilance Clearance by the State Government. Thereafter another meeting of the Selection Committee was held on 27.1.1997 and the name of Shri C.P. Oberai, IFS(AGMUT:1964) was recommended for appointment.

- viii) Averments made in para 4.10 are matters of record and are admitted.
- ix) Averments made in para 4.11 are matters of record and are admitted.
- x) In reply to averments made in para 4.12 and 4.13 of the Application, it is submitted that the claim of the Applicant to all the benefits of promotion with effect from the date of so called promotion of his junior, consequent on his exoneration from all the charges is misplaced, as appointment to the post of Director General of Forests and Special Secretary is not by way of promotion, but through selection as per provisions of the Central Staffing Scheme of the Ministry of Environment and Forests on tenure basis. As Principal Chief Conservator of Forests of a State, the Applicant has already reached the highest promotional post for an Indian Forest Service officer.
- xi) In reply to averments made in para 4.14 of the Application are a matter of record.
- xii) In reply to averments made in para 4.15, it is admitted that the Vigilance Clearance and Integrity Certificate in respect of the Applicant has been received by the Respondent on 9.5.2001. ✓
- xiii) In reply to averments made in para 4.16 of the Application, it is submitted that the Selection Committee met on 30.4.2001 and scrutinized all the nominations received. The selection is based on merit. It is only when the selection is made that the Vigilance Clearance is ascertained as was the case in 1996. The Selection Committee, therefore, did not exclude the name of the Applicant but considered his name alongwith others on merit.
- xiv) In reply to averments made in para 4.17 of the Application, it is admitted that the Respondent received two representations No.MPG-24 dt 9.5.2001 and No.MPG-24 dt 26.5.2001, in which the Applicant had inter-alia, asked for i) dispensing justice to him by giving consideration for selection to the post of Director General of Forests and Special Secretary as he was selected in November, 1996 for the post of Inspector General of Forests and Special Secretary, but could



not be appointed to the post at that time for reasons not attributable to him, and ii) that as he was the only candidate recommended by the Special Selection Committee in November, 1996 but could not be appointed as Inspector General of Forests and Special Secretary because of the disciplinary proceedings, which had since been concluded and he had been completely exonerated, therefore, he must be given appointment to the post of Inspector General of Forests and Special Secretary with effect from the date Shri C.P. Oberai, his junior in the panel was appointed to the post. The Respondent also received a copy of the Order dt 22.05.2001 of the Hon'ble Tribunal Bench in OA No.187/2001 directing the Respondent to consider and dispose of his representations as per law. Accordingly, both the representations have been carefully considered by the Respondent and disposed of vide a reasoned order No.A12026/3/2000-IFS-I dt 29.6.2001, a copy of which has been annexed by the Applicant as Annexure XV to his Application.

xv) The averments made in paras 4.18, 4.19 and 4.20 have been replied to vide sub-para xiv) above.

xvi) It is stoutly denied that the order of the Respondent bearing No.A.12026/3/2000-IFS-I dt 29.6.2001 is either bad in law and fact, or arbitrary or biased or passed without any application of mind or not in accordance with the prescribed rules.

5.1 In reply to averments made in paras 5.1, 5.2 and 5.3 of the Application, it is submitted that as explained in earlier paragraphs, this is not a case of promotion of an Indian Forest Service officer as in the case of their cadre, where officers get promoted to various grades/levels of Service, namely, Selection Grade, Conservator of Forests, Chief Conservator of Forests, Addl. Principal Chief Conservator of Forests, Principal Chief Conservator of Forests, etc. where the procedure for promotion is required to be followed. The case of appointment to Central Deputation Reserve Posts for IFS is governed by the Central Staffing Scheme of the Ministry of Environment and Forests. The "sealed cover" procedure, etc. mentioned by the Applicant is applicable in the case of promotion, and not in the case of appointment on deputation, where no single officer has an exclusive right to such appointment.

5.2 In reply to para 5.4, it is strongly denied that the order passed by the Respondent bearing No.A.12026/3/2000-IFS-I dt 29.6.2001 is either arbitrary, malafide, biased or in a casual manner in contravention of any laid down rules/procedure or any provision of a law. As regards the Annual Confidential Dossiers of the Applicant for the years 1998-99 and 1999-2000 and 2000-2001, it is admitted that the ACR's of these 3 years were received in the Ministry in the first half of June, 2001.

Shri [Signature]

75
121

However, the ACR's for the previous years working backwards from 1998-99 were considered by the Committee before arriving at their decision, which was based entirely on merit.

5.3 Para 5.5 is a mere repetition of paragraphs 5.1, 5.2 of the Application, which has been replied to vide para 5.1 above.

5.4 In reply to para 5.6 of the Application, it is submitted that as stated in preceding paragraphs, no single officer has any vested or exclusive right to appointment to the post under Central Staffing Scheme of the Ministry. The Applicant was selected in 1996 for the post of Inspector General of Forests and Special Secretary, but could not be appointed for want of Vigilance clearance and integrity certificate from the State Government. Had he been appointed at that time, he would have had a full tenure. But since, he could not be appointed to the post, another officer, namely Shri C.P. Oberai, IFS(AGMUT:1964) was duly selected by a fresh Selection Committee and appointed to the post and with that the Applicant lost his right at that time for appointment to the post. When the post has fallen vacant again in May, 2001, the Applicant has no exclusive right for appointment to the post on the plea that he was once selected for the post in November, 1996 but could not be appointed because of some reason or the other and if he is willing for central deputation to this post this time, he has to compete with other eligible officers in the zone of consideration for selection for the post as per the provisions of the Central Staffing Scheme of the Ministry. The question of following the "sealed cover" procedure as is applicable in the case of promotion in the cadre, where an officer is under Vigilance cloud, is not applicable in the case of Selection for appointment on deputation tenure basis, and therefore, the question of its regular review does not arise. The basic principle for the "sealed cover" procedure in the matter of promotion when an officer is under a vigilance cloud, is to safeguard the interest of the officer for promotion to the post in the line of his promotion, to which he otherwise has a right, but in the case of deputation as explained earlier, everyone in the zone of consideration irrespective of his cadre has as much right as everyone else and no one has any exclusive right to the exclusion of all other eligible officers.

PRAYER

In view of the submissions in the foregoing paragraphs, it is amply clear that there is no merit in the present Application, which deserves to be dismissed forthwith and the Respondent prays accordingly.

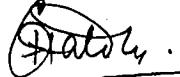


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VERIFICATION

I, G.P. Haldar, Under Secretary to the Government of India, having my office at Paryavaran Bhawan, Lodi Road, New Delhi-110 003, 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.....on this..... day of August, 2001.


 (G.P. HALDAR)
 For Respondent No.1 & 2

(जी० पी० हाल्डार/G. P. Haldar)
 अदर सचिव/Under Secretary
 पर्यावरण बन मंत्रालय
 Ministry of Environment & Forests
 नई दिल्ली/New Delhi

(TO BE PUBLISHED IN PART I SECTION II OF THE GAZETTE OF INDIA
EXTRAORDINARY)

No.A.12011/1/94-IFS-I
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi - 110 003.

Dated the 14 December, 2000

R E S O L U T I O N

WHEREAS a scheme for staffing posts included in the Central Deputation Reserve of the Indian Forest Service and other forestry posts, similar in rank and status in certain other organisations under the Government of India, was formulated and published for general information vide the Ministry of Agriculture (Department of Agriculture and Cooperation) Resolution No.F.1-11/76-IFS-I, dated the 9th January, 1984 and further amended by the Government of India vide Resolution No.F.1-11/76-IFS-I, dated the 10th March, 1987 issued by the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) and Resolution No.12011/4/90-IFS-I, dated the 23rd November, 1990 issued by the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) and Resolution No.A.12011/1/94-IFS-I, dated the 26th February, 1996 issued by Ministry of Environment and Forests:

AND WHEREAS it has been decided to (i) redesignate some of the posts under the scheme on the basis of the recommendations of the 5th Central Pay Commission; and (ii) upgrade some of the posts on the recommendations of the 5th Central Pay Commission, and (iii) to bring some more posts within the purview of the scheme again on the basis of the recommendations of the 5th Central Pay Commission;

AND WHEREAS it has been decided to bring some changes in the constitution of the Central Forestry Establishment Board and also the period of tenure of deputation of the officers;

AND WHEREAS it has been decided to bring out and notify a modified scheme in consultation with the Union Public Service Commission. A copy of the scheme is annexed. The scheme will come into force with immediate effect.

ORDER

Ordered that a copy of the Resolution be communicated to all the Ministries of the Government of India, State Governments/Union Territory Administrations, Union Public Service Commission and Comptroller and Auditor General of India.

Ordered also that the Resolution be published in the Gazette of India for general information.

Attested,
A. C. M. GAIN
10/8/01

M. N. M.
(Mira Nehru)
Joint Secretary to the Govt. of India

(P. C. MAMGAIN)
Section Officer
To Ministry of Env. & Forests

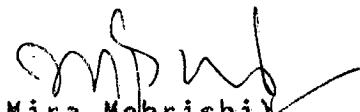
N. Delhi
The Manager,
Government of India Press,
New Delhi - (with Hindi version)

Copy also forwarded for information to:

1. PS to MEF / PPS to Secretary (E&F)/ IGF & Sp1. Secy.
2. Secretary, Department of Personnel & Training, North Block New Delhi.
3. Secretary, DARE, Kirshi Bhawan, New Delhi.
4. Secretary, Ministry of Rural Development, Krishi Bhawan, New Delhi.
5. Secretary, Science & Technology/ Ocean Department, Technology Bhawan, New Mehrauli Road, New Delhi.
6. Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi with reference to their No.1.5/2000-SII, dated 8.8.2000.
7. Addl. Secretary, Ministry of Environment and Forests.
8. Joint Secretary (Services), Department of Personnel & Training, New Delhi.
9. Secretary, Forest Department, All State Governments/ U.Ts.
10. Principal Chief Conservator of Forests, All State Govts/U.Ts.

78
21

11. All Officers in the Ministry of Environment and Forests, Ministry of Environment and Forests/ National Afforestation Eco- development Board/ GPD.
12. Director General, Indian Council of Forestry Research and Education, P.O. New Forest, Dehra Dun.
13. Director, IGNFA/DFE/FSI, Dehra Dun.
14. All Regional Office under Ministry of Environment and Forests.
15. All Subordinate Offices including SFS College, EFRC, Kurseong.
16. Director, IIFM, Director, WEI, Dehra Dun.
17. Spare copies-10.


(Mira Mehrishi)
Joint Secretary to the Government of India

SCHEME FOR STAFFING POSTS INCLUDED IN THE CENTRAL DEPUTATION RESERVE OF THE INDIAN FOREST SERVICE AND OTHER FORESTRY POSTS, SIMILAR IN RANK AND STATUS IN CERTAIN OTHER ORGANISATIONS UNDER THE GOVERNMENT OF INDIA

.....

1. OBJECT:

This scheme is intended to provide for systematic manning of technical/ research/education posts connected with forestry in the Centre as enumerated in Annexure I. Addition or deletion of any post from the list at Annexure I shall be with the prior concurrence of the Union Public Service Commission.

2. SOURCES:

The posts covered by this Scheme shall ordinarily be manned by officers borrowed on tenure basis and belonging to the Indian Forest Service Cadre / Joint Cadres of the States/ Union Territories. In exceptional cases, where sufficient number of Indian Forest Service Officers are not available, officers from the State Forest Services whose names are included in the 'Select List' referred to in Regulation 7(3) of the IFS (Appointment by Promotion) Regulations, 1966, may be selected and appointed.

3. CONTROLLING AUTHORITY:

3.1 The Ministry of Environment and Forests will be the Controlling Authority for the purposes of this Scheme. A Central Forestry Establishment Board, hereinafter referred to as 'the Board', shall be set up under it with the constitution and functions set out below.

3.2 CONSTITUTION OF THE BOARD

- (a) The Board shall consist of four members, including the Chairman.
- (b) The Secretary to the Government of India in the Ministry of Environment & Forests will be the Chairman(ex-officio) of the Board.
- (c) The other ex-officio members of the Board will be :
 - (i) The Director General of Forests & Special Secretary to the Government of India, Ministry of Environment and Forests.
 - (ii) Additional Director General of Forests, Ministry of Environment & Forests

(iii) Joint Secretary, Min. of Environment and Forests, dealing with Forestry who will also be the Member-Secretary of the Board.

