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GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 114/01

R.A/C.P No.

E.P/M.A No. 111/01

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SECTION OFFICER (Judl.)

Salita
7.12.17

FORM NO.4
(See Rule 42)

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

original

ORDER SHEET
APPLICATION NO

114 OF 2001

Applicant (s) Prantosh Roy

Respondent(s) U.O.P. Govt

Advocate for Applicant(s) B.K. Sharma, S. Sharma, V.K. Naite

Advocate for Respondent(s) CGSE

Notes of the Registry

Date

Order of the Tribunal

This application is in order

11.4.01

passed over for the day.

[Signature]
Vice-Chairman

26 503693

27 3:2001

22.4.01

112 NR 10/4/01

12.4.01

Issue notice on the respondents as to why the application filed by the applicant shall not be admitted. Returnable by six weeks.

List on 25.5.2001 for consideration of admission.

[Signature]
Vice-Chairman

trd

1.6.2001

List the case on 8-6-2001 for orders alongwith M.P.No.111 of 2001.

[Signature]
Vice-Chairman

bb
8.6.01

List before Division Bench after one week.

List on 15-6-2001 along with M.P.No. 111 of 2001 for order.

[Signature]
Member

nb

20.4.01
Service of Notice
issued to the
respondents vide
no.

Notice issued to the R/No 1 to 6
& sent to D/Sec for issuing the
same vide D/No 1755 to
1760 22/5/01
Requisite one copy
short.

16/5/01

7 copies of this order
enclosed for the
Registrar

15.6.01 Mr S.Sarma, learned counsel for the applicant submits that he missed the notice of this case on the cause list. List on 21.6.2001 for order.

Respondent No. 3.
Notice unreserved.
due to clear remarks.
do

Member Vice-Chairman

pg
21.6.01 Mr. A.Deb Roy, Sr.C.G.S.C., appearing for the respondents, prays for and granted 4 weeks and no more time to file counter affidavit. The applicant will have 2 weeks time thereafter to file rejoinder.

No. wts has been filed.

By
27.8.01

List on 28-8-2001 for order.

K.C.Sharma Member Vice-Chairman

bb

28.8.01 Heard Mr.S.Sarma, learned counsel for the applicant.

The application is admitted. Call for the records.

List on 28/9/01 for further order.

No written statement has been filed.

By
27.9.01

Vice-Chairman

mb
28.9.01

Heard Mr.B.C.Pathak, learned Addl. C.G.S.C. for the U.O.I. and Mrs. M.Das, learned counsel for the respondent Nos. 2,3 and 4. Both the counsel prays for four weeks time to file written statement. Prayer is allowed.

pl. shown in cancelled. the name of Mrs M.Das for R-2-4.

NK
11/10/2001.

The name of Mrs.M.Das, office be shown as advocate for respondent Nos. 2,3 and 4.

List on 16/11/01 for order.

No written statement has been filed.

K.C.Sharma Member Vice-Chairman

mb
16.11.01

List on 21/12/01 to enable the respondents to file written statement.

No. wts has been filed.

By
20.12.01

K.C.Sharma Member Vice-Chairman

mb

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O.A. 114/2001

Notes of the Registry

Date

Order of the Tribunal

21.12.01

List on 24.1.2002 to enable the respondents to file written statement.

No. written statement
has been filed.

By
23.1.02

mb

24.1.02

No written statement so far filed.
Respondents are allowed further 4 weeks time
to file written statement as a last chance.

List on 22.2.2002 for order.

No. WTs has been
filed.

By
21.2.02

mb

22.2.02

Heard Mr. S.Sarma, learned counsel for
the applicant and also Mr. A.Deb Roy, learned
Sr. C.G.S.C. for the respondents.

Mr. A.Deb Roy, learned Sr. C.G.S.C.
has stated that the Union of India separately
will not file any written statement. The other
respondents had not file written statement
nor any steps taken.

List on 22.3.2002 for order.

No. written statement
has been filed.

By
21.3.02

mb

22.3.02

Heard Mr. S.Sarma, learned counsel for
the applicant and also Dr. Y.K. Phukan,
learned Sr. counsel for the State of Assam.

No written statement so far is filed.
Dr. Y.K. Phukan, learned Sr. counsel for
the State of Assam again prayed for time
though time was granted. List the matter for
hearing on 29.4.2002. The Respondents may
file written statement within three weeks
from today.

No. written statement
has been filed.

By
26.4.02

Member

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<p>29.4.02</p> <p>pg</p> <p>ay 14/5/02</p>	<p>29.4.02</p>	<p>Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.</p> <p>The application is disposed of in terms of the order. No order as to costs.</p> <p>Member</p> <p>Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./K.X. No. . . . 114 . . . of 2001.

DATE OF DECISION 29.4.2002.

Shri Prantosh Roy

APPLICANT(S)

Sri S.Sarma.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Shri A.Deb Roy, Sr.C.G.S.C.
Mrs. M.Das, Govt. Advocate, Assam.

ADVOCATE FOR THE
RESPONDENTS.

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

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

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

x.

Judgment delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 114 of 2001.

Date of Order : This the 29th Day of April, 2002.

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

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

Shri prantosh Roy, IFS
Deputy Director, Manas Tiger Project,
Barpeta Road, Dist. Barpeta.

. . . Applicant

By Advocate Sri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Environment & Forests,
C.G.O.Complex, New Delhi-3.
 2. The State of Assam,
represented by the Principal Secretary,
Department of Forests, Dispur,
Guwahati-3.
 3. The State of Meghalaya,
represented by the Secretary,
Forest Department,
Meghalaya, Shillong.
 4. The Commissioner & Secretary,
Govt. of Assam, Forest Department,
Dispur, Guwahati-6.
 5. The Chief Secretary,
Government of Assam,
Dispur, Guwahati-6.
 6. The Principal Chief Conservator of Forests,
Assam, Rehabari, Guwahati-8.
 7. The Union public Service Commission,
represented by its Secretary,
Dholpur, House, Shahjahan Road,
New Delhi.
- . . . Respondents.

By Advocate Sri A.Deb Roy, Sr.C.G.S.C for respondents
No. 1 and 7, Mrs M.Das, Govt.Advocate, Assam for
respondents No.2, 4, 5 & 6.

O R D E R

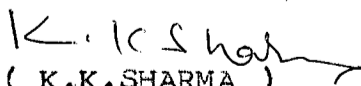
CHOWDHURY J.(V.C)

The matter pertains to promotion to the Senior
Time Scale of pay in the Indian Forest Service. By order
dated 29.11.99 the applicant was promoted to Senior Time

Scale of Rs. 10,000- 325- 15200/- with effect from the date of taking over charge against the existing vacancy. The applicant contended that even persons junior to him, namely, Shri Rajpal Singh and K.S.P.V Pavan Kumar were promoted to Senior Time Scale of pay prior to him. The State Government did not file any written statement and in fact Mrs M.Das, learned Government Advocate, Assam sought to time to file written statement. Sufficient time was granted to the respondents. We were not inclined to grant any further time. Mrs M.Das, learned Government Advocate, Assam referring to the parawise comment received by her submitted that the matter is under consideration for giving him promotion with retrospective effect from the date on which his juniors were promoted.

2. Upon hearing the learned counsel for the parties and considering the facts and circumstances we are of the view that the ends of justice will be met if a direction is issued on the respondents to consider the representations dated 29.11.99 and 11.4.2000 (Annexures 10 and 11 of the application). The respondents are accordingly directed to examine the said two representations and pass a reasoned order as per law as expeditiously as possible, preferably within a period of three months from the date of receipt of this order.

With this observation the application stands disposed of. There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

केन्द्रीय प्रशासनिक न्यायिकरण
Central Administrative Tribunal

30 MAR 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
Guwahati Bench

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

Title of the Case : O.A. No. 114 of 2001

Shri Prantosh Roy ... Applicant

- Versus -

Union of India & Ors. ... Respondents

I N D E X

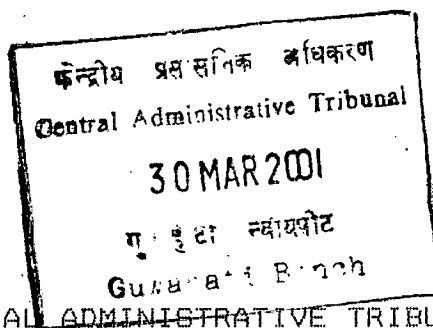
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For use in Tribunal's Office :

Date of filing : 30.3.2001

Registration No. 114/2001

REGISTRAR



THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

O.A. No. _____ of 2001

BETWEEN

Shri Prantosh Roy, IFS,
Deputy Director, Manas Tiger Project,
Barpeta Road, District Barpeta.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110003.
2. The State of Assam, represented by the Principal Secretary, Department of Forests, Dispur, Guwahati-6.
3. The State of Meghalaya, represented by the Secretary, Forest Department, Meghalaya, Shillong.
4. The Commissioner & Secretary, Government of Assam, Department of Forests, Dispur, Guwahati-6.
5. The Chief Secretary, Government of Assam, Dispur, Guwahati-6.
6. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-781008.
7. The Union Public Service Commission, represented by its Secretary, Dhoolpur House, Shahjahan Road, New Delhi.

... Respondents

DETAILS OF APPLICATION

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

The application is directed against denial of promotion to senior scale of IFS to the Applicant from its due date and the orders passed pertaining to that

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Filed By:
The Applicant:
Through:
Unni Krishnan Nair,
Advocate.

✓

namely Notification No. FRE.64/94/Pt/1 dated 29.11.99 and order No. FRE.64/94/112 dated 19.2.98.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The Applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985. However, as a measure of abundant caution, a separate application for condonation of delay, if any, has been filed.

4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India and as such, he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder.

4.2 That the Applicant is a direct recruit IFS (1991 batch) and presently he is serving in the post of Deputy Director, Manas Tiger Project, Barpeta Road in the district of Barpeta, Assam. He belongs to the Assam Meghalaya Joint Cadre serving in the Assam wing of the said cadre.