3.3 FUNCTIONS:

It shall be the duty of the Board to make recommendations having regard to the merits, claims and availability of all officers in the field of choice:

- (b) for appointments to posts covered under the Scheme except the posts of Director General of Forests, Additional Director General of Forests and the other posts carrying a pay scale of Rs.18,400-500-22,400/-.
- (b) for appointments to all other posts under the Government of India and the autonomous bodies financed by the Government of India which are similar in rank and status to posts covered under the Scheme when it is proposed to appoint thereto officers of the Indian Forest Service;
- (c) to make recommendations for selection by appropriate authority for deputation to a post in any foreign country when a request from the concerned country has been received or for deputation to any post in any organisation mentioned in rule 6(2)(ii) of the IFS(Cadre) Rules, 1966;
- (d) to determine the criteria of eligibility of cadre officers for appointment to various posts covered by this Scheme; and
- (e) to advise on matters specifically referred to the Board by the Ministry of Environment & Forests of the Government of India.

3.4 Special Selection Committee:

A Special Selection Committee consisting of (i) Secretary, Ministry of Environment and Forests(ii) Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions(iii) Secretary, Department of Agricultural Research and Education (iv) Secretary, Department of Rural Development, Ministry of Rural Development and (v) Secretary, Ministry of Science & Technology shall be constituted to make recommendations for appointment to the posts carrying a pay scale of Rs.18,400-500-22,400/- and above. The Director General of Forests & Special Secretary shall be the Member-Secretary of the Committee for consideration of candidates for all posts falling within the purview of the Committee other than that of the post of Director General of Forests.

4. DUTIES OF THE MEMBER SECRETARY OF THE BOARD:

- 4.1 It shall be the duty, inter-alia, of the Member Secretary of the Board:

- (i) to receive communications intended for the Board and to obtain and communicate its recommendations/decisions;
- (ii) to keep himself fully informed of the possible or impending vacancies in posts falling within the purview of the Board and the availability of officers of the requisite seniority/ qualifications and experience for filling such posts;
- (iii) to correspond and keep in close touch with the Governments of States and Union Territories for the systematic manning of the posts falling under the purview of the Board;
- (iv) to correspond and keep in touch with other Ministries of the Government of India for providing services of Indian Forest Service Officers for posts under those Ministries;
- (v) to ensure up-to-date maintenance and proper custody of the Annual Confidential Reports of all officers belonging to the Indian Forest Service;
- (vi) to deal with all matters pertaining to the career planning and management of the Indian Forest Service;
- (vii) to correspond with the Union Public Service Commission, the Comptroller and Auditor General of India and the concerned Heads of attached and subordinate offices etc., regarding operation of the Scheme ;
- (viii) to advise and render assistance in regard to matters relating to the Indian Forest Service Cadre of the States and Union Territories; and
- (ix) to keep in touch and liaise with professional institutions in regard to personnel matters concerning the Indian Forest Service.

5. PROCEDURE:

5.1 All vacancies, actual or anticipated, in regard to posts falling within the purview of the Board, shall be reported forthwith to the Member- Secretary of the Board with full details as to the nature and duration of the vacancies, the specific duties and responsibilities of the posts and the required qualifications, experience, etc. It will be open to the concerned Ministry / Department/ other organisation to indicate, at the same time, the name(s) of any particular officer(s) whose suitability may be considered by the Board.

5.2 All correspondence between the Ministries in the Government of India on the one hand, and the State Governments/ Union Territories on the other, for the services of Indian Forest Service Officers / State Forest Service Officers eligible under the Scheme, shall be channelised through the Member - Secretary of the Board.

5.3 The particulars of the officers to be considered for posts falling within the purview of the Scheme shall be collected in the manner prescribed by the Member-Secretary of the Board.

128
 5.4 The Board shall meet periodically once in a year and in any case before 31st December. Applications would be invited latest by 31st October every year to draw up an 'Offer List' of suitable officers for posts falling within the purview of the scheme. Appointments would be recommended by the Secretary, Ministry of Environment and Forests and approved by Minister of Environment and Forests.

6. SUITABILITY :

The suitability of officers for appointment on tenure / deputation shall be decided on the advice of the Board, which will fix norms, from time to time, about the minimum length of service and other requirements, if any, for posts falling within purview of the Scheme.

7. PERIOD OF TENURE:

7.1 The tenure of deputation of an officer appointed to a post covered under this Scheme would be as follows:

- a) Dy. Conservator of Forests or equivalent .. 4 years
- b) Conservator of Forests or equivalent .. 5 years

The tenure of the officer(s) may, however, be curtailed in public interest at the discretion of the Competent Authority.

7.2 Every officer belonging to the Indian Forest Service and of an officer of a State Forest Service whose name is included in the 'Select List' referred to in Regulation 7 (3) of the IFS (Appointment by Promotion) Regulations, 1966 shall revert to his state cadre on the exact date of his completing his tenure. He will, however, have a choice to revert to his cadre on the 31st May previous to the date of the end of his tenure in case personal grounds such as children's education etc, necessitate such reversion. However, on genuine grounds and in exceptional circumstances the Competent Authority in the Ministry of Environment & Forests can consider extension of tenure upto a maximum of one year.

7.3 Notwithstanding what has been stated above, the period spent by officers on tenure deputation to Indira Gandhi National Forest Academy, Dehradun would count as half for the purpose of computing tenure at the Centre subject to the condition that this concession will be available only to those officers who serve for at least three years at the Academy.

COOLING OFF REQUIREMENTS

7.4 A period of three years should generally lapse between two spells of deputation to posts covered under the Scheme.

8. REPEAL AND SAVINGS

8.1 With effect from the date of coming into force of this Scheme, the Recruitment Rules framed for appointment to various posts falling within the purview of this Scheme shall cease to operate.

**LIST OF POSTS UNDER THE CENTRAL GOVERNMENT TO BE
COVERED UNDER THE SCHEME.**

S.No.	Designation	Scale of Pay	No. of Posts	Name of the Office
1.	2.	3.	4.	5.
1.	Director General of Forests and Special Secretary	Rs.26,000 (fixed)	1	Ministry of Environment & Forests
2.	Additional Director General of Forests	Rs.24050-650- 26,000	2	-do-
3.	Director, Forest Survey of India	Rs.22,400-525- 24,500	1	Forest Survey of India
4.	Director, Indira Gandhi National Forest Academy	-do-	1	Indira Gandhi National Forest Academy, Dehradun.
5.	Addl. Director, Indira Gandhi National Forest Academy	Rs.18,400-500- 22,400	1	-do-
6.	(i)Chief Conservator of Forests (Central)	Rs.18,400-500 22,400	5	Ministry of Environment and Forests, Regional Offices.
	(ii)Conservator of Forests(Central) Chandigarh	Rs.16,400-450- 20,000 plus CDTA of Rs.1000/-	1	Ministry of Environment and Forests, Regional Office.
7.	IGF and Director, Project Tiger	Rs.18,400-500- 22,400/-	1	Project Tiger Directorate, Ministry of Environment & Forests.
B.	IGF and Director, Project Elephant	-do	1	Ministry of Environment and Forests.
9.	Inspector General of Forests (Conservation)	-do-	1	-do-
10.	Inspector General of Forests (Wildlife)	-do-	1	-do-

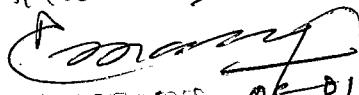
11. Inspector General of Forests (EAP)	Rs.18,400-500- 22,400/-	1	Ministry of Environment and Forests
12. Inspector General of Forests (NAEB)	-do-	1	-do-
13. Deputy Inspector General of Forests (Wildlife)	Rs.16,400-450- 20,000/- plus Spl. pay of Rs.1000/- p.m.	1	-do-
14. Deputy Inspector General of Forests	-do-	7	Ministry of Environment & Forests and Ministry of Rural Development.
15. Professor, Indira Gandhi National Forest Academy, Dehradun.	Rs.16,400-450 20,000 Plus Spl pay of Rs.1000/- p.m. or training allowances as decided by GOI from time to time.	2	Indira Gandhi National Forest Academy, Dehradun.
16. Regional Director, Forest Survey of India	Rs.16,400-450- 20,000 plus Spl. pay of Rs.1000 p.m.	4	Forest Survey of India - Regional Offices at Calcutta, Nagpur, Bangalore, Shimla.
17. Conservator of Forests (Central)	Rs.16,400-450- 20,000 plus Spl pay of Rs.1000 p.m.	6	Ministry of Environment and Forests, Regional Offices.
18. Director, Forests Education	Rs.16,400-450 20,000 plus Spl pay of Rs.1000	1	Directorate of Forest Education, Dehradun.
19. Principal, State Forest Service College	Rs.16,400-450 20,000 plus Spl. pay of Rs.1000 p.m. or Training Allowance as decided by GOI from time to time.	3	SFS Colleges at Dehradun, Coimbatore and Burnihat.
20. Addl. Commissioner (Forestry)	Rs.16,400-450 20,000 plus Spl pay of Rs.1000 p.m.	2	Ministry of Agriculture & Cooperation.
21. Joint Director, Forest Survey of India	Rs.16,400-450- 20,000 plus spl. pay of Rs.1000 p.m.	3	Forest Survey of India, Dehradun.

22. Director, National Zoological Park, New Delhi.	Rs.16,400-450- 20,000/- plus Spl. pay of Rs.1000/- p.m.	National Zoological Park, New Delhi.
23. Joint Director, National Zoological Park, New Delhi.	Rs.10,000-325- 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Spl. pay(CDTA) of Rs.800/1000 p.m.	National Zoological Park, New Delhi.
24. Assistant Inspector General of Forests	Rs.10,000-325- 11 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Spl. pay(CDTA) of Rs.800/1000 p.m.	Ministry of Environment & Forests & Ministry of Rural Development
25. Deputy Director, Forest Survey of India	Scale(s) as above plus Spl. pay of Rs.800/1000 per month	10 Forest Survey of India, Dehradun and its Regional Offices at Calcutta Bangalore, Nagpur & Shimla
26. Deputy Conservator of Forests (Central)	Scales as above plus Spl. pay of Rs.800/1000 p.m.	11 Regional Offices, Ministry of Env. & Forests.
27. Deputy Director (Wildlife Preservation)	-do-	4 Regional Offices, Wildlife Preservation, Ministry of Env. and Forests.
28. Deputy Director/ Joint Director, (Wildlife)	-do-	1 Ministry of Env. and Forests.
29. Deputy Director/ Joint Director (Project Tiger)	-do-	1 Ministry of Env. and Forests, Project Tiger Directorate
30. Associate Professor, IGNFA, Dehradun.	Rs.10,000-325- 12 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Training Allowance as decided by GOI from time to time or Spl. pay of Rs.800/1000 p.m.	Indira Gandhi National Forest Academy, Dehradun.

31. Lecturer, State Forest Service College.	Rs.10,000-325- 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Training Allowance as decided by GOI from time to time or Spl. pay of Rs.800/1000 p.m.	14 SFS College at Dehradun, Coimbatore, Burnihat.
32. Principal, Forest Rangers College	-do-	1 Eastern Forest Rangers College, Kurseong
33. Instructor, Forest Rangers College.	Scale(s) as above plus Spl. Pay of Rs.800/1000/-p.m.	3 -do-
34. Deputy Advisor, (Forestry)	Rs.10,000-325- 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Spl pay of Rs.800/1000 p.m.	1 Ministry of Rural Development.
35. Deputy Advisor (Forestry)	-do-	1 Planning Commission.

Note: The rate of CDTA will be as per DoPT Notification No.16017/3/98-AIS(II) dated 6th November, 2000.

Attest,

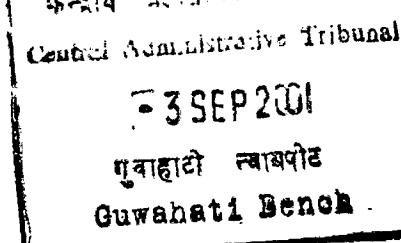


P. C. WANGAIND (P.C.W)

Joint Officer

Ministry of Env. & Forest

N. Delhi



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O. A. NO. 259/2001

Shri Balvinder Singh ... Applicant

= VERSUS =

Union of India and Others ... Respondents

IN THE MATTER OF :

A Rejoinder filed
by the Applicant to the
Affidavit-in-Opposition filed
by the Respondents.

I, Shri Balvinder Singh, S/O (L) Shri Jagdip
Singh, aged about 58 years, resident of Forest Lodge, Shillong,
Shillong, do hereby solemnly affirm and declare that -

1. That I am the applicant in this present case.
I have received a copy of the Affidavit-in-reply
filed by the Respondents, perused the same and after
understanding the contents thereof I am swearing this
Affidavit in reply to the Affidavit-in-Opposition filed
by the Respondents.

Balvinder Singh

... 2.

MS. R. D. Biju and another
Advocate
Filed by Shri S. P. Sin, Esq.

2. That I deny the statements made in the Affidavit-in-Opposition except those which are matters of record, the same are misconceived, contradictory, baseless, made by suppressing and misrepresenting facts and deserves no consideration.

3. That I make no comment to the statements made in para 1 and 2 of the Affidavit-in-Opposition.

4. That the statements made in Para 3.1 and 3.2 are matters of record and I make no comment on that.

5. That while denying the statements made in Para 3.3 it is submitted that the appointment to the Post of Director General of Forests and Special Secretary to Government of India included in the Scheme for staffing Posts included in the Central Deputation Reserve of the Indian Forest Service, is definitely by way of Promotion of Indian Forest Service Cadre, eligible Officer. It may be noted that there is only one post of Director General of Forests and Special Secretary to Government of India and selection for this apex Post is made by the Special Selection Committee out of the Panel of I.F.S. Officers only. The Panel is compiled suo-moto by the Ministry of Environment and Forests, basing on the year of allotment of I.F.S. Officers and their Service record. Generally the names of three deserving Principal Chief Conservator of Forests are included in the Panel.

The Post of Director General of Forests and Special Secretary to Government of India is in a higher Pay scale i.e. Rs.26,000/= (fixed) while the Pay Scale of Principal Chief Conservator of Forests is Rs.24,050-650-26,000/=.

Balwinder Singh

... 3.

The post of Director General of Forests and Special Secretary to Government of India is definitely a post in higher pay scale, higher status and responsibility and this post can be filled up through selection of deserving Indian Forest Service Officer only. The selection is based on service record and seniority. Basing on these criteria the Applicant was selected for the post of Inspector General of Forest & Special Secretary to the Government of India in the year 1996, but before his appointment to the above post, the Applicant came under cloud and thus at that point of time was deprived of appointment to this higher post. It is therefore, evident that his case falls under the category of sealed cover provisions which is prescribed for preventing jeopardy to the interest of the Officer if found innocent at a subsequent stage. The vacancy in the post of D.G. Forests and Special Secretary to Government of India is not circulated to the states of the Union, while the vacancies related to all other posts included in the scheme are circulated to all States of the Union, inviting applications in a prescribed format from deserving, willing Officers. No applications are invited for filling up the post of D.G. Forests and there is no prescribed format, the Panel is composed suo-moto by the Ministry of Environment and Forests, Govt. of India, basing on year of allotment of I.F.S. Officers and their Service Record.

There is no fixed tenure of deputation for the post of D.G. Forests and Special Secretary to Govt. of India. The tenure for this Post is always co-terminus with the date of superannuation of the Officer concerned.

Balwinder Singh

... 4.

Moreover, there is no possibility of reversion to the State Cadre since there is no equivalent post existing in the States in the I.F.S. Cadre.

6. That in reply to the statements made in Sub-Para (i) and (ii) of Para 4, I make no comment.

That in reply to Sub-Para (iii) of Para 4, it is submitted that it has been admitted that the post of Inspector General of Forests now redesignated as Director General of Forests is the highest post in the Forest Service, available to Indian Forest Service Officers, hence it is clearly a case of promotion of an I.F.S. Officer to a higher post in a higher pay scale, higher status and higher degree of responsibility.

That while denying the statements made in sub-para (iv) of the Para 4, it is submitted that the Special Selection Committee of the Central Forestry, established Board performs the functions of a Selection Committee for the selection of suitable I.F.S. Officer to a higher post i.e. D.G. Forest and Special Secretary to Govt. of India, out of a panel of I.F.S. Officers serving in the Pay Scale of Rs.24050-650-26000/. Therefore, function performed by this Special Selection Committee is analogous to the functions performed by any D.P.C. .

That in reply to the statements made in sub-para (v) of Para 4, it is submitted that the statements made in this paragraph is misleading. The language of the telegram annexed as Annexure I, clearly states that the candidature of Shri Balvinder Singh - the applicant of Assam-Meghalaya Cadre was being considered for appointment at the level of Secretary or Equivalent posts under Central Govt. of India and not for empanelment as stated by the Respondents. In the above-said

Balvinder Singh

telegram, there is no mention of the Scheme under which the post was included and there is no mention of the Central staffing scheme of the Department of Personnel and Training.

That I make no comment on the statements made in sub-para (vi) of Para 4.

That in reply to the statements made in sub-para (vii) of Para 4, it is submitted that the reply made in sub-para (v) of Para 4, may be referred to.

Further, it is categorically stated that in the latest scheme for staffing posts included in the Central deputation Reserve of the Indian Forest Service, notified by the Ministry of Environment and Forests, there is no provision for nullification of the Recommendations of the Selection Committee. The act of nullification of the recommendations made by the Selection Committee in 1996 is arbitrary, illegal, unconstitutional, biased and prejudiced against the applicant, which negates the spirit and provision of "Sealed Cover" procedure prescribed to meet such eventualities. These recommendations should have been kept in a sealed cover as per procedure applicable to all other posts in the Indian Forest Service or as per General Rules applicable to all the Services in the country, within the framework of the Constitution of India, to provide natural justice to innocent persons and to protect their fundamental rights.

That in reply to the statements made in sub-paras (viii) and (ix) of Para 4, the applicant makes no comment.

Balwinder Singh

... 6. -

That in reply to the statements made in sub-para (x) of Para 4, it is submitted that the claim of the applicant is fully justified. The provisions of sealed cover procedure have been made to provide natural justice to innocent Govt. Servants, who are recommended for promotion by the Departmental Promotion Committee, but who come under cloud before they are actually promoted. The case of the applicant ought to be considered as if his case had been placed in a sealed cover by the Special Selection Committee, since the selection was made for a higher post in all respects. There is no prescribed tenure for the post of Director General of Forests and Special Secretary to Government of India. It has already been admitted by the Respondents in Para 4 (iii) that the post of D.G. Forests and Special Secretary to Government of India is the highest post in the Forest Service and this post is filled up through a Selection process by the Special Selection Committee of Secretaries, hence, it is definitely a case of promotion from the level of Principal Chief Conservator of Forests to that of D.G. Forests and Special Secretary to Govt. of India. The treatment meted out to the applicant smacks of prejudices, grave injustice, unconstitutional and biased. The highest post available to any Indian Forest Service Officer is the post of D.G. of Forests and not the post of Principal Chief Conservator of Forests or other equivalent posts such as Additional Director General of Forests to Government of India, Ministry of Environment and Forests.

That in reply to sub-para (xi) of Para 4, the applicant makes no comment.

... 7.

Balvinder Singh.

That in reply to sub-para (xii) of para 4, it is submitted that the Vigilance Clearance and Integrity Certificate in respect of the applicant were received by the Respondents on 09.05.2001 i.e. on a date prior to the superannuation of Shri C.P.Oberai, IFS. D.G. of Forests and Special Secretary to Govt. of India. Therefore, the Respondents were legally bound to provide relief to the applicant on or immediately after 9.5.2001.

That in reply to the statements made in sub-para (xiii) of Para 4, it is submitted that the averments made are misguiding in as much as the Selection Committee scrutinised all the nominations received. For the post of D.G. of Forests and Special Secretary to Govt. of India, no nominations are made by the State Governments, as this vacancy is never circulated to State Governments for inviting applications or for nomination of Officers by the State Governments. The Panel of eligible Officers is compiled suo-moto by the Ministry of Environment and Forests, based on year of allotment and Service record of Indian Forest Service Officers serving as Principal Chief Conservator of Forests.

That in reply to the statements made in sub-para (xiv) of para 4, it is submitted that the Order No. A 12026/3/2000-IFS-I dated 29.06.2001, passed by Govt. of India, Ministry of Environment and Forests, issued under the signature of Director to the Govt. of India, is on the face of it bad in law and fact, being arbitrary, biased, passed without proper application of mind and not in accordance with the prescribed Rules. There is no such provision in the Central Staffing scheme of the Ministry of Environment and Forests, which empowers the Authorities to "Nullify" the proceedings

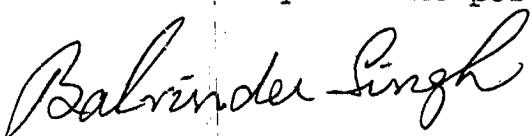
Balvinder Singh

of the Special Selection Committee held on 18.11.1996, which is a duly constituted Committee.

That in reply to the statements made in sub-para (xv) of Para 4, it is submitted that the reply made above in sub-para (xiv) may be referred to.

That in reply to the statements made in sub-para (xvi) of Para 4, it is reiterated that the Order No. A.12026/3/2000-IFS.I dated 29.06.2001 of the Respondents is on the face of it bad in law and fact, being arbitrary, biased, passed without proper application of mind and not in accordance with the Prescribed Rules. The Respondent has not stated any provision of Law/Rules which empowers him to Nullify the Proceedings of a lawfully held meeting of the Special Selection Committee on 18.11.1996. In any of the Rules and Guidelines applicable to Government servants, there is no provision made for nullification of lawful proceedings of the Special Selection Committee meeting. The provision of sealed cover procedure has been prescribed to meet such eventualities and to ensure justice to innocent Govt. servants and the same is applicable in the instant case.

7. That the statements made in Para 5.1 are hereby denied. It is submitted that it is definitely a case of promotion of eligible Indian Forest Service Officer, from the level of Principal Chief Conservator of Forests to that of D.G. of Forests and Special Secretary to Govt. of India, through a process of selection made by Special Selection Committee and the Officer thus selected is appointed to the higher post to Govt. of India till his date of superannuation. The Officer so appointed cannot revert back to his state cadre as there is no equivalent post available in the State cadre. There is no



There is no fixed tenure for this post. Since it is a case of promotion from a lower post to a higher post, therefore, the provisions of sealed cover procedure are applicable in this instant case.

It is further submitted that a mere perusal of the Notification dated 12th May, 1999 vide No.A.19011/07/97/IFS.I appointing Shri C.P.Oberoi to the post of Inspector General of Forests and Special Secretary and Notification No.A.19011/2/95-IFS.I dated 20th August, 2001 appointing Shri S.K.Pandey to the post of present Director General of Forests and Special Secretary, will show that their appointment to the post is not on deputation. In a case where the employee of the Forest Service is appointed on deputation to the Central Government as in the case of the present applicant when he was appointed to the post of Co-ordinator (FS and BS) Forest Research Institute and Colleges, Dehradun, it was clearly written in the appointment letter dated 10th July, 1984 vide No.A.12026/8/83-IFS that " the appointment will be on the deputation for a period of not exceeding five years from the date he takes charge to the post.....", but no such clause/condition is written in the appointment letters issued to Shri C.P.Oberoi and Shri S.K.Pandey appointing them to the then Inspector General of Forests and Special Secretary, Ministry of Environment and Forests and Director General of Forests and Special Secretary, Ministry of Environment and Forest respectively. Thus it is clear that the appointment to the post of Director General and Special Secretary in the Ministry of Environment and Forests

Balwinder Singh

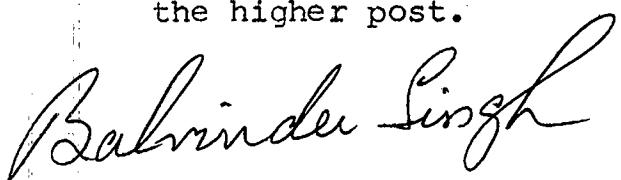
... 10.

Forests is a clear post of promotion and not on deputation and as such, the Sealed Cover Procedure is provided in the Central Government Guidelines for employees of the Forests services is very much applicable.

Copies of the appointment letter dated 12th May, 1999 20th August, 2001 and 10th July, 1984 are enclosed herewith as Annexures A, B and C.