4.3 That as per the provisions of the IFS (Pay) Rules, 1968, a member of the service (direct recruit) shall be appointed to the senior scale on his completing 4 years of service. In this regard, the Government of India,

Ministry of Environment and Forests by its letters No. 20014-22/87/IFS-II dated 27.4.87 clarified that a member of the service shall be promoted to senior scale after 1st April of the year in which he completes 4 years of service. This position has been modified vide letter No. 11030/15/97 AIS (II) dated 15.10.97 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions stating that senior scale shall be granted on the 1st January of the relevant year (4th year) computing from the year of allotment. This has been made applicable mutatis-mutandis to the member of the IPS and IFS also.

Copies of the letters dated 27.4.87 and 15.10.97 are annexed hereto as ANNEXURES-1 and 2 respectively.

4.4 That as per the provisions of Rule 3 of the IFS (Pay) Rules, 1968 a member of the service shall be appointed to senior scale on his completing 4 years of service subject to the provisions of Rule 6A of the IFS (Recruit) Rules, 1966. In this connection, relevant portion of Rule 3 of the IFS (Pay) Rules, 1968 and Rule 6A of the IFS (Recruitment) Rules, 1966 are quoted below for ready reference.

"IFS (Pay) Rules, 1968

3. Time Scale of Pay - (1) The scales of pay admissible to a member of the service and the dates with effect from which the pay scales shall be deemed to have come into force, shall be as follows :

Junior Scale - Rs.2200-75-2800-EB-100-4000, with effect from 1st day of January, 1986.

Senior scale -

- (i) Time Scale - Rs.3000(5th and 6th year)-100-3500-125-4500 with effect from 1st January 1986.
- (ii) Junior Administrative Grade - Rs.3700-125-4700-150-5000 (Non-functional) with effect from 1st January, 1986.

Provided that a member of the service shall be appointed to the senior scale on his "completing four years of service", subject to the provisions of sub-rule (2) of Rule 6A of the Indian Forest Service (Recruitment) Rules, 1966 and to the Junior Administrative Grade on completing 9 years of service.

Note : The four years and nine years of service in this Rule shall be calculated from the year of allotment assigned to him under Regulation 3 of the Indian Forest Service (Regulation of Seniority) Rules, 1968."

"IFS (Recruitment) Rules, 1966 :

6-A. Appointment of officers in the Junior Time Scale of Pay to post in the Senior Time Scale of Pay - (1) Appointments of officers recruited to the service under clause (a) or clause (aa) of sub-rule (2) of Rule 4 to post in the Senior Time Scale of Pay shall be made by the State Government concerned."

(2) An officer, referred to in Sub-rule (1) shall be appointed to a post in the senior time scale of pay if, having regard to his length of service and experience, the State Government is satisfied that he is suitable for appointment to a post in the senior time scale of pay.

Handwritten signature

Provided that if he under suspension or disciplinary proceedings are instituted against him, he shall not be appointed to a post in the senior time scale of pay, until he is reinstated in service, or the disciplinary proceedings are concluded and final orders are passed thereon, as the case may be ;

Provided further that on conclusion of the disciplinary proceeding,

(a) If he is exonerated fully and the period of suspension if any, is treated as duty for all purposes, he shall be appointed to the senior time scale of pay from the date on which he would have been so appointed, had the disciplinary proceedings not been instituted against him, and paid accordingly ; and

(b) If he is not exonerated fully, and if the State Government, after considering his case on merits, proposes not to appoint him to the senior time scale of pay from the date on which he would have been so appointed, had the disciplinary proceedings not been instituted against him, he shall be given an opportunity to show cause against such action.

(3) Notwithstanding any contained in sub-rule (2), the State Government may

(a) withhold the appointment of an officer, referred to in sub-rule (1), to a post in the senior time scale of pay -

(i) till he is confirmed in the service, or

(ii) till he passes the prescribed the departmental examination or examinations, and appoint to such

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a post, an officer junior to him.

(b) Appoint an officer, referred to in sub-rule (1), at any time to a post in the senior time scale of pay as a purely temporary or local arrangement."

4.5 That the Applicant as per the provisions of the aforesaid rules and the circulars issued thereunder became eligible for appointment to the senior time scale of pay, firstly with effect from 1.4.95 in terms of Annexure-1 circular dated 27.4.87 and secondly with effect from 1.1.95 in terms of Annexure-2 circular dated 15.10.97.

4.6 That in terms of the provisions of sub-rule (3) of the aforesaid Rule 6A, the State Government may in its discretion withhold the promotion of an IFS officer (direct recruit) to the senior time scale till the said member of the service is confirmed in the service or till he passes the prescribed departmental examination or examinations (emphasis added). A member of the service shall not be appointed to a post in the senior time scale of pay, if he is under suspension or disciplinary proceeding are instituted against him, till such time he is reinstated in service and he is exonerated fully treating the period of suspension as duty for all purposes. In such an eventuality, the incumbent will be entitled to get his appointment to a post in the senior time scale with retrospective effect i.e. from the due date. In the instant case, the Applicant was neither under suspension nor any departmental proceeding was initiated against him at

the relevant point of time viz. either on 1st of April 1995 or on 1st of January 1995. Thus his promotion to the senior scale could not be withheld and/or deferred on these grounds. As regards the confirmation, the Applicant states that same being not in his hand, any amount of delay towards issuance of orders confirming him in his service, cannot be a ground to exercise the discretion towards withholding of his promotion as envisaged under sub-rule (3) of Rule 6A. As regards passing the prescribed departmental examination, it is stated that the competent authorities are yet to prescribe the departmental examination and accordingly, the Applicant cannot be denied of his promotion to senior scale on the ground of not clearing the departmental examination.

4.7 That as per the provisions of IFS (Pay) Rules, the State Government is empowered to withhold an increment due to a member of the service who has failed to to pass the departmental examination or examinations within such time as the State Government may, by general or special order, prescribe, but the withholding of such increment shall have no cumulative effect. In this connection, it is stated that the State Government has not till this very date prescribed either by general or by any special order any time limit towards passing the departmental examination or examinations. In this connection, it is further stated that the departmental examination as envisaged under Rule 6 of the IFS (Pay) Rules, 1968 is not the one as envisaged under sub-rule (3) of Rule 6A. Thus as

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regards the State of Affairs, in respect of the departmental examination and the prescribed departmental examination, the position in the Assam Wing of the Assam Meghalaya Joint Cadre and so also in the Meghalaya Wing of the said cadre is that till this very date, there is no prescribed departmental examination and there is also no time limit fixed for passing the departmental examination as envisaged under Rule 6 of the IFS (Pay) Rules, 1968.

4.8 That the Applicant as stated above, became due for promotion to the senior time scale either in April 1995 or in January 1995 against the available vacancies, but when the same was not given to him, he made several representations to the State Government urging for his such promotion from the due dates. It will be pertinent to mention here that the State Government never before and at no point of time had withheld promotions to the senior time scale of pay to any of the IFS officers (direct recruit) from his due date. However, it was in the year 1987 and 1988 for the first time, the direct recruit IFS officers of 1983 and 1984 batch were denied promotion to the senior time scale of pay. Being aggrieved, those officers had filed O.A. Nos. 128/88 and 164/88 and this Hon'ble Tribunal by a common judgment dated 25.7.89 ordered that the said officers would be deemed to be promoted to the senior time scale with effect from their respective due dates. Similarly, three other officers of 1985 batch were also denied their promotion to the senior time scale of pay in the year 1989 and they too had to approach this

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Hon'ble Tribunal by filing O.A. No. 160/89 and this Hon'ble Tribunal by its judgment dated 13.9.90 issued direction for their promotion to the senior time scale of pay with effect from 1.4.89. Again when there was denial of such promotion to the 1986 batch of the IFS officers which fell due to them with effect from 1.4.90, the said officers had approached this Hon'ble Tribunal by filing O.A. No. 198/90 and this Hon'ble Tribunal by its judgment and order dated 19.7.91 while issuing direction towards promotion of the Applicants to the senior scale with effect from 1.4.90, also observed that the State Government should take a policy decision in the matter of withholding of promotion to the senior time scale of pay in respect of the members of the service, if at all, it wanted to withhold such promotion. It will be pertinent to mention here that till this very date, no such policy decision has been taken and in some of the judgments referred to above which were carried on appeal before the Apex Court, attained its finality when the appeals were dismissed by the Apex Court.

The Applicant craves leave of this Hon'ble Tribunal to refer and rely upon the aforesaid judgments at the time of hearing of the O.A.

4.9 That as will be seen, the State Government had denied promotion to the members of the service belonging to 1983, 1984, 1985 and 1986 batch and they could get their such promotions only through the intervention of this Hon'ble Tribunal. However, in respect of the members of the service, belonging to

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other batches after 1986 had no such difficulty and they were given such promotion in time and from the due dates and unlike the officers of those batches, they had no occasion to approach this Hon'ble Tribunal. However, when the same denial was repeated in respect of the Applicant and two other officers viz. Shri Rajpal Singh (1991 batch) and Shri K.S.P.V. Pavan Kumar of 1992 batch, and when their departmental channel towards redressal of grievance did not yield any result, they had to approach this Hon'ble Tribunal by filing O.A. No. 141/96. It will be pertinent to mention here that Shri Rajpal Singh although belongs to 1991 batch of IFS, he is junior to the Applicant. Be it further stated here that the said two officers like that of the Applicant also belonged to the Assam Meghalaya Joint Cadre and are allocated to the Assam Wing of the said joint cadre.

4.10 That the State Government responding to the O.A. No. 141/96 had filed their written statement verified by the then Deputy Secretary to the Government of Assam in the Forest Department. In the written statement, the plea taken was that the IFS officers are required to pass in six subjects in the departmental examination which are - (i) Forests Law (without book) ; (ii) Accounts (without books) ; (iii) Land Revenue (without books) ; (iv) Procedure (with books) ; (v) Assamese/Bengali ; (vi) Hindi and that the Applicant had not cleared all the papers and as per the provisions of Rule 6A, the State Government was empowered to withhold the appointment of an officer to

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a post in senior time scale of pay. In the said written statement, it was further contended that since the Applicant had not yet cleared the departmental examination in all the papers and they were yet to be confirmed, as such, they were not eligible for promotion to the senior scale of IFS. Thus in the said written statement, it was the stand of the State Government that since the Applicant had not cleared all the papers in the departmental examination and that they were yet to be confirmed, they were not eligible for promotion to senior time scale of pay. In the said W.S., nowhere it was pleaded that the State Government had in terms of the judgment of this Hon'ble Tribunal rendered in O.A. No. 198/90 taken a policy decision towards withholding of promotion of the IFS officers and that the promotions have been withheld in terms of sub-rule (3) of Rule 6A of the aforesaid Rules.

4.11 That the State Government in the Department of Forests made to understand the Applicant and this Hon'ble Tribunal and later on the Hon'ble Gauhati High Court and the Hon'ble Supreme Court as well that there was/is prescribed departmental examination as envisaged under sub-rule (3) of Rule 6A of the aforesaid Rules and that since the Applicants had not passed the said departmental examination, they were not entitled to be promoted to the senior time scale of pay. This Hon'ble Tribunal by its judgment and order dated 2.4.97 passed in O.A. No. 141/96 filed by the Applicant along with two others referred to above was pleased to dispose of the O.A. with the direction to the effect that the

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Applicants shall be deemed to be promoted to the senior time scale with effect from their respective due dates. The State Government being aggrieved by the said judgment of this Hon'ble Tribunal, preferred a writ petition before the Hon'ble Gauhati High Court which was registered and numbered as Civil Rule No. 2979/97. The Hon'ble High Court by its judgment and order dated 25.7.97 was pleased to set aside the judgment of this Hon'ble Tribunal. However, a direction was issued to the State Government to consider the representation of the Applicants in regard to the requirements of sub-rule (3) of Rule 6A of the Rules. It was also ordered that the State Government must also make necessary arrangements to hold the departmental examination early to give chance to the Applicants and other eligible officers to appear and to pass the examinations. The Applicants being aggrieved by the judgment and order of the Hon'ble Gauhati High Court had preferred appeal before the Hon'ble Supreme Court which however was dismissed. The appeal was registered and numbered as Petition for Special Leave to Appeal (Civil) No. 19738/97 and was dismissed by an order dated 6.4.98 which reads "The Special Leave Petition is dismissed."

Copies of the judgments of this Hon'ble Tribunal and the Hon'ble Gauhati High Court are annexed as ANNEXURES-3 and 4 respectively.

4.12 That pursuant to the judgment of the Hon'ble Gauhati High Court, the then Commissioner & Secretary to the Government of Assam in the Forest Department

passed an order No. FRE.64/94/112 dated 19.2.98 referring to the representations of the Applicants and judgment of the Hon'ble High Court referred to above. In the said order, it was maintained that since the Applicant had not passed all the subjects of the departmental examination and that since the Applicant could not be confirmed due to the reasons assigned, he was not found suitable for appointment to senior time scale as required under sub-rule (3) of Rule 6A of the aforesaid Rules.

A copy of the said order dated 19.2.98 is annexed as ANNEXURE-5.

4.13 That in the meantime, a disciplinary proceeding was initiated against the Applicant vide Government order No. FRE.117/91/Pt.II/25 dated 2.1.98 and he was placed under suspension by an order No. FRE.117/91/Pt.II/43 dated 24.3.98. An additional charge was also brought vide No. FRE.117/91/Pt.II/57 dated 6.6.98 and the said departmental proceeding was dropped by an order issued under No. FRE.117/91/Pt.II/191 dated 7.6.99. By the said order, while closing the departmental proceeding against the Applicant, the period of suspension was ordered to be treated as duty for all purposes.

A copy of the order dated 7.6.99 is annexed as ANNEXURE-6.

4.14 That in the meantime, during the pendency of the departmental proceeding, the other two Applicants in O.A. No. 141/96 viz. Shri Rajpal Singh and Shri

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K.S.P.V. Pavan Kumar who are juniors to the Applicant were promoted to the senior time scale of pay as DCF vide notifications No. FRE.51/96/117 and No. FRE.64/94/161 dated 8.3.1999.

Copies of the notifications dated 24.12.98 and 8.3.99 are annexed as ANNEXURES-7 and 8 respectively.

4.15 That the Applicant although had intended to submit representation against the order dated 19.2.98, but he could not do so in view of the fact that he was already placed under suspension and a departmental proceeding was initiated against him. However, immediately after the order of his exoneration from the said departmental proceeding and treating the period of his suspension as on duty, the Applicant submitted representations urging for his promotion to the senior scale with retrospective effect. In the meantime, he was promoted to the senior time scale of pay as DCF vide notification No. FRE. 64/94/Pt/1 dated 29.11.99 and the date of effect of such promotion was from the date of taking over charge. The Applicant is entitled to get his promotion with effect from 1st January 1995 and to that extent, the notification dated 29.11.99 giving only prospective effect to the promotion is bad in law.

A copy of the said notification dated 29.11.99 is annexed as ANNEXURE-9.

4.16 That when the promotion of the Applicant by the aforesaid notification dated 28.11.99 was not given

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effect to retrospectively, the Applicant immediately filed a representation urging for his retrospective promotion. This was followed by another representation dated 11.4.2000 and 9.8.2000. However, the said representations are yet to be attended to.

Copies of the aforesaid three representations are annexed as ANNEXURES-10, 11 and 12 respectively.

4.17 That in the meantime, a notification No. FRE. 141/97/76 dated 1.11.2000 notifying the Government of India's notification No. 18012/02/98-IFS-II dated 1.11.2000 has been issued by the Government of Assam in the Forest Department in terms of which the Applicant has been confirmed in his service with effect from 15.9.94.

A copy of the said notification dated 1.11.2000 is annexed as ANNEXURE-13.

4.18 That the Applicant states that the contentions as raised in Annexure-5 order dated 19.2.98 is wholly incorrect inasmuch as till this very date, there is no prescribed departmental examination and the examination being conducted by the APSC, even if the same is held to be the one as specified under Rule 6 of the IFS (Pay) Rules, 1968, same can only be utilised for the purpose of withholding the increments provided the time limit as envisaged under the said Rules is fixed. As already stated above, no such time limit has been fixed by the State Government either by any general notification or by any special order.

4.19 That the ground of delay towards confirmation of the Applicant as spelt out in Annexure-5 order dated 19.2.98 is also not correct as would be evident from the communications of October and November 1997. The Government of India in the Ministry of Environment and Forests by its letter dated 21.4.94 has also envisaged that delay towards confirmation will not be a bar for giving senior time scale to IFS.

Copies of the letters dated October, November 1997 and the letter dated 21.4.94 are annexed as ANNEXURES-14, 15 and 16 respectively.

4.20 That the Applicant states that the State Government in the Forest Department without any policy decision and without taking recourse to sub-rule (3) of Rule 6A had taken the stand in the earlier proceedings before this Hon'ble Tribunal and the Hon'ble High Court and Supreme Court as well that the Applicant was not eligible for appointment to the senior time scale of pay. This is further evident from the fact that two of his colleagues, who were Applicants in the earlier proceeding viz. D.A. No. 141/96 have been promoted to the post carrying senior time scale of pay although by that time also they had not cleared the departmental examinations and were also not confirmed in their services. This itself speaks volumes of malafide on the part of the concerned officer of the State Government in the Forest Department who falsely verified before this Hon'ble Tribunal and sworn in affidavit before the Hon'ble High Court as well as the Supreme Court contrary to the relevant records.

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4.21 That the Applicant states that the fact that there is no prescribed departmental examination is now amply evident in view of the fact that the Government of Assam in the Forest Department by its notification No. FRE.120/98/24 dated 14.10.99 has constituted a committee in connection with framing of Rules for the conduct of departmental examination for IFS and Assam State Forest Service Class I and II officers with the members indicated in the notification. The PCCF, Assam by his letter dated 11.11.99 issued under No. FE.18/Depttl Exam/99 and addressed to the Commissioner and Secretary to the Government of Assam in the Forest Department enclosed the draft rules for the follow up action.

Copies of the notification dated 14.10.99 and letter dated 11.11.99 are annexed as ANNEXURES-17 and 18 respectively.

4.22 That the Applicant states that the aforesaid notification at Annexure-17 has been issued pursuant to the deliberations as has been made in file No. FRE.64/94 U/O No. AAP.157/99 vide notices dated 9.9.99, 10.9.99 and 13.9.99. By the aforesaid notings, the case of the Applicant alongwith others was considered for promotion to senior scale and it was in that context, it has been categorically stated that although the State Government is empowered to withhold the promotion of an officer to the senior scale till he passes the departmental examinations, but from the available materials, there appears no rule of the Forest Department prescribing such departmental examination.

In the said notice, it has further been observed that the IAS and IPS officers are being promoted to senior scale on completion of four years of service irrespective of their passing departmental examination. Accordingly, in the said noting it was ordered by the Personnel Department that the Forest Department be asked to take action towards framing of rules for departmental examinations.

The Applicant has come to know about the above position on visiting the office of the Respondents and to the best of his information, such a state of affair is correct. Accordingly, the Applicant craves leave of this Hon'ble Tribunal for a direction to the Respondents to produce the relevant records.

4.23 That the Applicant states that in the past and so also after the 1986 batch of IFS officers, the State Government had never insisted for passing of any departmental examination/examinations by a member of the IFS and it was only in respect of the Applicant, a different stand contrary to the relevant records was taken only with a view to deprive him of his promotion to senior time scale of pay. As already stated above, although it was the plea of the State Government before this Hon'ble Tribunal and the Hon'ble High Court and the Apex Court that the Applicants in O.A. 141/96 could not be promoted in view of their failure to clear the departmental examination, but contrary to such a stand, Shri R.P. Singh and Shri K.S.P.V. Pavan Kumar have been promoted even prior to the Applicant who is admittedly

senior to them although none of them had cleared the departmental examinations. This itself is a contradiction to the stand that was taken by the State Government which is really unfortunate on the part of a model employer. Needless to say that a device cannot be adopted and there cannot be any interpretation of a rule with the sole purpose of depriving promotion to an officer, but in the instant case, the State Government by swearing false affidavits in the earlier proceedings could deprive promotion to the Applicant.