8. That in reply to Parax 5.2, it is submitted that it has been clearly admitted by the Respondent that the Annual Confidential Dossiers of the Applicant for the year 1998-99 and 1999-2000 and 2000-2001 were received in the Ministry of Environment and Forests, Government of India during the first half of June, 2001 and therefore could not be placed before the Special Selection Committee meeting held on 30.04.2001. Further, the Respondent has stated that the ACRs for the previous years, working backwards from 1998-99 were considered by the Committee before arriving at their decision. Now the question arises, which Act or Rules empowered the Committee to take into consideration the ACRs for the previous years, working backwards. If no provision of Rules/ Acts exists for this purpose then the decision of the Committee is arbitrary and without any basis. The Rules which the Committee applied in this case would also be applicable to the proceedings of the Special Committee meeting held on 18.11.1996, which provide for the provision of sealed cover procedure to provide justice to innocent Govt. servants, who are recommended for promotion by the Selection Committee but who come under cloud before they are actually appointed to the higher post.

... 11.

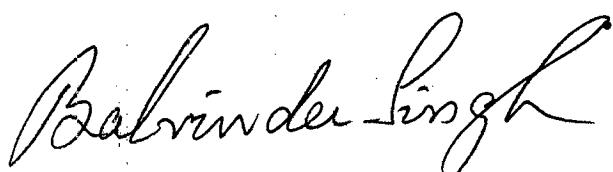


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9. That in reply to the statements made in Para 5.3, the reply made in Para 5.1 may be referred to.

10. That while denying the statements made in Para 5.4 it is submitted that in the Special Selection Committee Meeting held on 18.11.1996, the applicant was selected for appointment to the post of Inspector General of Forests and Special Secretary but due to non-granting of Vigilance Clearance/integrity certificate by the Government of Meghalaya, could not be appointed to the post. As a result of the above stated circumstances another meeting of the Special Selection Committee was held on 27th January, 1997 and the Committee recommended the name of the next Officer in the Panel prepared on 18.11.1996 meeting. Consequently Shri C.P.Oberoi I.F.S. an Officer junior to the applicant was appointed to the post of Inspector General of Forests and Special Secretary (now redesignated as Director General and Special Secretary) with effect from 27.02.1997 (A.N.) .

The State of Meghalaya granted the Vigilance clearance/integrity Certificate to the applicant on 8.5.2001, after exonerating him of all the charges drawn up against him. The Vigilance Clearance/Integrity Certificate was received by the Respondents on 9.5.2001 i.e. on a date prior to the superannuation of Shri C.P.Oberoi, I.F.S. D.G. and Special Secretary to Government of India, Ministry of Environment and Forests. Therefore, the Respondents were legally bound to provide relief to the applicant on or after 9.5.2001. The above stated facts have been duly acknowledged and admitted by the Respondents Nos 1 and 2 in their reply



... 12.

reply filed before the Hon'ble C.A.T. Gauhati on 16.08.2001.

Under the circumstances and facts stated above the applicant's case was to be treated as a sealed cover case and relief provided as per legal provisions/Rules applicable to sealed cover cases, related to All India Service Officers and in fact related to all categories of Govt. servants in the country. The applicant's case cannot be excluded from the purview of sealed cover case simply on the ground that the post of Director General and Special Secretary was included under the Central Staffing Scheme of the Ministry of Environment and Forests. There is no such legal/Constitutional immunity provided to posts included in the Central Staffing Scheme of the Ministry. The question of following the "sealed cover" procedure arises since the post of D.G. and Special Secretary is a higher post to that of Principal Chief Conservator of Forests and only Indian Forest Service Officers are eligible for consideration for promotion and appointment to this post. No applications are invited by Government of India for filling up this post and the panel is compiled suo-moto by the Ministry of Environment and Forests, Government of India, basing on the year of allotment and service records of the serving Indian Forest Service Officers in the scale of pay of Rs.24050-650-26000/=. Therefore, the basic principle for the "Sealed Cover" procedure in the matter of promotion when an Officer is under a vigilance cloud, is to safe-guard the interest of the Officer for promotion to any post for

Balminder Singh

... 13.

any post for which he is eligible and has been already considered and selected.

The applicant was eligible, considered and finally selected in the year 1996 for his appointment to the post of Inspector General and Special Secretary (now redesignated as Director General and Special Secretary) after competing with other eligible Officers at that point of time, hence the sealed cover procedure definitely applies in his case to provide relief to him since he was deprived of his lawful promotion and appointment in the year 1996, due to reasons not attributable to him. There is no other way to compensate for the mental agony and harassment, deprivation caused to the applicant since November, 1996.

11. That in view of the submissions made in the foregoing paragraphs it is amply clear that -

The post of Director General of Forests and Special Secretary to Government of India, Ministry of Environment and Forests is the highest post in the pay scale of Rs.26000 (fixed) to which eligible Indian Forest Service Officer serving in the pay scale of Rs.24050-650-26000 are considered for appointment under the Central Staffing Scheme of the Ministry of Environment and Forests.

The above said post can be filled up through selection of eligible Indian Forest Service Officers only by the Special Selection Committee constituted for this purpose under the Central Staffing Scheme.

... 14.

Balwinder Singh

The appointment to the above said post entails the promotion of an eligible Indian Forest Service Officer, serving in the pay scale of Rs.24050-650-26000.

12. Hence it is prayed that since it is a clear case of ~~a~~ promotion, through selection, therefore, the provision of "Sealed Cover" procedure are applicable without any iota of doubt.

As such, an appropriate Order/Direction may be issued to the Ministry of Environment and Forests to provide relief to the applicant as per the provisions of the "Sealed Cover" procedure applicable to such ~~a~~ cases of All India Service Officers and that the Order No.A.12026/3/2000-IFS-I dated 29.06.2001 passed by the Government of India, Ministry of Environment and Forests, disposing the Petitioner's representation, be set aside and quashed as prayed in the original application and direction be given for appointing the applicant to the post of Director General of Forests and Special Secretary to Government of India, Ministry of Environment and Forests and for this the Humble applicant shall ever pray.

Dated Shillong
The 3/9/2001.

Humble applicant
Balvinder Singh

VERIFICATION

I, Shri Balvinder Singh, I.F.S. Son of
(Late) Jagdip Singh, aged about 58 years, working as
Principal Chief Conservator of Forests, Meghalaya,
the applicant in this Rejoinder Affidavit, do hereby
solemnly verify that the statements made in Paras

1 to 10 of this Rejoinder ~~Affidavit~~ are true
to the best of my knowledge and belief, based on
records, which are also matters of record and the rest
are my humble submission before the Court and I sign
this Verification this 3rd Day of September 2001.

DEPONENT

Balvinder Singh

1 PS
 (TO BE PUBLISHED IN PART I SECTION II OF THE GAZETTE OF INDIA)

F.NO.A.19011/07/97-IFS.I

Government of India
 Ministry of Environment and Forests

555
 Paryavaran Bhavan,
 CGO Complex, Lodhi Road,
 New Delhi - 110003

Dated, the 12th May, 1999

NOTIFICATION

In partial modification of this Ministry's notification of even number dated the 4th March, 1997, the President is pleased to appoint Shri C.P. Oberai, an officer belonging to the 1964 batch borne on the Arunachal Pradesh-Goa-Mizoram-Union Territories (AGMUT) Joint Cadre of the Indian Forest Service, to the post of Inspector General of Forests and Special Secretary in the Ministry of Environment and Forests from 27th February, 1997 (Afternoon) till the 31st May, 2001, i.e. the date of his retirement on superannuation, or until further orders, whichever is earlier.

Sd/-

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

To

The Manager,
 Government of India Press,
Fardibabad (Haryana) (with a copy of Hindi Version).

Copy to:

1. The Chief Secretary, Govt. of Andaman & Nicobar Islands Administration, Port Blair.
2. The Principal Secretary, Andaman & Nicobar Islands Administration, Port Blair.
3. The Principal Chief Conservator of Forests and Secretary Forests, Andaman & Nicobar Islands Administration, Port Blair.
4. The Pay & Accounts Officer No.6, Tis Hazari, Delhi Administration, Delhi.
5. The Pay & Accounts Officer, Ministry of Environment and Forests, New Delhi.
6. Cash Section (2 Copies) with a copy of the charge assumption report.

22/89

- : 2 :-

7. Shri C.P. Oberai, IGF & Spl. Secretary.
8. PS to MEF (E&F)/PPS to Secretary (E&F).
9. All officers in the Ministry of Environment and Forests including National Eco-Afforestation Development Board and Ganga Project Directorate.
10. Chief Secretaries/Forest Secretary/PCCF All State Govts/UTs
11. Reception Officers.
12. P-I/P-II/PGG Section.
13. Guard File/Spare Copies

Carry

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

19/11/97-1/FC

मुक्त प्रेसिट
BOOK PACKET

FOREST SECRETARY
GOVERNMENT OF MEGHALAYA,
SHILLONG



(TO BE PUBLISHED IN PART I SECTION (II) OF THE GAZETTE OF INDIA)

No.A.19011/2/95-IFS-I
Government of India
Ministry of Environment and Forests

PSD (F, E)
M
27/08

Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi - 110 003.

Dated the 20th August, 2001

NOTIFICATION

The President is pleased to appoint Shri S.K. Pande, an officer belonging to the 1965 batch of the Himachal Pradesh cadre of the Indian Forest Service to the post of Director General of Forests and Special Secretary in the Ministry of Environment of Forests with effect from the forenoon of 13.08.2001, until further orders. The appointment is subject to the final outcome of the Original Application No.259 of 2001 in the Guwahati Bench of the Central Administrative Tribunal.

Sdy-
(G.P. Haldar)
Under Secretary to the Govt. of India

To

The General Manager,
Government of India Press,
Faridabad (Haryana) - alongwith Hindi version.

Copy to:

- i) The Chief Secretary of all the States/UTs.
- ii) Secretary (Forests), all the States/UTs.
- iii) All Ministries/Departments of the Government of India.
- iv) All subordinate offices /autonomous bodies of the Ministry of Environment and Forests.
- v) Accountant General, Himachal Pradesh, Shimla.
- vi) Principal Chief Conservator of Forests, Government of Himachal Pradesh, Shimla.
- vii) Pay and Accounts Officer, MoEF, New Delhi.
- viii) DDO, Ministry of Environment and Forests, New Delhi. Shri S.K. Pande, IFS (HP:65), DGF & SS will draw pay in the scale of Rs.26,000/- (fixed).
- ix) PS to MEF
- x) PPS to Secretary (E&F)/Spl Secretary, MoEF.
- xi) PPS to DGF & SS.
- xii) Spare copies/Guard file.

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28/8/01

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28/8

G.P. Haldar
Under Secretary to the Govt. of India

18 (Copy) Annexure C 99
15

No. A.12026/8/83-IFS
Government of India
Ministry of Agriculture
(Department of Agriculture & Cooperation)

New Delhi, dated the 10th July '84.

To

The Secretary to the Govt. of Meghalaya,
Forest Department, Shillong.

Sub: Selection of an officer for appointment to the post
of Coordinator, Forest Soil and Vegetation Survey,
Forest Research Institute and Colleges, Dehra Dun.

Sir, I am directed to refer to your letter No. ROR.107/78/66
dated the 6th July, 1983 on the subject mentioned above and to
say that the Shri Balvinder Singh, Indian Forest Service(AM)
has been selected for appointment to the post of Coordinator
(FS&VS), Forest Research Institute and Colleges, Dehra Dun on
the following terms and conditions:-

- i) Shri Balvinder Singh will draw pay in the scale of
Rs.1800-2000/- plus special pay of Rs.200/- per month.
- ii) The appointment will be on deputation for a period
not exceeding five years from the date he takes charge
of the post. The period of deputation is liable to
be curtailed by the appointing authority at its dis-
cretion without assigning any reasons and without
notice.
- iii) The headquarters of the post will be Dehra Dun but
any where in India.
- iv) Other terms and conditions will be the same as appli-
cable to other officers of his grade on deputation to
the Central Government.

2. It is requested that Shri Balvinder Singh may kindly be
relieved of his duties in the State Government immediately with
instructions to report for duty to the President, Forest Research
Institute and Colleges, Dehra Dun under intimation to this Depart-
ment.

Yours faithfully,

Sd/

(M.V. KESAVAN)
DEPUTY SECRETARY TO THE GOVT. OF INDIA.

Copy to :-

1. The President, Forest Research Institute and Colleges, Dehradun.
2. The Chief Conservator of Forests, Meghalaya, Shillong.
3. The A.G., Meghalaya, Shillong.
4. The Pay & Accounts Officer(Forests), Department of
Agriculture and Cooperation, New Delhi.
5. P.S. to I.G.F./J.S./U.S.(PG)/U.S.(FE).
6. Personal file. (7) Guard File. (8) Spare copies - 10.

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152

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

REPLY OF RESPONDENTS NO.1 & 2 TO THE REJOINDER
AFFIDAVIT DATED 3.9.2001 ON THE ORIGINAL
APPLICATION NO.259/2001

IN THE MATTER OF

Shri Balwinder Singh

Applicant

Vs

Union of India and Others

Respondents

INDEX

S.No.	Contents	Page No.
1.	Reply of the Respondents	1-4
2.	Prayer	5
3.	Verification	5

Through

(Arunesh Deb Roy)
Sr. Central Govt. Standing Counsel
CAT Guwahati Bench

(10)
(53)

REPLY OF RESPONDENTS NO.1 & 2 TO THE REJOINDER
AFFIDAVIT DATED 3.9.2001 ON THE ORIGINAL
APPLICATION NO.259/2001

Shri Balvinder Singh, IFS - - - - - Applicant

Vs.

Union of India & Others - - - - - Respondents.

Reply on behalf of the Respondents No.1& 2

I, G.P.Haldar, aged 53 years, son of Shri Krishna Prasad Haldar, working as Under Secretary in the Ministry of Environment & Forests, Government of India, Paryavaran Bhawan, New Delhi do hereby solemnly affirm and say as under:

2. That I am Under Secretary in the Ministry of Environment & Forests, Government of India, New Delhi and having been authorized, I am competent to file this reply on behalf of Respondents 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 & Forests. I have gone through the Application 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 and the Applicant should be put to strict proof of whatever he claims to the contrary.

3. In reply to averments made in para 2 of the rejoinder, it is strongly denied that the Counter-Affidavit of the Respondents is either misconceived, or contradictory or baseless or made by any suppression or misrepresentation of facts. On the other hand, they are based on facts and record. It is, in fact otherwise, ie. the Applicant, who is trying to mislead the judicial forum to achieve his ends.

4.1 In reply to averments made in para 5 of the rejoinder, it is submitted that the submission of the Respondents in para 3.3 of their Counter-Affidavit to the O.A. is a matter of record and the Applicant contradicts his own statement while admitting that the post of Director General of Forests & Special Secretary being included in the **Central Deputation Reserve** for Indian Forest Service, admitting thereby that the post is a deputation post, again says that the



appointment to the post is by way of promotion, as it is a higher post than the post held by him. The Applicant with all the years of experience in the field of Government service should understand the distinction between a promotion and appointment to a post on deputation. The institutional mechanism for selection of an officer for the post mentioned by the Applicant are to safeguard the interests of the Government, which is the "Borrowing Authority" in this case, so that it gets the services of the most suitable person for the post at the same time maintaining objectivity and impartiality in the matter of selection of the officer. It is again reiterated that the sealed cover procedure, which is required to be followed in the case of promotion, is not required to be followed in this case. It is the need of the borrowing authority to get the services of a suitable officer on tenure basis to man the post in question, and when one person initially selected for the job, was later found ineligible to be appointed to the post for not being clear from vigilance angle or of doubtful integrity, the borrowing authority selected someone else for the job after following due procedure. It is like a contract appointment for which no one has an exclusive right.

4.2 As regards the contention of the Applicant regarding the method of selection in an effort to establish that the post is a promotional post, it is submitted that the Special Selection Committee/Central Forestry Establishment Board has the power to lay down the criteria for selection of IFS officers for different posts under the purview of the scheme. If after laying down the criteria for the post of Director General of Forests & Special Secretary, the Special Selection Committee finds that the number of officers fulfilling the criteria is very large, and it may not be possible or practicable to consider all of them for the post, it can restrict its choice upto a certain Year of Allotment, ensuring that more than sufficient number of officers are available in the field. It is only a matter of strategy for the Special Selection Committee and any similarity of methodology with that for promotion does not make the process a promotion. It is only a matter of strategy for the Special Selection committee or the Government to decide whether it will be convenient to invite applications, from all eligible /willing candidates or first to shortlist them and then elicit the willingness of candidates to serve on **central deputation**, vigilance clearance, integrity certificate, willingness of the State Governments to spare the services of the officer etc. in the event of his selection. As regards the absence of a fixed tenure as contended by the Applicant for the post in question, it is submitted that the normal tenure for all posts above the level of Conservator of Forests/Deputy Inspector General of Forests is 5 years. But the criteria for the post of DGF & SS is such that once an officer is selected and appointed to the post, it is probably in the rarest of rare cases that a situation will arise when the officer will have 5 years or more of balance service left and the possibility of going back to cadre after completion of the tenure.

G. S. D. S. I. A.

4.3 In reply to averments made in para 6 of the rejoinder, it is submitted that the highest post to which an IFS officer can aspire to rise does not necessarily mean a promotional post for IFS officers. The Applicant has not explained in what way the highest post must be a promotional post. When the post is **not** a promotional post, the comparison of the Special

Selection Committee with the Departmental Promotion Committee is irrelevant in the context of the case.

4.4 In reply to the averments regarding the telegram at Annexure-I of the O.A, it is only a telegram with its limitations of conveying a message. It is again clarified that the telegram was in connection with empanelment of officers for appointment to Secretary level posts under the Government under the Central Staffing Scheme of the Department of Personnel and Training and in no way connected with the appointment to the post of Director General of Forests & Special Secretary which is under the purview of the scheme of the Ministry of Environment and Forests.

4.5 In reply to the allegations that the nullification of the recommendations of the Selection Committee made in November 1996 as arbitrary, illegal, unconstitutional, biased and prejudiced against the Applicant, the Applicant has not explained why and how this action is arbitrary, illegal, unconstitutional or biased or prejudiced. The position of the Respondent, as has been explained in para 4.1 above, is that it needed the services of an officer suitable for the post on deputation tenure basis, and when it was found that the officer recommended by the Selection Committee earlier could not be appointed to the post because of his not being clear from vigilance angle or his integrity was in doubt, the only course of action for the borrowing authority was to select another person suitable for the post after following due procedure. It is not incumbent on the part of the borrowing authority to follow the sealed cover procedure as it is under no obligation in the present context to give so called "promotion" to the Applicant. The allegations of prejudice/bias against the Applicant or that the action of the Respondent was either unconstitutional or has done injustice to the Applicant are all strongly denied.

4.6 In reply to averments made in first para of page 7 of the rejoinder, it is submitted that the Special Selection Committee consists of 5 Secretaries to the Government of India. They are all very busy persons and getting their time /convenience for the meeting is itself very difficult. But the Respondents had to act in a time-bound manner so that this vital post is left unfilled, if it is absolutely necessary, for the minimum possible time. The meeting of the Selection Committee had therefore to be conducted as per schedule. All the concerned State Governments were requested time and again from various levels of the Respondents to furnish the requisite documents. If in spite of that, some documents had not been received from some of the State Governments before the meeting, the Committee had to consider the suitability of the officers in the field of choice on the basis of available records. The Applicant cannot dictate that the Committee should sit and consider the matter only when it is convenient for him.

4.7 The second para of page 7 of the rejoinder has already been replied to in para 4.2. It is reiterated that it is only a matter of strategy adopted by the Respondent whether to invite applications of all willing/eligible officers or first to shortlist some officers upto a certain cut-off point/Year of Allotment and then to call for willingness of the officers and the State Governments and other related documents. That does not materially change the nature of the post.

(Signature)

4.8 Para 3 of the page 7 and para 2 of page 8 of the rejoinder are only a repetition of his allegations made in earlier paragraphs, and has been replied to. It is again denied that the Order of the Respondent bearing No.A.12026/3/2000-IFS-I, dated 29.6.2001 is either bad in law or fact, or arbitrary, biased or passed without application of mind. On the other hand, the order has been passed after due and careful consideration of the all facts and as per rules relating to the case.

4.9 The averments made in the first sub-para of para 7 of the rejoinder (page 8) is only repetition of his allegations made earlier, which have been replied to in the foregoing paragraphs.

4.10 The averments made in the second sub-para of para 7 (page 9) of the rejoinder is also a repetition, which has been replied to vide paragraph 4.2 of this reply.

4.11 In reply to averments made in para 8 (page 10) of the rejoinder it is observed that the Applicant has time and again asked for dispensing justice to him, even if that goes against the larger public interest. The Applicant needs to explain whether the Government machinery (in this case, the Special Selection Committee), which has been set up for public interest, should set aside all other works and be waiting indefinitely for all the documents in respect of the Applicant to come to consider to "promote" him? The Applicant also needs to tell whether this procedure is required to be adopted in respect of him only or for all other candidates and whether the effort of the Respondent should be to fill up the key post at the earliest or to dispense so called justice to him at the cost of larger national interest.

4.12 In para 10 of the rejoinder, the Applicant has reiterated his story vis-à-vis selection for the post since 1996 and stated that as he was not clear from vigilance angle and another officer namely Shri C.P. Oberai, junior to him had been appointed to the post. The State Government sent the vigilance clearance and integrity certificate etc. in respect of him before the date of superannuation of Shri C.P. Oberai. The Applicant has claimed that the Respondents are legally bound to provide relief to him on or after the date of receipt of these documents. If by relief, the Applicant means appointment to the post of Director General of Forests & Special Secretary, it is submitted that notwithstanding the non-availability of some of the latest ACRs and vigilance clearance/ integrity certificate as on the date of meeting of the Selection committee, the Applicant was duly considered on merit alongwith other candidates for the post, but could not get selected this time. It is again denied that Shri C.P. Oberai, IFS (AGMUT:64) was appointed as Inspector General of Forests & Special Secretary, only because he was second in the panel after the Applicant, in the event of non-availability of the Applicant for want of vigilance clearance and integrity certificate etc., but because Shri C.P. Oberai was duly selected for the post by the Special Selection Committee, which took stock of the situation after vigilance cases against the Applicant were known. Once Shri C.P. Oberai, IFS (AGMUT:64) was duly selected by the Selection Committee for the post, he had to be appointed for a full tenure and not as a stop gap arrangement till exoneration of the Applicant of all the charges as would have been done in the case of a promotion.

Shastri

P R A Y E R

In view of the submissions made in the foregoing paragraphs, it is abundantly clear that the case is regarding selection for filling up of a post on deputation tenure basis and, therefore, the sealed cover procedure which is required to be followed in the case of promotion when one of the aspirants for promotion is under vigilance cloud is not applicable here. The Applicant, who is a very senior Government servant must have understood that very clearly, but is sparing no effort to subvert the judicial process and mislead the Hon'ble Tribunal to achieve his objective, thus wasting the valuable time of not only the Respondents but also the Hon'ble Tribunal. There is no merit or substance whatsoever either in the Original Application or this rejoinder, which deserve to be dismissed and the Respondents pray accordingly.

V E R I F I C A T I O N

I ,G.P.Haldar, Under Secretary to the Government of India having my office at Paryavaran Bhawan, Lodi Road, New Delhi – 110 003, 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

on this 19 Sept day of September, 2001.

G.P.Haldar

(G.P.HALDAR)

For Respondents No.1 & 2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

15/02/2002

15/02/2002

COUNTER AFFIDAVIT OF THE RESPONDENT NO. 4
TO THE AMENDED APPLICATION NO. 259/2001

Filed by: M.K. Choudhury
Advocate
15/02/2002

In the matter of

Shri. Balvinder Singh

Applicant

Vs

Union of India and others

Respondent

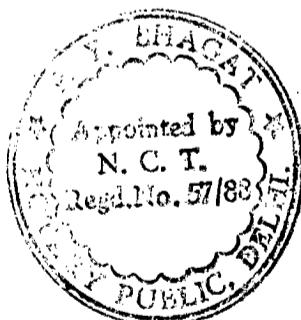


Reply on behalf of the Respondent No. 4 Shri. S.K.Pande

1. I, S.K. Pande, aged 59 years, son of late Shri Raghuber Dat Pande, working as Director General of Forests and Special Secretary to the Government of India, in the Ministry of Environment and Forests, Paryavaran Bhavan, New Delhi, do hereby solemnly affirm and say as under:

2. That I have been impleaded as respondent in the above application. I have gone through the application 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 and the applicant should be put to strict proof of whatever he claims to the contrary.