4.24 That the Applicant states that as contended in Annexure-5 order dated 19.2.98, it is incorrect that there was delay towards confirmation of the Applicant due to non-submission of self assessment report and confidential report for the on-the-job training period in the State inasmuch as there was no such delay on the part of the Applicant and he had furnished all the required information towards confirmation of his service. Had it been otherwise, there would not have been any occasion for the Government of India to issue Annexure-15 letter in November 1997. Even assuming but not admitting that there was delay on the part of the Applicant, there was also no initiative from the side of the State Government towards completion of the process.

4.25 That the Applicant states that leaving aside everything, once the Applicant has been confirmed by Annexure-13 notification dated 1.11.2000 without retrospective effect, he is entitled to get his senior time scale of pay with retrospective effect inasmuch as

it is not the requirement of sub-rule (3) of Rule 6A of the aforesaid Rules that both the requirements viz. passing of departmental examination and confirmation are to be fulfilled before promotion to senior time scale of pay. The Rules prescribed fulfillment of either of the two and once the Applicant fulfills one of the said conditions retrospectively vide notification at Annexure-13, automatically, he is also entitled to get his promotion to the senior time scale of pay with retrospective effect.

4.26 That the Applicant states that as already reflected above, it is now amply evident that there is no prescribed departmental examination and the examination in which the Applicant and other such officers had/have been appearing is the examination conducted by the APSC from time to time. At no point of time, the Applicant and others were ever appraised that such examination is the prescribed departmental examination as envisaged under sub-rule (3) of Rule 6A of the aforesaid Rules. Being a responsible officer, the Applicant had appeared in the examination conducted by the APSC and it was always his understanding that such an examination was/is not the prescribed departmental examination as envisaged under the aforesaid Rules and that the said examination can at best be said to be the examination as envisaged under Rule 6 of the IFS (Pay) Rules, 1968. At the same time, it was his understanding that as per the relevant provisions of the Rules, even in case of his failure to clear the examination, his increment cannot be withheld

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in absence of any time limit having been prescribed for clearing the said examination by the State Government either by any general notification or by any special order.

4.27 That the Applicant states that after he was exonerated from the departmental proceeding and his period of suspension was regularised to be as on duty, he is entitled to get his promotion to the senior time scale of pay with retrospective effect at least from the date when his juniors were so promoted. However, having regard to the facts and circumstances stated above, he is entitled to get his promotion with effect from 1st of January 1995 and under no circumstances, he could be deprived of the same. Even assuming but not admitting that the examinations in which the Applicant had appeared was the prescribed departmental examination, passing of such examination being not the sole criterion towards his promotion to the senior time scale of pay, he could not have been deprived of his such promotion, more particularly, when he has already fulfilled the condition of being confirmed. In this connection, the Annexure-16 letter dated 21.4.94 issued by the Government of India, Ministry of Environment and Forests to all the State Government may be referred to in terms of which not being confirmed into the service is not a bar for giving senior time scale to IFS officers. The State Government, more particularly, the then Commissioner and Secretary in the Forest Department all along acted contrary to the relevant rules only with the purpose of depriving the Applicant

from getting the senior time scale of pay from its due dates so much so that he had even gone to the extent of filing falsely sworn in affidavit before the Hon'ble Courts, but for which things would have been different.

4.28 That the Applicant states that the juniors to the Applicant in the Meghalaya Wing of the Assam Meghalaya Joint Cadre have also been promoted to the senior time scale of pay without requiring them to pass any examination. In this connection mention may be made of the case of Shri A.K. Srivastava and Shri Harish Chandra Choudhury belonging to 1991 and 1992 batch who have been promoted to the senior time scale of pay without having cleared any departmental examination. Thus there is discrimination writ large on the face of it.

4.29 That the Applicant states that going by the sequence of events, it leads to only one conclusion that the Applicant and two others were constrained to file O.A. No. 141/96 have been made the victim of circumstances and they have been denied their promotion to the senior time scale of pay from their due dates without there being any policy decision and without there being any prescribed departmental examination. There is also nothing on record to show that their promotions were withheld on the ground of non-clearance of the examination conducted by the APSC taking recourse to sub-rule (3) of Rule 6A. As will be evident from the narration of facts above that in fact there is no prescribed departmental examination and now only a

committee has been constituted for prescribing departmental examination, the earlier stand of the State Government, more particularly, on the part of the then Commissioner and Secretary, Department of Forests was wholly false. Such a course of action was adopted with the sole purpose of depriving the Applicant and others from getting their senior time scale of pay for some undisclosed reasons.

4.30 That all along the matter relating to passing-out prescribed departmental examination have proceeded with the understanding that there was the prescribed departmental examination as envisaged under sub-rule (3) of Rule 6A and the State Government in their written statement all along took such a stand and thereby had misled this Hon'ble Tribunal as well as the Hon'ble High Court and the Supreme Court. The state of thing which was not in existence was projected as the foundation towards deprivation of promotion to the eligible officers. This is really unfortunate on the part of the State Government in the Forest Department, more particularly, on the part of the then Commissioner and Secretary, Forest Department who even in the Annexure-5 order dated 19.2.98 had maintained that the Applicant did not pass the departmental examination although there was no such prescribed departmental examination.

4.31 That the Applicant states that in view of the facts and circumstances stated above, he is entitled to get his promotion to the senior time scale of pay from has due date i.e. 1st January 1995 with all

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consequential benefits and the Respondents cannot deny the said benefits to the Applicant.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the impugned orders are per se illegal and accordingly liable to be set aside.

5.2 For that the impugned orders having been issued on misrepresentation of fact as well as legal position, same are not sustainable and liable to be set aside and quashed.

5.3 For that as per the provisions of sub-rule (3) of Rule 6A, the requirement for promotion to senior time scale of pay being either of confirmation or of passing the departmental examination, the Applicant is entitled to get his promotion with retrospective effect from its due date as soon as he has been confirmed in his service with retrospective effect and he has been notified that there is no prescribed departmental examination.

5.4 For that the examination in which the Applicant had appeared has got nothing to do with the examinations as envisaged under Rule 6A and the same could not have been used as a tool to deprive the Applicant from his due promotion to the senior time scale of pay.

5.5 For that the examination in which the Applicant had appeared can at best be said to be the examination as envisaged under Rule 6 of the IFS (Pay) Rules and in absence of any time limit prescribed for qualifying for

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the said examination, even the incremental benefits not to speak of promotion to senior time scale of pay could be withheld in respect of the Applicant.

5.6 For that the Respondent State more particularly, the then Commissioner and Secretary, Forest Department being responsible for misleading the Hon'ble Tribunal and the Hon'ble High Court and the Supreme Court, he is liable for contempt of court proceeding and on the basis of such misleading statement, not based on records, the Applicant could not have been deprived of his promotion to the senior time scale of pay.

5.7 For that the Applicant having been exonerated from the departmental proceeding, he ought to have been promoted to the senior time scale of pay with retrospective effect as envisaged under the relevant rules.

5.8 For that the juniors to the Applicant having been promoted to senior time scale of pay and that too without passing the so called departmental examination, there is no earthly reason as to why the same benefit should not be granted to the Applicant i.e. the promotion at least from the date when his juniors have been so promoted.

5.9 For that there cannot be application of rules on pick and chose basis and if any rules are to be applied, same will have to be applied uniformly to all concerned and the Applicant cannot be discriminated in

the matter of promotion in violation of Article 14 and 16 of the Constitution of India.

5.10 For that the departmental examination having not been prescribed till this very date and there being no time limit notified either by general notification or by special order as regards the examination contemplated under Rule 6 of the IFS (Pay) Rules, there is no question of even without holding the incremental benefits to the Applicant not to speak of withholding of his promotion to the senior time scale of pay.

5.11 For that in any view of the matter, the impugned orders are not sustainable and liable to be set aside. The order dated 29.11.99 (Annexure-9) is bad in law so far as it gives effect to the promotion of the Applicant to the senior time scale of pay prospectively and without any retrospective benefit.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

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

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

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7. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the order dated 19.2.98 (Annexure-5) ;

8.2 To direct the Respondents to give effect to the promotion of the Applicant to the senior time scale of pay with effect from 1st January 1995 and to that extent to modify the order of the promotion of Applicant at Annexure-9 notification dated 29.11.99.

8.3 To direct the Respondents to give all consequential benefits to the Applicant upon such retrospective promotion as has been prayed for at para 8.2 above.

8.4 Cost of the application.

8.5 Any other relief or reliefs to which the Applicant is entitled and as may be deemed fit and proper by this Hon'ble Tribunal under the given facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case, the Applicant does not pray for any interim relief at this

stage. However, in view of the provisions of Section 19(4) of the A.T. Act, 1985, the Applicant prays for a direction to the Respondents that pendency of this O.A. shall not be a bar towards redressal of the grievances of the Applicant by way of disposal of his representation at Annexures-10, 11 and 12.

10.

The application is filed through Advocate.

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

- i) I.P.O. No. :
- ii) Date :
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

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

I, Shri Prantosh Roy, aged about 36 years, son of Brajendra Nath Roy, presently working as Deputy Director, Manas Tiger Project, Barpeta Road, District Barpeta, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 14, 24, 45-410, 422-431 & 5 to 12 are true to my knowledge ; those made in paragraphs 43, 44, 411-421, are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 30 th day of March 2001.

Prantosh Roy

No. 20014-22/87/IFS-II

Govt. of India

Ministry of Environment & Forests,

Deptt. of Environment, Forest & Wildlife.

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

Dtd. 27th April 1987.