3. In reply to the averments made in para 4.1 of the modified application, the replying respondent has no comments to offer



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4. Para 4.2 : No comments

5. Para 4.3 : No comments

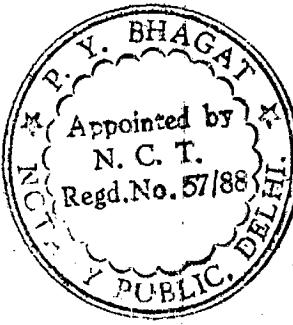
6. Paras 4.4, 4.5, 4.6 and 4.7: They are a matter of record and no comments

7. Paras 4.8 to 4.21 : Averments made do not pertain to the replying respondent and hence no comments.

8. Para 4.22 : With reference to the averments made, it is stated that it is not factually correct that the replying respondent was promoted as Director General of Forests and Special Secretary. The replying respondent has been selected by a duly constituted Special Selection Committee, under relevant rules, after following the prescribed procedure, fulfilling the eligibility criteria, professional competence reflected in the service records, unblemished service career and suitability for the job.

9. Para 4.23 : No comments

10. Para 5.1, 5.2 & 5.3 : With reference to the averments made it is submitted that the post of Director General of Forests and Special Secretary to the Government of India is not a promotion post from Additional Director General of Forest post or the Principal Chief Conservator of Forests. It is reiterated that it is a selection post and, therefore, seeking recourse to the sealed cover procedure is not at all relevant. Accordingly the Special Selection Committee met once again and selected Shri. C.P. Oberai for the post of IGF/DGF & SS.

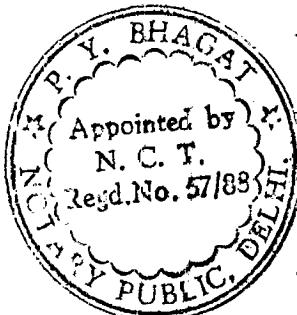


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✓ 11. Para 5.4 : Averments made do not pertain to the replying respondent and hence no comments.

12. Para 5.5 : with reference to the averments made, it is submitted that the stand taken by the Central Government has already been explained and the replying respondent has nothing more to add.

13. Para 5.6 : With reference to the averments made, it is submitted that it is not true that a second Departmental Promotion Committee met on 30-4-2001. To the contrary, a fresh Special Selection Committee met on 30-4-2001 to select a suitable incumbent from amongst the list of the short-listed officers as per seniority, to the post which was to fall vacant on retirement of Shri. C.P. Oberia on superannuating on 31-05-2001. The selection made in the year 1996, is not expected to be kept valid for five years as contested by the applicant. Sealed cover procedure is applicable only in case of regular promotion with in the departmental hierarchy through a Department Promotion Committee. The applicant has no exclusive right to the post of DGF & SS either as a matter of seniority or on the basis of selection made in the year 1996. As per the prescribed procedure, IFS officers belonging up to the Year of Allotment of 1965 were considered for short listing and empanelled at that point of time. In the subsequent 5 years i.e. from 1996 to 2001, many more officers have attained the prescribed qualifying service for being considered to the post of the DGF& SS and the replying respondent was adjudged as the most suitable candidate for the post based on merit, seniority and suitability, and after obtaining the approval of the Appoints Committee of the Cabinet, was accordingly appointed to the post.



Dhruv

It is also stated that the guidelines quoted by the petitioner do not include the deputation posts under the Central Staffing Scheme of the Ministry of Environment and Forests and hence are not relevant to the outcome of the case.

14. With reference to the averments made in the para 5.7 of the amended application, it is submitted that the post of DGF & SS is a selection post and seniority is not the sole or overriding criteria for appointing the most suitable officer to the post.

Attention is also drawn to the Hon'ble Supreme Court of India's judgement delivered on 8th October, 1996 in Civil Appeal No. 12855 of 1996, Union of India & Another versus Samar Singh and Others, where the Hon'ble Court ruled that "Apart from the record there are other matters that have to be considered, namely, merit, competence, leadership, and flair for participating in the policy making process and the need of the Central Government which is the paramount consideration."

The Hon'ble Court in the case of Jai Narain Misra (Dr) Vs. State of Bihar have again ruled that " So far as the question of suitability is concerned , the decision entirely rested with the Governments. In other words, the Government is the sole judge to decide as to who is the most suitable candidate for being appointed as the"(SCC p.32, para 4, 1971).



It is also stated that the replying respondent has functioned in various capacities in the State and Central Governments including as the founder Director of the prestigious Indira Gandhi National Forest Academy, Dehra Dun; Additional Inspector General of Forests in the

Dhruv

Ministry of Environment and Forests, Government of India and Principal Chief Conservator of Forests in Himachal Pradesh etc., for almost four decades. During the period of working with the central government for about nine and half years, the replying respondent dealt with various issues covering the entire gamut of national perspective on forest policy and management. It is also stated that the replying respondent has not only had a distinguished and chequered career but also an equally impressive academic record with masters degree in Physics and Forestry (from a Canadian university) and also Honours diploma from the Indian Forest College, Dehra Dun in 1964.

In addition the replying respondent has successfully represented the Country in various international fora including United Nations, Food and Agriculture Organisation (FAO), etc. The replying respondent was therefore at the time of selection was also fully conversant with the exacting job requirements, including secretariat functioning, of the post of Director General of Forests and Special Secretary.

The replying respondent joined the Indian Forest College in the year 1962 to attend the two years of professional forestry training and on successful completion joined the then Himachal Pradesh Forest Department in 1964.

The applicant, Shri. Balwinder Singh joined the Indian Forest College for the same course in the year 1969, but being a Short Service Commissioned officer was given the year of allotment of 1964. The DGF & SS is a Chief Technical Advisor to the Government of India and while selecting an officer for the job, the true seniority should be counted in the years of professional service rendered. The replying respondent has thus seven years longer service than the applicant in the Forestry profession. Hence

Bhinder

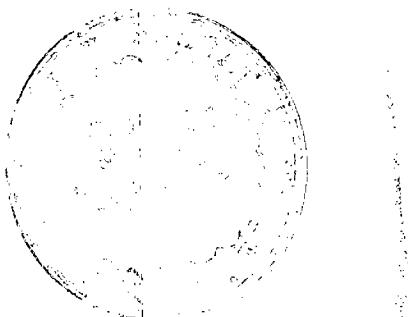
the averment made by the applicant that the respondent is junior to him in service may seen in that perspective.

In the Ministry of Environment and Forests itself, for filling the post of Director, Project Elephant, an Inspector General of Forest equivalent post, under the Central Staffing Scheme of the Ministry of Environment and Forests, many senior officers who had applied were not selected but a junior was selected on account of his experience and suitability befitting the job requirements.

15. Para 5.8: with reference to the averments made, it is denied that the appointment is by no means illegal and unfair. The replying respondent has been appointed under the due process of selection laid down for the purpose and with the concurrence of the high powered ACC.

PRAYER

In view of the submissions in the foregoing paragraphs, it is amply clear that the applicant's contention is devoid of merit and deserves to be dismissed and the respondent prays accordingly.



D. S. N.

VERIFICATION

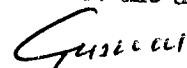
I, S.K. Pande, Director General of Forests and Special Secretary to the Government of India, having my office at Paryavaran Bhavan, Lodhi Road, New Delhi 110 003, do hereby verify that the contents stated above are correct to the best of my knowledge, belief and information and that nothing has been suppressed therefrom.

Verified at New Delhi on this 11th day of February, 2002.


(S.K.Pande)

For respondent No. 4

Solemnly affirmed before me Read
over & explained to the dponent


NOTARY PUBLIC DELHI

21 FEB 2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

certified for part 1, 2 part 3

COUNTER AFFIDAVIT OF THE RESPONDENT NO.1 & 2 TO THE ORIGINAL

APPLICATION NO.259/2001

IN THE MATTER OF

Shri Balvinder Singh

Applicant

V_S

Union of India and Others

Respondent

INDEX

<u>S.No.</u>	<u>Contents</u>	<u>Page No.</u>
01.	Reply of the Respondent	1-5
02.	Prayer	5
03.	Verification	6
04.	Annexure-R.1.1	

Through

(Arunesh Deb Roy)

Sr. Central Govt. Standing Counsel

CAT Guwahati Bench.

**ORIGINAL APPLICATION NO.259/2001 IN THE CENTRAL
ADMINISTRATIVE TRIBUNAL (CAT), GUWAHATI BENCH**

Shri Balvinder Singh **Applicant**

vs

Union of India & others Respondents

Reply on behalf of Respondents No.1 & 2

I, G.P. Haldar, aged 53 years, son of Shri Krishna Prasad Haldar, working as Under Secretary in the Ministry of Environment and Forests, Government of India, Paryavaran Bhawan, New Delhi do hereby solemnly affirm and say as under:

2. That I am Under Secretary in the Ministry of Environment and Forests, Government of India, New Delhi and having been authorized, I am competent to file this reply on behalf of Respondent No.1 and 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 Application and understood the contents thereof. Save and except whatever has been specifically admitted in this reply, rest of the averments will be deemed to have been denied and the Applicant should be put to strict proof of whatever claims to the contrary.

3.1 Indian Forest Service (IFS) is one of the three All India Services constituted under the All India Services Act, 1951. The Service is organised into cadres, one each for a State or a group of States/Union Territories. The conditions of Service of persons appointed to the Service are governed by the rules and regulations framed under the All India Services Act, 1951.

3.2 The strength and composition of each cadre of IFS are determined from time to time as per provisions in the IFS (Cadre) Rules, 1966 and IFS (Fixation of Cadre Strength) Regulations, 1966. Each cadre consists of a certain number of Senior Duty Posts plus 20% of the Senior Duty Posts as Central Deputation Reserve plus 25% of the Senior Duty Posts as State Deputation Reserve plus 20% of the Senior Duty Posts as Leave, Training and Junior Reserve. As the All India Services are common to both the Union and the States, the Union Government draws upon the services of the Officers of the All India Services to meet its requirement of manpower from this pool of Central Deputation Reserve of each Cadre.

3.3 Ministry of Environment and Forests is the Cadre Controlling Authority at the

Central level in respect of Indian Forest Service. A number of posts under this Ministry including its sub-ordinate offices and some other Ministries have been identified to be held exclusively by Indian Forest Service officers on deputation.

tenure basis. For systematic manning of these posts, the Respondent has formulated a Scheme known as "Central Staffing Scheme for Forestry Posts", which was first notified in January, 1984 and amended several times. The latest amendment of the Scheme was carried out in December, 2000 and a copy of the Scheme as amended in December, 2000 is enclosed as Annexure -R-1. It may, therefore, be clearly understood that appointment to these Central Deputation Reserve posts of Indian Forest Service is not by way of promotion of IFS Cadre officers, which they get in their respective cadres but by means of selection of eligible officers from all the cadres for a fixed tenure. With this background in view, the Respondent proceeds to reply to the averments made in the Original Application in the succeeding paragraphs.

(i) In reply to averments made in Para 4.1, the Respondent has no comments to offer.

(ii) No comments in reply to averments made in Para 4.2

iii) The averments made in para 4.3 are not denied.

iv) In reply to averments made in para 4.4, the Respondent submits that the Committee of Secretaries, which the Applicant has referred to as the Departmental Promotion Committee is not the Department Promotional Committee, but the Special Selection Committee of the Central Forestry Established Board as provided in the Central Staffing Scheme of the Ministry of Environment & Forests.

v) In response to averments made in para 4.5 and 4.6 of the Application, it is submitted that the telegram annexed as Annexure-I to the Application has nothing to do with the Applicant's selection/appointment to the post of Director General of Forests & Special Secretary (then called the Inspector General of Forests and Special Secretary). It was in connection with the empanelment of officers for appointment to the posts at the level of Secretary to the Government of India under the Central Staffing Scheme of the Department of Personnel and Training, which is distinct from the Central Staffing Scheme of the Ministry of Environment and Forests for Central Deputation Reserve posts for Indian Forest Service, which includes the post of Director General of Forests and Special Secretary. Asking for vigilance clearance from the State Government also does not indicate that the officer was empanelled as Secretary to Government of India.

vi) Averments made at Para 4.7 and 4.8 are matters of record and need no comments from the replying Respondent.

vii) Averments made in para 4.9 are misleading inasmuch as the post of Director General of Forests and Special Secretary under the Ministry of Environment and

Split by Govt. is Scheme

Forests is covered under the Central Staffing Scheme of the Ministry of Environment and Forests and not under the Scheme of the Department of Personnel and Training. Therefore, even if the petitioner had been empanelled for appointment at Secretary level under the Scheme of the Department of Personnel and Training, it would not confer any right on any person for appointment as Director General of Forests/Inspector General of Forests and Special Secretary. Recommendations of the Selection Committee which recommended Shri Balvinder Singh in 1996 for the post of Inspector General of Forests were nullified as Shri Balvinder Singh was not granted Vigilance Clearance by the State Government.

Thereafter another meeting of the Selection Committee was held on 27.1.1997 and the name of Shri C.P. Oberai, IFS(AGMUT:1964) was recommended for appointment.

viii) Averments made in para 4.10 are matters of record and are admitted.

ix) Averments made in para 4.11 are matters of record and are admitted.

x) In reply to averments made in para 4.12 and 4.13 of the Application, it is submitted that the claim of the Applicant to all the benefits of promotion with effect from the date of so called promotion of his junior, consequent on his exoneration from all the charges is misplaced, as appointment to the post of Director General of Forests and Special Secretary is not by way of promotion, but through selection as per provisions of the Central Staffing Scheme of the Ministry of Environment and Forests on tenure basis. As Principal Chief Conservator of Forests of a State, the Applicant has already reached the highest promotional post for an Indian Forest Service officer.

Appointed to 8th by not promotion by way of promotion but through selection on tenure basis

xi) In reply to averments made in para 4.14 of the Application are a matter of record.

xii) In reply to averments made in para 4.15, it is admitted that the Vigilance Clearance and Integrity Certificate in respect of the Applicant has been received by the Respondent on 9.5.2001.

xiii) In reply to averments made in para 4.16 of the Application, it is submitted that the Selection Committee met on 30.4.2001 and scrutinized all the nominations received. The selection is based on merit. It is only when the selection is made that the Vigilance Clearance is ascertained as was the case in 1996. The Selection Committee, therefore, did not exclude the name of the Applicant but considered his name alongwith others on merit.

xiv) In reply to averments made in para 4.17 of the Application, it is admitted that the Respondent received two representations No.MPG-24 dt 9.5.2001 and No.MPG-24 dt 26.5.2001, in which the Applicant had inter-alia, asked for i) dispensing justice to him by giving consideration for selection to the post of Director General of Forests and Special Secretary as he was selected in November, 1996 for the post of Inspector General of Forests and Special Secretary, but could

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169

not be appointed to the post at that time for reasons not attributable to him, and ii) that as he was the only candidate recommended by the Special Selection Committee in November, 1996 but could not be appointed as Inspector General of Forests and Special Secretary because of the disciplinary proceedings, which had since been concluded and he had been completely exonerated, therefore, he must be given appointment to the post of Inspector General of Forests and Special Secretary with effect from the date Shri C.P. Oberai, his junior in the panel was appointed to the post. The Respondent also received a copy of the Order dt 22.05.2001 of the Hon'ble Tribunal Bench in OA No.187/2001 directing the Respondent to consider and dispose of his representations as per law. Accordingly, both the representations have been carefully considered by the Respondent and disposed of vide a reasoned order No.A12026/3/2000-IFS-I dt 29.6.2001, a copy of which has been annexed by the Applicant as Annexure XV to his Application. (Page - 50)

xv) The averments made in paras 4.18, 4.19 and 4.20 have been replied to vide sub-para xiv) above.

xvi) It is stoutly denied that the order of the Respondent bearing No.A.12026/3/2000-IFS-I dt 29.6.2001 is either bad in law and fact, or arbitrary or biased or passed without any application of mind or not in accordance with the prescribed rules.

5.i In reply to averments made in paras 5.1, 5.2 and 5.3 of the Application, it is submitted that as explained in earlier paragraphs, this is not a case of promotion of an Indian Forest Service officer as in the case of their cadre, where officers get promoted to various grades/levels of Service, namely, Selection Grade, Conservator of Forests, Chief Conservator of Forests, Addl. Principal Chief Conservator of Forests, Principal Chief Conservator of Forests, etc. where the procedure for promotion is required to be followed. The case of appointment to Central Deputation Reserve Posts for IFS is governed by the Central Staffing Scheme of the Ministry of Environment and Forests. The "sealed cover" procedure, etc. mentioned by the Applicant is applicable in the case of promotion and not in the case of appointment on deputation, where no single officer has an exclusive right to such appointment.

In reply to para 5.4, it is strongly denied that the order passed by the Respondent bearing No.A.12026/3/2000-IFS-I dt 29.6.2001 is either arbitrary, malafide, biased or in a casual manner in contravention of any laid down rules/procedure or any provision of a law. As regards the Annual Confidential Dossiers of the Applicant for the years 1998-99 and 1999-2000 and 2000-2001, it is admitted that the ACR's of these 3 years were received in the Ministry in the first half of June, 2001.

ACR's

Baldy

ACR/11

However, the ACR's for the previous years working backwards from 1998-99 were considered by the Committee before arriving at their decision, which was based entirely on merit.

5.3 Para 5.5 is a mere repetition of paragraphs 5.1, 5.2 of the Application, which has been replied to vide para 5.1 above.

5.4 In reply to para 5.6 of the Application, it is submitted that as stated in preceding paragraphs, no single officer has any vested or exclusive right to appointment to the post under Central Staffing Scheme of the Ministry. The Applicant was selected in 1996 for the post of Inspector General of Forests and Special Secretary, but could not be appointed for want of Vigilance clearance and integrity certificate from the State Government. Had he been appointed at that time, he would have had a full tenure. But since, he could not be appointed to the post, another officer, namely Shri C.P. Oberai, IFS(AGMUT:1964) was duly selected by a fresh Selection Committee and appointed to the post and with that the Applicant lost his right at that time for appointment to the post. When the post has fallen vacant again in May, 2001, the Applicant has no exclusive right for appointment to the post on the plea that he was once selected for the post in November, 1996 but could not be appointed because of some reason or the other and if he is willing for central deputation to this post this time, he has to compete with other eligible officers in the zone of consideration for selection for the post as per the provisions of the Central Staffing Scheme of the Ministry. The question of following the "sealed cover" procedure as is applicable in the case of promotion in the cadre, where an officer is under Vigilance cloud, is not applicable in the case of Selection for appointment on deputation tenure basis, and therefore, the question of its regular review does not arise. The basic principle for the "sealed cover" procedure in the matter of promotion when an officer is under a vigilance cloud, is to safeguard the interest of the officer for promotion to the post in the line of his promotion, to which he otherwise has a right, but in the case of deputation as explained earlier, everyone in the zone of consideration irrespective of his cadre has as much right as everyone else and no one has any exclusive right to the exclusion of all other eligible officers.

PRAYER

In view of the submissions in the foregoing paragraphs, it is amply clear that there is no merit in the present Application, which deserves to be dismissed forthwith and the Respondent prays accordingly.

Stalock

VERIFICATION

I, G.P. Haldar, Under Secretary to the Government of India, having my office at Paryavaran Bhawan, Lodi Road, New Delhi-110 003, 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.....on this..... day of August, 2001.


(G.P. HALDAR)
For Respondent No.1 & 2

(गोपनीय उपसचिव/G. P. Haldar)
अर्थ सचिव/Under Secretary
पर्यावरण एवं वन मंत्रालय
Ministry of Environment & Forests
नई दिल्ली/New Delhi

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(X2)

(TO BE PUBLISHED IN PART I SECTION II OF THE GAZETTE OF INDIA EXTRAORDINARY)

No.A.12011/1/94-IFS-I

Government of India

Ministry of Environment and Forests

Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi - 110 003.

Dated the 14 December, 2000

RESOLUTION

WHEREAS a scheme for staffing posts included in the Central Deputation Reserve of the Indian Forest Service and other forestry posts, similar in rank and status in certain other organisations under the Government of India, was formulated and published for general information vide the Ministry of Agriculture (Department of Agriculture and Cooperation) Resolution No.F.1-11/76-IFS-I, dated the 9th January, 1984 and further amended by the Government of India vide Resolution No.F.1-11/76-IFS-I, dated the 10th March, 1987 issued by the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) and Resolution No.12011/4/90-IFS-I, dated the 23rd November, 1990 issued by the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) and Resolution No.A.12011/1/94-IFS-I, dated the 26th February, 1996 issued by Ministry of Environment and Forests:

AND WHEREAS it has been decided to (i) redesignate some of the posts under the scheme on the basis of the recommendations of the 5th Central Pay Commission; and (ii) upgrade some of the posts on the recommendations of the 5th Central Pay Commission, and (iii) to bring some more posts within the purview of the scheme again on the basis of the recommendations of the 5th Central Pay Commission;

AND WHEREAS it has been decided to bring some changes in the constitution of the Central Forestry Establishment Board and also the period of tenure of deputation of the officers;

AND WHEREAS it has been decided to bring out and notify a modified scheme in consultation with the Union Public Service Commission. A copy of the scheme is annexed. The scheme will come into force with immediate effect.

ORDER

Ordered that a copy of the Resolution be communicated to all the Ministries of the Government of India, State Governments/Union Territory Administrations, Union Public Service Commission and Comptroller and Auditor General of India.

Ordered also that the Resolution be published in the Gazette of India for general information.

Affested:

(P. C. MAMGAIN)

Section Officer

To Ministry of Env. & Forests
N. Delhi

The Manager,
Government of India Press,
New Delhi - (with Hindi version)


(Mira Nehrishi)

Joint Secretary to the Govt. of India

Copy also forwarded for information to:

1. PS to MEF / PPS to Secretary (E&F)/ IGF & Spl. Secy.
2. Secretary, Department of Personnel & Training, North Block
New Delhi.
3. Secretary, DARE, Kirshi Bhawan, New Delhi.
4. Secretary, Ministry of Rural Development, Krish Bhawan,
New Delhi.
5. Secretary, Science & Technology/ Ocean Department,
Technology Bhawan, New Mehrauli Road, New Delhi.
6. Secretary, Union Public Service Commission, Dholpur House,
Shahjahan Road, New Delhi with reference to their
No.1.5/2000-SII, dated 8.8.2000.
7. Addl. Secretary, Ministry of Environment and Forests.
8. Joint Secretary (Services), Department of Personnel &
Training, New Delhi.
9. Secretary, Forest Department, All State Governments/ U.Ts.
10. Principal Chief Conservator of Forests, All State Govts/U.Ts.

11. All Officers in the Ministry of Environment and Forests, Ministry of Environment and Forests/ National Afforestation Eco- development Board/ GPD.
12. Director General, Indian Council of Forestry Research and Education, P.O. New Forest, Dehra Dun.
13. Director, IGNFA/DFE/FSI, Dehra Dun.
14. All Regional Office under Ministry of Environment and Forests.
15. All Subordinate Offices including SFS College, EFRC, Kurseong.
16. Director, IIFM, Director, WLI, Dehra Dun.
17. Spare copies-10.



(Mira Mehrishi)

Joint Secretary to the Government of India

LPS

SCHEME FOR STAFFING POSTS INCLUDED IN THE CENTRAL DEPUTATION RESERVE OF THE INDIAN FOREST SERVICE AND OTHER FORESTRY POSTS, SIMILAR IN RANK AND STATUS IN CERTAIN OTHER ORGANISATIONS UNDER THE GOVERNMENT OF INDIA

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1. OBJECT:

This scheme is intended to provide for systematic manning of technical/ research/education posts connected with forestry in the Centre as enumerated in Annexure I. Addition or deletion of any post from the list at Annexure I shall be with the prior concurrence of the Union Public Service Commission.

2. SOURCES:

The posts covered by this Scheme shall ordinarily be manned by officers borrowed on tenure basis and belonging to the Indian Forest Service Cadre / Joint Cadres of the States/ Union Territories. In exceptional cases, where sufficient number of Indian Forest Service Officers are not available, officers from the State Forest Services whose names are included in the 'Select List' referred to in Regulation 7(3) of the IFS (Appointment by Promotion) Regulations, 1966, may be selected and appointed.

3. CONTROLLING AUTHORITY:

3.1 The Ministry of Environment and Forests will be the Controlling Authority for the purposes of this Scheme. A Central Forestry Establishment Board, hereinafter referred to as 'the Board', shall be set up under it with the constitution and functions set out below.