To,

The Chief Secretaries to
All the State Govts.

Sub: IFS (Pay) Rules, 1968 - appointment to the senior
time scale, junior administrative grade - Manner of
computation for eligibility for appointment.

Ref: IFS (Pay) Rules as amended in this Deptt's notifica-
tion No. 11030/17/87-AIS(II) dtd. 13th March 1987.

Sir,

In continuation of the Ministry of Personal Public
Grievances and Pensions (Deptt. of Personnel & Training)
letter No. 11030/22/87-AIS (II) Dtd. 31.3.87. the position
regarding appointment of Indian Forest Service Officers
to the senior time scale, junior Administrative Grade
and Selection Grade is clarified below:

2. According to the proviso to sub-rule (1) of rule 3
of the IFS (Pay) rules, 1966 as amended in this Deptt's
notification dtd. 13th March '87, a member of the service
shall be appointed to the senior time scale on completing
4 years of service subject to the provisions of sub-rule
(2) of rule 6A of the IFS (Recdt.) Rules, 1966. Similarly,
he shall be appointed to the Junior Administrative
Grade on completing 9 years of service. Further, under
the proviso to sub-rule (3) of Rule, 3, no member of the
service shall be eligible for appointment to the
selection grade unless he has entered the 14th year of
service. For the purpose of these appointments, completion
of 4 years, 9 years of service are to be calculated
from the year of allotment.

3. A question has been raised with regard to the method
of computation of years of service under those rules. It
been noted that the probationary training of direct

Contd.....

- 31 -

Annex. D contd.

recruits commences in the month of April/May and therefore, they will be completing 4 years, 9 years or 13 years of service, as the case may be in the month of April/May. However, some of the officers might join later, creating a situation where the seniors become eligible for promotion latter than their juniors in service. In order to remove such anomalies, it has been decided that the 1st day of April of the relevant year shall be reckoned for the purpose of computing the requisite number of years of service under those rules.

4. The position in so far as direct recruits are concerned is clarified as under :

(a) Appointment to Senior Time Scale :

An officer shall be eligible for appointment to the Senior Time Scale at any time after 1st April of the year in which ~~at~~ he completes 4 years of service depending on the ~~xxxx~~ availability of a vacancy in that year subject to the provisions of the IFS (Rec'tt) Rules, 1966. For, example, an officer whose year of appointment is 1983 may be appointed the senior time scale on or before 1.4.87.

(b) Appointment to the Junior Administrative Grade

An officer shall be allowed the Junior Administrative Grade on 1st April of the year in which he completes 9 years of service. This grade is non-functional and shall be admissible without any screening, to all the officers in the senior time scale who have completed 9 years of service on the said date. For example, an officer whose year of appointment is 1987 shall be allowed the Junior Administrative Grade on 1.4.87.

(c) Appointment to the Selection Grade.

An officer shall be eligible for appointment to the Selection Grade at any time after 1st April of the year in which he completes 13 years of service subject to the provisions of the Indian Forest Service (Pay) Rules 1968, and subject to the

Contd...

*Attended by
Mr. [unclear]
[unclear]*

- 23 -

availability of a vacancy in the selection Grade. For example, an officer whose year of allotment is 1974 shall be eligible for appointment to the Selection Grade on or after 1.4.87.

5. With regard to the officers appointed to the service by promotion/selection, the date of computing their eligibility to the Junior Administrative Grade and the selection grade, on completion of 9 years and 13 years of service respectively, shall be the first day of the month following the month in which the officer has completed the prescribed number of years of service.

6. These instructions will not adversely affect those officers who have been promoted to the Senior time scale or Selection Grade prior to 13th March 1987, the date on which the pay rules have been amended.

Yours faithfully,

Sd/-

(M. VKESAVAN)

DE. SECRETARY TO THE GOVT. OF INDIA

Copy to

All Ministries/Depts. in the Govt. of India.

Di. 10.10.87

M. K. Chelley
10/10/87

Attested
Amr. Moh
Advocate

No.11030/15/97-AIS (II)
Government of India
Ministry of Personnel, Public Grievances and
Pensions
(Department of Personnel & Training)
North Block, New Delhi.

dated the 15 Oct., 97

To
The Chief Secretaries of
State Governments and UTs.

Subject:- IAS/IPS/IFS (Pay) Rules-Appointment to the Senior
Time Scale, Junior Administrative Grade and Selection
Grade - manner of computation for eligibility
for appointment.

Sir,
.....
Reference is invited to this Department's letters
No.11030/22/87-AIS(II), dated 31.3.1987, 6.7.1987 and No.
11030/22/91-AIS(II), dated 16.3.1993.

2. There have been representations from members of the Indian Administrative Service that under the Rules a member of the Service is entitled to be promoted to the Senior Time Scale, Junior Administrative Grade and the Selection Grade as on the 1st of January of the relevant year. The Central Government in the aforesaid letters have specified that 1st of July of the relevant year shall be reckoned for the purpose of calculating the requisite number of years of Service under the Rules in respect of promotion to the Senior Time Scale and Selection Grades and 1st of January of the relevant year for promotion to the Junior Administrative Grade (non-functional).

3. The rule position under the IAS(Pay) Rules, 1954 is that the period of qualifying service of four years, nine years and thirteen years of service prescribed for appointment to the Senior Time Scale, Junior Administrative Grade and Selection Grade are to be calculated from the Year of Allotment. Promotions in the Indian Administrative Service to the respective grades are done by the State Governments with regard to the provisions of the rules, regulations and guidelines of the Central Government. Therefore, under the rules, the State Governments are competent to promote a member of the Service to the Senior Time Scale and Selection Grade as on the 1st January of the relevant year subject to the availability of vacancies in the respective grades. As regards promotion to the Junior Administrative Grade, the grade being non-functional, promotion to that grade may be made as on the 1st of January of the relevant year.

....2/-

Attested
Tuni Borkh
Advocate

4. Considering the rule position in the matter as detailed in the para above, the communication of the Government of India in earlier letters suggesting 1st of July of the relevant year to be the relevant date for according promotions in the senior time scale and selection grade is only advisory in nature and does not in any manner restrict the power of the State Governments to effect promotions to these grades on or after the 1st of January of the relevant year with regard to and subject to the availability of vacancies in these grades in accordance with the rules, regulations and guidelines of the Central Government. However, the past cases where Selection grades have already been allowed may not be reopened in view of this order.

5. The above will apply, mutatis-mutandis, to the member of Indian Police Service and Indian Forest Service also.

6. Hindi version will follow.

Yours faithfully,

(A.K. Sarkar) 15.10.97
Director (Services)

Copy forwarded for information to:-

1. All Ministries/Departments of Government of India.
2. Accountant Generals of all States.
3. Secretary, UPSC (with 2 spare copies).
4. The Director, LBSNAA, Mussoorie.
5. Lok Sabha Secretariat (Committee Branch), New Delhi.
6. Rajya Sabha Secretariat (Committee Branch) New Delhi.
7. IFS Desk, Ministry of Home Affairs, New Delhi. (with 10 spare copies).
8. IFS-II Section, Ministry of Home Affairs, New Delhi (with 20 spare copies).
9. Department of Forests (IFS-II Section), New Delhi. (with 20 spare copies).
10. JS (Per.) Ministry of Finance (Department of Expenditure)
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AIS-I /AIS-III/Facilitation Centre.

Spare copies - 250.

(A.K. Sarkar) 15.10.97
Director (Services)

Attended
Advocate

Annexure-5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION NO.141 OF 1990

DATE OF DECISION: THIS THE 2ND DAY OF APRIL 1997

The Hon'ble Justice Shri D.N.Baruah, Vice Chairman

The Hon'ble Shri G.L.Sanglyine, Administrative Member.

01. Sri Prantosh Roy, I.F.S.
son of Sri Brajendra
Nath Roy at present
posted as Assistant
Conservator of Forest,
Sonitpur East Division,
Biswanth Chariali.
02. Sri Raj Pal Singh, I.F.S.
Son of Sri Shyam Lal
at present posted
as Assistant
conservator of
Forest,
Sonitpur West Division,
Tezpur.
03. Sri K.S.P.V.Pavan Kumar, I.F.S
Son of Sri K.V.N.
Nagendra Sai at present
serving as Assistant
Conservator of Forest,
Manas National Park,
Barpeta Road, Barpeta.

..Applicants

By Advocates Mr.G.K.Bhattacharyya.
Versus

01. Union of India (Represented by
(A) Secretary to the Govt. of India,
Ministry of Personnel, Public Grievances,

*Attested
Luni Moh
Shweta*

and Pensions, Department of Personnel
and Training, New Delhi,.

(B) Secretary to the Govt. of India,
Ministry of Environment and Forests,
Department of Forests and Wildlife,
Prayavaran Bhawan, C.G.O., Complex,
Lodhi Road, New Delhi.

02. State of Assam, (Represented by the
Commissioner and Secretary to the Govt.
of Assam, Forest Department, Dispur
Guwhati.
03. State of Meghalaya (Represented by the
Secretary to the Govt. of Meghalaya,
Forest Department, Shillong.
04. Chief Secretary to the Govt. of Assam,
Dispur, Guwahati.
05. Chief Secetary to the Govt. of Meghalaya,
Shillong.
06. Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi, (Represented by Secretary,
UPSC).
07. Principal Chief Conservator of Forests,
Admn., Assam, Rehabari, Guwahati,.

Respondents

By Advocate Mr. A.K. Choudhary, learned Addl. C.G.S.C.

*Attested
Anil Kumar
Advocate*

ORDER

BARUAH JUDGE (V.C):

These three applicants have filed this application praying interalia for a direction to the respondents to treat the applicants that they had been promoted to the Senior Scale from the date of their selection i.e. with effect from 1.4.1995 in respect of applicants No.1 and 2 and with effect from 1.4.1996 in respect of applicant No.3. The facts for the purpose of disposal of this application are:

The applicants were appointed in the Indian Forests Service the applicant No.1 was appointed in September 1991, applicant Nos.2 and 3 in the year 1992 and since then they have been serving as Assistant Conservator of Forests in various places. The contention of the applicants is that on completion of 4 years of service as per Rule 3 (1) of Indian Forests Service (Pay) Rules, Annexure 1 have been issued by the Government of India, Ministry of Environment and Forests, New Delhi. Under the said rule and the guidelines the applicants are entitled to be promoted to the senior scale. However, they were not so promoted under the said rules and the guidelines.