3.2 CONSTITUTION OF THE BOARD

- (a) The Board shall consist of four members, including the Chairman.
- (b) The Secretary to the Government of India in the Ministry of Environment & Forests will be the Chairman(ex-officio) of the Board.
- (c) The other ex-officio members of the Board will be :
 - (i) The Director General of Forests & Special Secretary to the Government of India, Ministry of Environment and Forests.
 - (ii) Additional Director General of Forests, Ministry of Environment & Forests

(iii) Joint Secretary, Min. of Environment and Forests, dealing with Forestry who will also be the Member-Secretary of the Board.

3.3 FUNCTIONS:

It shall be the duty of the Board to make recommendations having regard to the merits, claims and availability of all officers in the field of choice:

(b) for appointments to posts covered under the Scheme except the posts of Director General of Forests, Additional Director General of Forests and the other posts carrying a pay scale of Rs.18,400-500-22,400/-.

(b) for appointments to all other posts under the Government of India and the autonomous bodies financed by the Government of India which are similar in rank and status to posts covered under the Scheme when it is proposed to appoint thereto officers of the Indian Forest Service;

(c) to make recommendations for selection by appropriate authority for deputation to a post in any foreign country when a request from the concerned country has been received or for deputation to any post in any organisation mentioned in rule 6(2)(ii) of the IFS(Cadre) Rules, 1966;

(d) to determine the criteria of eligibility of cadre officers for appointment to various posts covered by this Scheme; and

(e) to advise on matters specifically referred to the Board by the Ministry of Environment & Forests of the Government of India.

3.4 Special Selection Committee:

A Special Selection Committee consisting of (i) Secretary, Ministry of Environment and Forests(ii) Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions(iii) Secretary, Department of Agricultural Research and Education (iv) Secretary, Department of Rural Development, Ministry of Rural Development and (v) Secretary, Ministry of Science & Technology shall be constituted to make recommendations for appointment to the posts carrying a pay scale of Rs.18,400-500-22,400/- and above. The Director General of Forests & Special Secretary shall be the Member-Secretary of the Committee for consideration of candidates for all posts falling within the purview of the Committee other than that of the post of Director General of Forests.

4. DUTIES OF THE MEMBER SECRETARY OF THE BOARD:

4.1 It shall be the duty, inter-alia, of the Member Secretary of the Board:

- (i) to receive communications intended for the Board and to obtain and communicate its recommendations/decisions;
- (ii) to keep himself fully informed of the possible or impending vacancies in posts falling within the purview of the Board and the availability of officers of the requisite seniority/ qualifications and experience for filling such posts;
- (iii) to correspond and keep in close touch with the Governments of States and Union Territories for the systematic manning of the posts falling under the purview of the Board;
- (iv) to correspond and keep in touch with other Ministries of the Government of India for providing services of Indian Forest Service Officers for posts under those Ministries;
- (v) to ensure up-to-date maintenance and proper custody of the Annual Confidential Reports of all officers belonging to the Indian Forest Service;
- (vi) to deal with all matters pertaining to the career planning and management of the Indian Forest Service;
- (vii) to correspond with the Union Public Service Commission, the Comptroller and Auditor General of India and the concerned Heads of attached and subordinate offices etc., regarding operation of the Scheme ;
- (viii) to advise and render assistance in regard to matters relating to the Indian Forest Service Cadre of the States and Union Territories; and
- (ix) to keep in touch and liaise with professional institutions in regard to personnel matters concerning the Indian Forest Service.

5. PROCEDURE:

5.1 All vacancies, actual or anticipated, in regard to posts falling within the purview of the Board, shall be reported forthwith to the Member- Secretary of the Board with full details as to the nature and duration of the vacancies, the specific duties and responsibilities of the posts and the required qualifications, experience, etc. It will be open to the concerned Ministry / Department/ other organisation to indicate, at the same time, the name(s) of any particular officer(s) whose suitability may be considered by the Board.

5.2 All correspondence between the Ministries in the Government of India on the one hand, and the State Governments/ Union Territories on the other, for the services of Indian Forest Service Officers / State Forest Service Officers eligible under the Scheme, shall be channelised through the Member - Secretary of the Board.

5.3 The particulars of the officers to be considered for posts falling within the purview of the Scheme shall be collected in the manner prescribed by the Member-Secretary of the Board.

5.4 The Board shall meet periodically once in a year and in any case before 31st December. Applications would be invited latest by 31st October every year to draw up an 'Offer List' of suitable officers for posts falling within the purview of the scheme. Appointments would be recommended by the Secretary, Ministry of Environment and Forests and approved by Minister of Environment and Forests.

6. SUITABILITY :

The suitability of officers for appointment on tenure / deputation shall be decided on the advice of the Board, which will fix norms, from time to time, about the minimum length of service and other requirements, if any, for posts falling within purview of the Scheme.

7. PERIOD OF TENURE:

7.1 The tenure of deputation of an officer appointed to a post covered under this Scheme would be as follows:

a) Dy. Conservator of Forests or equivalent .. 4 years

b) Conservator of Forests or equivalent .. 5 years

The tenure of the officer(s) may, however, be curtailed in public interest at the discretion of the Competent Authority.

7.2 Every officer belonging to the Indian Forest Service and of an officer of a State Forest Service whose name is included in the 'Select List' referred to in Regulation 7 (3) of the IFS (Appointment by Promotion) Regulations, 1966 shall revert to his state cadre on the exact date of his completing his tenure. He will, however, have a choice to revert to his cadre on the 31st May previous to the date of the end of his tenure in case personal grounds such as children's education etc, necessitate such reversion. However, on genuine grounds and in exceptional circumstances the Competent Authority in the Ministry of Environment & Forests can consider extension of tenure upto a maximum of one year.

7.3 Notwithstanding what has been stated above, the period spent by officers on tenure deputation to Indira Gandhi National Forest Academy, Dehradun would count as half for the purpose of computing tenure at the Centre subject to the condition that this concession will be available only to those officers who serve for at least three years at the Academy.

COOLING OFF REQUIREMENTS

7.4 A period of three years should generally lapse between two spells of deputation to posts covered under the Scheme.

8. REPEAL AND SAVINGS

8.1 With effect from the date of coming into force of this Scheme, the Recruitment Rules framed for appointment to various posts falling within the purview of this Scheme shall cease to operate.

ANNEXURE-ILIST OF POSTS UNDER THE CENTRAL GOVERNMENT TO BE
COVERED UNDER THE SCHEME.

S.No.	Designation	Scale of Pay	No. of Posts	Name of the Office
1.	2.	3.	4.	5.
1.	Director General of Forests and Special Secretary	Rs.26,000 (fixed)	1	Ministry of Environment & Forests
2.	Additional Director General of Forests	Rs.24050-650- 26,000	2	-do-
3.	Director, Forest Survey of India	Rs.22,400-525- 24,500	1	Forest Survey of India
4.	Director, Indira Gandhi National Forest Academy	-do-	1	Indira Gandhi National Forest Academy, Dehradun.
5.	Addl. Director, Indira Gandhi National Forest Academy	Rs.18,400-500- 22,400	1	-do-
6.	(i)Chief Conservator of Forests (Central)	Rs.18,400-500 22,400	5	Ministry of Environment and Forests, Regional Offices.
	(ii)Conservator of Forests(Central) Chandigarh	Rs.16,400-450- 20,000 plus CDTA of Rs.1000/-	1	Ministry of Environment and Forests, Regional Office.
7.	IGF and Director, Project Tiger	Rs.18,400-500- 22,400/-	1	Project Tiger Directorate, Ministry of Environment & Forests.
B.	IGF and Director, Project Elephant	-do	1	Ministry of Environment and Forests.
9.	Inspector General of Forests (Conservation)	-do-	1	-do-
10.	Inspector General of Forests (Wildlife)	-do-	1	-do-

11. Inspector General of Forests (EAP)	Rs.18,400-500- 22,400/-	1	Ministry of Environment and Forests
12. Inspector General of Forests (NAEB)	-do-	1	-do-
13. Deputy Inspector General of Forests (Wildlife)	Rs.16,400-450- 20,000/- plus Spl. pay of Rs.1000/- p.m.	1	-do-
14. Deputy Inspector General of Forests	-do-	7	Ministry of Environment & Forests and Ministry of Rural Development.
15. Professor, Indira Gandhi National Forest Academy, Dehradun.	Rs.16,400-450 20,000 Plus Spl. pay of Rs.1000/- p.m. or training allowances as decided by GOI from time to time.	2	Indira Gandhi National Forest Academy, Dehradun.
16. Regional Director, Forest Survey of India	Rs.16,400-450- 20,000 plus Spl. pay of Rs.1000 p.m.	4	Forest Survey of India - Regional Offices at Calcutta, Nagpur, Bangalore, Shimla.
17. Conservator of Forests (Central)	Rs.16,400-450- 20,000 plus Spl. pay of Rs.1000 p.m.	6	Ministry of Environment and Forests, Regional Offices.
18. Director, Forests Education	Rs.16,400-450 20,000 plus Spl. pay of Rs.1000	1	Directorate of Forest Education, Dehradun.
19. Principal, State Forest Service College	Rs.16,400-450 20,000 plus Spl. pay of Rs.1000 p.m. or Training Allowance as decided by GOI from time to time.	3	SFS Colleges at Dehradun, Coimbatore and Burnihat.
20. Addl. Commissioner (Forestry)	Rs.16,400-450 20,000 plus Spl pay of Rs.1000 p.m.	2	Ministry of Agriculture & Cooperation.
21. Joint Director, Forest Survey of India	Rs.16,400-450- 20,000 plus spl. pay of Rs.1000 p.m.	3	Forest Survey of India, Dehradun.

22. Director, National Zoological Park, New Delhi.	Rs.16,400-450- 20,000/- plus Spl. pay of Rs.1000/- p.m.	National Zoological Park, New Delhi.
23. Joint Director, National Zoological Park, New Delhi.	Rs.10,000-325- 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Spl. pay(CDTA) of Rs.800/1000 p.m	National Zoological Park, New Delhi.
24. Assistant Inspector General of Forests	Rs.10,000-325- 11 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Spl. pay(CDTA) of Rs.800/1000 p.m.	Ministry of Environment & Forests & Ministry of Rural Development
25. Deputy Director, Forest Survey of India	Scale(s) as above 10 plus Spl. pay of Rs.800/1000 per month	Forest Survey of India, Dehradun and its Regional Offices at Calcutta Bangalore, Nagpur & Shimla
26. Deputy Conservator of Forests (Central)	Scales as above 11 plus Spl. pay of Rs.800/1000 p.m.	Regional Offices, Ministry of Env. & Forests.
27. Deputy Director (Wildlife Preservation)	-do- 4	Regional Offices, Wildlife Preservation, Ministry of Env. and Forests.
28. Deputy Director/ Joint Director, (Wildlife)	-do- 1	Ministry of Env. and Forests.
29. Deputy Director/ Joint Director (Project Tiger)	-do- 1	Ministry of Env. and Forests, Project Tiger Directorate
30. Associate Professor, IGNFA, Dehradun.	Rs.10,000-325- 12 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Training Allowance as decided by GOI from time to time or Spl. pay of Rs.800/1000 p.m.	Indira Gandhi National Forest Academy, Dehradun.



31. Lecturer, State Forest Service College.	Rs.10,000-325- 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Training Allowance as decided by GOI from time to time or Spl. pay of Rs.800/1000 p.m.	14 SFS College at Dehradun, Coimbatore, Burnihat.
32. Principal, Forest Rangers College	-do-	1 Eastern Forest Rangers College, Kurseong
33. Instructor, Forest Rangers College.	Scale(s) as above plus Spl. Pay of Rs.800/1000/-p.m.	3 -do-
34. Deputy Advisor, (Forestry)	Rs.10,000-325- 15,200 Rs.12,000-375 16,500 Rs.14,300-400- 18,300 plus Spl pay of Rs.800/1000 p.m.	1 Ministry of Rural Development.
35. Deputy Advisor (Forestry)	-do-	1 Planning Commission.

Note: The rate of CDTA will be as per DoPT Notification No.16017/3/98-AIS(II) dated 6th November, 2000.

Approved,

 (P. P. S. SINGH)
 S. P. S. SINGH
 10/8/07