02. Being aggrieved by and dissatisfied with the inaction of the Respondents the applicants separately

Attested
Anni Bora
Advocate

submitted representations annexure 2. series by the applicant No.1 and Annexure 3 by the applicant No.3. In paragraph 10 of the application, the applicants have stated that the representations had not been disposed of till filing of this application. Even now, to the knowledge of the applicants these representations have not yet been disposed of the present applicant has been filed for the failure of the Respondents to promote the applicants as per Rules and Guidelines.

03. Respondents have entered appearance and have filed written statement disputing the claim of the applicants. In paragraphs 3 of the written statement the respondents have stated interalia that the applicants had not been promoted to the post of senior scale in view of the fact that they failed to pass departmental examination.

04. We have heard Mr.G.K.Bhattacharyya, learned counsel appearing on behalf of the applicants and mr. M.Das, Govt. Advocate, Assam appearing on behalf of the Respondent Nos.2 and 4 Mr.A.K.Choudhury, Addl.C.G.S.C. on behalf of the respondent no.1 (A) and (F). The contention of Mr.Bhattacharyya is that passing of the departmental examination was not condition precedent for promotion to the post of Senior Scale post. Therefore, the action of the respondents in denying the right of the applicants

Attested
Ami
Advocate

was arbitrary, unreasonable and unfair and contrary to the provisions of law. Mr. Bhattacharyya has also drawn our attention to the judgement and order dated 19.7.1991 passed by this Tribunal in O.A. No.198 of 1990. Mr. Bhattacharyya has specifically drawn our attention to paragraph 5, 6 and 7 of the said judgement passed. By pointing out to those paragraphs he had tried to show that the passing of departmental examination was not a condition precedent for getting promotion. he has also submitted that during that time and even before also other officer of the Govt. of Assam belonging to All India Service were given promotion without requiring them to pass departmental examination. It is admitted by the parties that the provision contained in all India services Act are applicable to the members of Indian Forests Service. By referring to that Mr. Bhattacharyya submits that passing of departmental examination was not required for getting promotion to the senior scale. Mr. A.K. Choudhary does not dispute the legal position. he also submits that passing of the departmental examination was not a condition to get senior scale. Ms. Das has not been able to show the contrary. In the case of A.M. Singh and Ors. Vs. Union of India and ors. in original application No.198 of 1990 similar question came for consideration before this Tribunal. In the said decision this Tribunal held thus:

Attested
Anil Kumar
Advocate

"Although the State Government in their counter have pointed out the all four applicants have not cleared one or more subjects in the departmental examination at no stage till the filing of this application, the applicants were told by the Government of Assam that as a matter of deliberate decision the State Government have decided to withheld the promotion of direct recruited IFS officers from Junior time scale to senior time scale....."

05. We find that the judgement of the above case squarely covers the present case and accordingly we dispose of this application with a direction to the respondents that if there are vacancies in the senior time scale, the applicants shall be deemed to be promoted to the senior time scale with effect from their respective due date. The applicants shall be entitled to receive all the consequential benefits.

06. This shall be done within a period of two months from the date of receipt of the copy of this order. We also give liberty to the respondents to revert the applicants to the Junior time scale if they fail to clear all the parts of the departmental examination for confirmation within one year of this

Attested
Advocate

order. For that purpose 2nd respondent shall arrange to hold the examination within a period of one year, but not earlier than six months from the date of this order.

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

sd/- Vice Chairman

Sd/-Member (A)

Attested
Anil K. Advocate

Date of application for the copy.

Date fixed for notifying the requisite number of stamps and folios.

Date of delivery of the requisite stamps and folios.

Date on which the copy was ready for delivery.

Date of making over the copy to the applicant.

17/77

27/7/97

29/7/97

29/7/97

29/7/97

- 40 -

ANNEXURE - 4

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,
MIZORAM AND ARUNACHAL PRADESH)

CIVIL RULE No. 2979 of 1997.

The State of Assam Petitioner

-Versus-

1. The Central Administrative Tribunal, Guwahati.
2. Shri Prantosh Roy, ACF, Biswanath Chariali.
3. Shri Raj Pal Singh, ACF, Tezpur.
4. Shri KSPV Pavan Kumar, ACF, Barpeta Road.
5. The Union of India Respondents.

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR. M. RAMAKRISHNA
THE HON'BLE MR. JUSTICE P.C. PHUKAN.

For the petitioner : Mr. P. Pathak, Addl. Advocate General, Assam.
Mr. D.K. Das, Govt. Advocate.

For the respondents : Mr. G.K. Bhattacharjee, Advocate.
Central Govt. Standing Counsel.

Date of Hearing and Judgment : 25th July, 1997.

JUDGMENT AND ORDER

RAMAKRISHNA, CJ :-

This appeal is by the State of Assam represented by the Secretary & Commissioner, Government of Assam, Department of Forest, against the judgment and order made by the Central Administrative Tribunal, Guwahati in Original Application No. 141 of 1996, made on 2nd April, 1997, for the grounds urged in the appeal.

A few ...

Attested
Ami Imr
Advocate

2. A few facts which are necessary for the disposal of the appeal are as follows :-

(1) Mr. Prantosh Roy, (2) Mr. Raj Pal Singh and (3) Mr. KSPV Pavan Kumar, the respondents 2, 3 and 4 herein, who had been serving the Department of Forest in Assam on their appointment to the I.F.S. (Indian Forest Service) as Probationers. It is stated that on the completion of the probation, they have made representations to the Government seeking for the benefit of Rule 6A of the Indian Forest Service (Recruitment) Rules, 1966 (hereinafter referred to as the Rules, 1966), in that they wanted to get the benefit of senior time scale of pay as IFS Officers on par with others. It is alleged that some of the Officers working then were able to get the benefit of Rule 6A without passing the departmental examination as prescribed under sub-rule (3) of Rule 6A of the Rules. It is further stated that there was no consideration of the representation and thus they were driven to the Central Administrative Tribunal seeking for relief.

However, the learned Tribunal after hearing learned counsel on both sides allowed the application by the above order and issued the following directions :-

"... accordingly we dispose of this application with a direction to the respondents that if there are vacancies in the senior time scale, the applicants shall be deemed to be promoted to the senior time scale with effect from their respective due date. The applicants shall be entitled to receive all the consequential benefits.

6. This shall be done within a period of two months from the date of receipt of the copy of this order. "

3. Aggrieved by this order and direction, the State of Assam, through the Department of Forest, has presented this appeal challenging the correctness and

*Attested
Anurag Moh
Advocate*

legality of the order under appeal.

4. We have heard learned counsel for the parties. The learned counsel for the appellant, State of Assam, who has taken us through the averments in the application made before the Tribunal and the pleadings and the order made by the Tribunal, argued two points :-

(1) that the Tribunal committed an error in having not noticed the mandatory requirement of sub-rule (3) of Rule 6A of the Rules, inasmuch as, according to the specific provision made under sub-rule (3) of Rule 6A, it is left to the State Government's discretion to withhold the appointment of an officer to a post in the senior time-scale of pay till such a person passes the prescribed departmental examination.

(2) The other argument of the learned counsel for the appellant is that the interpretation of the Rule put forward by the Tribunal holding that even without compliance of the requirement of sub-rule (3) of Rule 6A of the Rules, an Officer in the cadre of Indian Forest Service shall be entitled to the senior time scale of pay on completion of four years of service, is contrary to the intendment of the law and the salutary principles required to be followed in case of promotion.

5. Opposed to this argument of the learned counsel for the appellant, learned counsel for the respondents, however, sought to maintain that the order under appeal would be justified.

With

6 A (3)

Attested
Luni
Advocate

6. With a view to appreciate the legal contentions urged in support of the appeal, we extract Rule 6A of the Rules. It reads :

"6A. Appointment of officers in the junior time scale of pay to posts in the senior time scale of pay. -

(1) Appointments of Officers recruited to the service under clause (a) or clause (aa) of sub-rule (2) of rule 4 to posts in the senior time scale of pay shall be made by the State Government concerned.

(2) An officer, referred to in sub-rule (1), shall be appointed to a post in the senior time scale of pay if, having regard to his length of service and experience, the State Government is satisfied that he is suitable for appointment to a post in the senior time-scale of pay.

Provided that

(Emphasis supplied)

Sub-rule (3) of Rule 6A states as follows :-

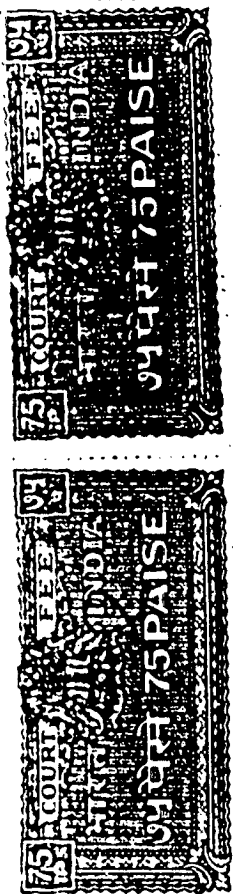
"(3) Notwithstanding anything contained in sub-rule (2) the State Government may -

- (a) withhold the appointment of an officer, referred to in sub-rule (1), to a post in the senior time scale of pay -
 - (i) till he is confirmed in the service, or
 - (ii) till he passes the prescribed departmental examination or examination, and appoint to such a post, an officer junior to him,
- (b) appoint an officer, referred to in sub-rule (1), at any time to a post in the senior time scale of pay as a purely temporary or local arrangement."

7. The Tribunal having noticed the above provision of the law came to the conclusion that the passing of the departmental examination or examination was not a condition precedent for getting promotion. To make the above statement of law, the Tribunal has derived support from their earlier orders in some cases.

It is

Attested
 [Signature]
 Advocate



8. It is strange that having regard to the provisions of Rule 6A of the Rules, the learned Members of the Tribunal failed to understand the intendment of sub-rule (3) of Rule 6A, inasmuch as, it is a blanket provision starting with the non-obstante clause, namely, "Notwithstanding anything contained in sub-rule (2) the State Government may", clearly indicate that the intendment of this sub-rule (3) shall prevail over the provisions of sub-rule (2). In other words, according to the salutary principle of interpretation of statutes, the Court will have to gather what is the real intendment of the statute. Thus, if the intendment of the statute is that sub-rule (3) of Rule 6A must prevail over the other provisions of the Rule, it will have to be followed. The appointment to a post in the senior time scale of pay is subject to the following provisions, namely, it is left to the discretion of the State Government to withhold the appointment of an officer, referred to in sub-rule (1) to a post in the senior time scale of pay till such time he passes the prescribed departmental examination or examination.

9. Again, it is a very strange phenomenon that the Tribunal without looking to the intendment of the statute and without ascertaining the correctness of the submission, proceeded to take a drastic view that there is no need to pass the departmental examination, or, in other words, it is not a condition precedent. We fail to understand this approach of the Tribunal, which is contrary to law.

10. It is common knowledge that the Courts must give the simple and correct meaning to the provisions of the statute, which has to be interpreted with a view

*Attested
Anil Kumar
Advocate*

to achieve the objective or intendment of the statute. Thus, in other words, if the intention can be gathered by reading the language employed in sub-rule (3) is to allow the State Government discretion in accordance with the ^{statute} and the State Government says that it is a condition precedent for a person to pass the departmental examination to get the benefit of sub-rule (2), the view taken by the Tribunal is contrary to this view.

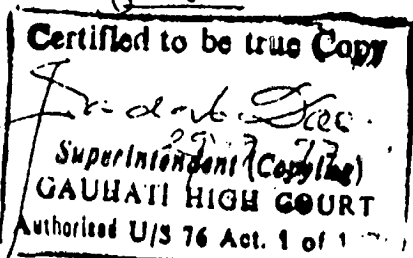
11. The Tribunal failed to assign any cogent reason to sustain its view. Therefore, it is not possible to sustain the order under appeal. Learned counsel for the respondents has done his best to persuade us to sustain the order. Unfortunately, it is not possible to do so.

12. In view of the foregoing, we have no alternative but to set aside the order under appeal. It is accordingly set aside. The petition is allowed. No costs.

13. However, we direct the State Government to consider the representations of the respondents 2, 3 and 4 in regard to the requirements of sub-rule (3) of Rule 6A of the Rules. The State Government must also make necessary arrangements to hold the departmental examination early to give a chance to the respondents and other eligible officers to appear and to pass the examination, which will confer on them the benefit of appointment to the senior time scale of pay, as intended in sub-rule (3) of Rule 6A.

Sd/- P.C. Phukan
Judge

Sd/- M. Ramakrishna,
Chief Justice



Attested
Anu. Mr.
Advocate

A.S.
29/7/57

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::::: DISPUR.

ANNEXURE-5

NO.FRE. 64/94/112,

Dated Dispur, the 19th February, 1998.

ORDERS BY THE GOVERNOR

Read : The representations dtd. 7.2.95, 25.4.95, 23.8.95, 21.9.95, 8.12.95 and 31.1.96 of Shri Prantosh Roy, IFS, Assistant Conservator of Forests, praying for promotion to the Senior time scale under Rule 3 (I) of the I.F.S. (Pay) Rules, 1968.

Also Read : The order of the Hon'ble Gauhati High Court dtd. 25.7.97 passed in Civil Rule No. 2979 of 1997 directing the State Govt. to consider the representations of the I.F.S. officer in regard to the requirement of the Sub-rule (3) of Rule 6 A of I.F.S. (Recruitment) Rules, 1966.

Though the officer had completed 4 years of service in 1995, his eligibility for promotion to senior time scale under rule 3 (I) of the I.F.S. (Pay) Rules, 1968 is subject to the provision of Sub-rule (2) of Rule 6 A of the I.F.S. (Recruitment) Rules, 1966. As per sub-rule (2) of Rule 6-A, an officer in junior scale may be appointed to senior time scale with regard to length of his service and experience, and that the State Govt. consider him to be suitable for appointment to the senior time scale.

Further, as per sub-rule (3) of Rule 6-A, the State Govt. may withhold the appointment of an officer to a post in senior time scale of pay (i) till he is confirmed in the service or (ii) till he passes the prescribed departmental examination or examinations. Govt. of India also vide their letter No. 22012/63/92-IDS-II, dt. 21.12.92 clarified that if an officer has completed on the job training satisfactorily and has also passed the departmental examination prescribed by the State Govt., he shall be considered to be suitable for promotion to senior time scale.

Contd..... 2..

Attested
Mini
Advocate

Whereas, Shri P. Roy, IFS even after completion of 4 years of service has not passed all subjects of the departmental examination and whereas Shri P. Roy, IFS could not be confirmed due to non submission of self assessment report and confidential report for the on-the-job training period in the State and as such he is not found to be suitable for appointment to senior time scale as required under sub-rule (3) of Rule 6-A of the I.F.S. (Recruitment) Rules, 1966 and also in pursuance of the Govt. of India's instructions issued vide letter mentioned above.

In view of the above fact the prayer of Shri P. Roy, IFS, Assistant Conservator of Forests for promotion to senior time scale cannot be considered until he is found suitable for promotion as explained in the foregoing paras.

The representations of Shri P. Roy, IFS are accordingly disposed of.

By order etc., and in the
name of Governor.


Sd/- H. Sonowal,
Commissioner & Secretary to the Govt. of Assam,
Forest Department, Dispur.

Memo No. FRE. 64/94/112-A, Dated Dispur, the 19th February, 1998.

Copy to :-

1. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
- ✓ 2. Shri P. Roy, IFS, Assistant Conservator of Forests, attached to Divisional Forest Officer, Sonitpur East Division, Biswanath Chariali.

By order etc.,


Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

....

*attested
Anil Moh
Advocate*

GOVERNMENT OF ASSAM
FOREST DEPARTMENT
DISPUR.

NO. FRE. 117/91/Pt. II/191, Dated Dispur, the 7th June, 1999.

ORDERS BY THE GOVERNOR

ORDER

Whereas a departmental proceeding was drawn up against Shri. Arantosh Roy, IFS, while he was A.C.F. in the Sonitpur East Division, vide Govt. order No. FRE. 117/91/Pt. II/25, dt. 2.1.98 on the charges of (1) Negligence of Govt. duty, (2) Abetment in illegalities, (3) Misconduct and (4) Connivance and abetment in illegalities.

And whereas Shri P. Roy, IFS, A.C.F. submitted written statement in his defence vide letter dtd. 3.2.98.

After careful consideration of the written statement it was decided to cause a departmental enquiry to be conducted into the charges and Shri P. Roy, IFS, was placed under suspension vide Govt. order No. FRE. 117/91/Pt. II/25, dt. 2.1.98. Shri B.N. Rathak, IFS, Conservator of Forests, North East Assam Circle was appointed as Enquiry Officer and the enquiry was held vide Govt. order No. FRE. 117/91/Pt. II/25, dt. 13.4.98.

And whereas an additional charge was added against Shri P. Roy, IFS, vide Govt. order No. FRE. 117/91/Pt. II/57, dt. 6.6.98 for writing a letter dtd. 9.3.98 to the Govt. with improper language criticising the functioning of the Govt. in violation of the Civil Servants' Conduct Rules, 1968.

And whereas, the enquiry officer submitted his findings and report vide his letter to P.S. 68/p. Roy/IFS/ACF/NAC/96/530-32, dt. 19.2.99 in respect of the four charges.

And whereas, Shri P. Roy, IFS, submitted his defence statement against the additional charges vide his letter dtd. 13.10.98 and 8.12.98. Shri P. Roy has deeply regretted vide his letter dtd. 5.2.99 for writing the letter dtd. 9.3.98 to the Govt.

Contd.... P/2..

*Attested
Luni Moh
Advocate*

After careful consideration of the findings and report of the Enquiry Officer and also taking into consideration the defence statement and rebuttatory letter of the delinquent officer against the additional charges, the Governor of Assam is pleased to order to close the departmental proceedings drawn up against Shri P. Roy, IFS, A.C.F. vide Govt. order No. FRE. 117/91/Pt. II/25, dt. 2.1.98 and No. FRE. 117/91/Pt. II/57, dt. 6.6.98.

The period of suspension of the officer shall be treated as on duty for all purposes.

By order etc. and in the name of the Governor.

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

Memo No. FRE. 117/91/Pt. II/191-A, Dated Dispur, the 7th June, 1998
Copy to :-

- 1) The Principal Chief Conservator of Forests, Assam, Gauhati-1.
- 2) The Accountant General, Assam, Dlt-12, Gauhati-20.
- 3) The Under Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New Delhi-110003.
- 4) The Chief Conservator of Forests (Territorial), Assam, Panbazar, Gauhati-1.
- 5) The Conservator of Forests, Northern Assam Circle, Tezpur.
- 6) P.S. to the Minister, Forest, Assam, Dispur, Gauhati-6 for information of the Minister.
- 7) Shri P. Roy, IFS, C/O Conservator of Forests, Northern Assam Circle, Tezpur.
- 8) Personal File of the officer.

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

RECEIVED

Attended
Smt. Inik
Advocate

ANNEXURE 7

GOVERNMENT OF ASSAM
FOREST DEPARTMENT : : : : : DISPUR.

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 24th December, 1996.

NO. FRE. 51/96/117 :- Shri R.P. Singh, IFS (AR-1991), ACF attached to the Chief Conservator of Forests (Territorial), Assam, Guwahati is temporarily promoted to officiate as Deputy Conservator of Forest in the scale of pay of Rs. 10,000-325-15200 and posted as Planning Officer-II in the office of the Principal Chief Conservator of Forests, Assam, Guwahati vice Shri Chandan Mohan, IFS promoted.

Sd/- H. Sonowal,
Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur.

Dated Dispur, the 24th December, 1996.

Memo No. FRE. 51/96/117-A,
Copy to :-

1. The Accountant General (A&E), Assam, Baitola, Guwahati-28.
2. The Principal Chief Conservator of Forests, Assam, Rahabari, Guwahati-8.
3. The Under Secretary to the Govt. of India, Ministry of Environment and Forests, Paryavaran Bhawan, B.S.D. Complex, Lodhi Road, New Delhi-110003.
4. The Chief Conservator of Forests (Social Forestry) Assam, Zoo Narengi Road, Guwahati-24.
5. The Chief Conservator of Forests (Wildlife), Assam, Rahabari, Guwahati-8.
6. The Chief Conservator of Forests (Territorial), Assam, Panbazar, Guwahati-1.
7. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
8. The Conservator of Forests, Assam, Dispur, Guwahati-6.
9. The Divisional Forest Officer, Assam, Dispur, Guwahati-6.
10. P.S. to the Minister, Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
11. P.S. to the Minister, Social Forestry, Assam, Dispur, Guwahati-6 for information of the Minister.
12. P.S. to the Minister of State Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
13. P.S. to the Chief Secretary, Assam, Dispur, Guwahati-6 for information of the Chief Secretary.
14. Shri R.P. Singh, IFS, ACF, attached to the Chief Conservator of Forests (Territorial), Assam, Panbazar, Guwahati-1.
15. The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication of the above Notification in the next issue of the Assam Gazette.
16. Personal File of the officer.

Be order to.

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

Attested
Shri. Indu
Advocate

GOVERNMENT OF ASSAM
FOREST DEPARTMENT : DISPUR

ORDERS BY THE GOVERNOR

- NOTIFICATION -

Dated Dispur, the 08th March, 1994

NO. FRE.64/94/161 : Shri K.S.P.V. Pawan Kumar, IFS (RA-1982) Asstt. Conservator of Forests attached to Field Director, Manas Tiger Project, Barpeta Road, is temporarily promoted to officiate as Deputy Conservator of Forests in the time scale of pay Rs. 10,000-325-15/200. On promotion, Shri K.S.P.V. Pawan Kumar is placed under the supervision of N.C. Hills Autonomous Council for posting as Divisional Forest Officer, Consolidation Division, Haflong. Sri M.E. Alam, Divisional Forest Officer, FRS, Dispur, is placed in the additional charge.

Sd/- Harish Sonowal,
Commissioner & Secy. to the Govt. of Assam, Forest Department, Dispur.

Memo No. FRE.64/94/161-A, Dated Dispur, the 08th March, 1994
Copy to :-

1. The Accountant General (Assam), Beltoia, Guwahati-28.
2. The Principal Chief Conservator of Forests, Assam, Guwahati-28.
3. The Under Secretary to the Govt. of India, Ministry of Environment and Forests, Paryavaran Bhawan, C.O. Compound, Lodhi Road, New Delhi-110003.
4. The Chief Conservator of Forests (SF) Assam, Guwahati-28.
5. The Chief Conservator of Forests (WL) Assam, Rehbari, Guwahati-28.
6. The Chief Conservator of Forests (Territorial) Assam, Panbazar, Guwahati-28.
7. The Chief Conservator of Forests, Research, Education & Working Plan, Assam, Guwahati-24.
8. The Principal Secretary, N.C. Hills Autonomous Council, Diphu.
9. The Conservator of Forests, Hills Circle, Haflong.
10. The Field Director, Manas Tiger Project, Barpeta Road.
11. The Divisional Forest Officer, F.R.S. Division, Dispur.
12. Sri K.S.P.V. Pawan Kumar, IFS, ACP, attached to Manas Tiger Project, Barpeta Road.
13. P.S. to the Minister, Forest, Assam, Dispur.
14. P.S. to the Minister, Social Forestry, Assam, Dispur.
15. P.S. to the Minister of State Forest, Assam, Dispur.
16. P.S. to the Chief Secretary, Assam for information of Chief Secretary.
17. The Deputy Director, Assam Govt. Press, Bamunimaidi, for publication in the next issue of the Assam Government Gazette.
18. Personal file of the officers.

By order etc.,

*Attested
Luni Mhr
Advocate*

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

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ANNEXURE -

vi
ANNEXURE 9

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::::: DISPUR.
EEEEEEEEEE

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 29th November 1999

NO.FRE. 64/94/Pt/1 :- Shri P. Roy, IFS, ACF attached to the Divisional Forest Officer, Sonitpur West Division, Tezpur is promoted to the Senior time scale of pay of Rs.10,000-325-15,200 and posted as Deputy Director, attached to the Field Director, Manas Tiger Project, Barpeta Road with effect from the date of taking over charge against the existing vacancy.

Sd/- A. Jain,
Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur.

Memo No.FRE. 64/94/Pt/1-A,
Copy to :-

Dated Dispur, the 29th November 1999

- 1) The Accountant General (A&E), Assam, Bistola, Guwahati-28.
- 2) The Principal Chief Conservator of Forests, Assam, Raha, Guwahati-8.
- 3) The Secretary to the Govt. of Meghalaya, Forest & Environment Department, Shillong.
- 4) The Under Secretary to the Govt. of India, Ministry of Environment & Forests, Parvathan Bhawan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
- 5) The Chief Conservator of Forests (Social Forestry), Assam, Zoo Narongi Road, Guwahati-24.
- 6) The Chief Conservator of Forests (Wildlife), Assam, Raha, Guwahati-8.
- 7) The Chief Conservator of Forests (Territorial), Assam, Pantaga, Guwahati-1.
- 8) The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
- 9) The Field Director, Manas Tiger Project, Barpeta Road.
- 10) Shri P. Roy, IFS, ACF attached to the Divisional Forest Officer, Sonitpur West Division, Tezpur.
- 11) The P.S. to the Minister, Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
- 12) The P.S. to the Minister of State, Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
- 13) The P.S. to the Chief Secretary, Assam, Dispur, Guwahati-6 for information of the Chief Secretary.
- 14) The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication of the above Notification in the next issue of the Assam Gazette.
- 15) Personal File of the officers.
- 16) D.F.O., Sonitpur West Divn., Tezpur.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

EEEEEEEE

Attended
Anni Inkr
Advocate

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

Sub :- Prayer for giving promotion with retrospective effect.

Ref :- Govt. Not. No. FNE 64/94/Pt/1 dated 29/11/1999.

Sir,

With due respect and humble submission I would like to draw your kind attention that as per Govt. Order referred above I have been promoted to Senior Time Scale w.o.f. the date of taking over the charges. In this connection I would humbly pray before you kindly to consider my promotion to Senior Time Scale retrospectively from the due date in view of the following facts.

(1) That Sir, as per Rule 3(1) of the I.A.S. (pay) Rules 1966 a member of the service shall be appointed to the Senior Scale on his completion of four years of service. The Govt. of India vide its letter No. 11030/15/97-415(11) dated 15/10/97 has clarified that first January of the relevant year be treated as the statutory due date for promotion to the Senior Time Scale. Since I am from 1991 batch my promotion was due on 1st & January 1996.

(2) That Sir, Hon'ble Guwahati H.C. by its Judgement in C.A. No. 2979/1997 dated 25th July 1997 held that as per Rule 6A(3) of the I.A.S. (Recruitment) Rules, 1966 it is the discretion of the "State Govt." to withhold the appointment of an officer to the Senior Time Scale for non-confirmation and non passing of the "Prescribed" Departmental Examination. Hon'ble High Court also directed the State Govt. to consider my representation with regard to the requirement of Sub Rule(3) of Rule 6A of the I.A.S. (Recruitment) Rules, 1966.

That Sir, there is no statutorily "prescribed" departmental examination for the I.A.S. officers in this state till date "State Govt." has never prescribed any examination for Indian Forest Service Officers after its creation in 1966 as an All India Service. In view of the same I may kindly be considered for promotion to Senior Time Scale retrospectively from 1st day of January 1996.

(3) That Sir, Rule (2) of the I.A.S. (Recruitment) Rules 1966, defines "State Govt." concerned in relation to Joint Cadre as the "Joint Cadre Authority". For I.A.S., I.P.S. and I.F.S. "Assam, Guwahaty" constitute a "Joint Cadre" where Chief Secretary, Govt. of Assam is the "Joint Cadre Authority" who is represented by the Department of personnel, Govt. of Assam. "Joint Cadre Authority" has never notified that promotion of I.A.S., I.P.S. & I.F.S. officers to senior Time Scale will be withheld for carrying out the provision of Rule 6A(3) of the IAS/IPS/IFS (Recruitment) Rules. I.A.S. & I.P.S. officers of 1991, 1992, 1993, 1994 & 1995 batches have got promotion to Senior Scale after completion

Attested
Annexure
Advocate

4. Four years of service. So I may kindly be considered for promotion from 1st January 1995.

(4) That Sir, I.F.S. officers of "Assam-Naghalaya" Cadre posted in Naghalaya from 1991, 1992 batches have their promotion without any restriction. Within the same "Joint Cadre" there should not be any discrimination. So I may kindly be considered for promotion to senior scale from the due date.

(5) That Sir, even in Assam two junior officer's Sri Rajpal Singh (1991 batch) Sri K.S.P.V. Pavan Kumar (1992 batch) have been promoted before my promotion to Senior Scale. So I may kindly be considered for promotion retrospectively from the due date i.e. 1st January 1995.

Thanking you in anticipation of your kind and sympathetic action.

Yours faithfully,

(Prantosh Roy, I.F.S., D.C.f.)
Deputy Director, Monas Tiger
Project, Borpeto Road.

Copy to :-

1. The Chief Secretary Govt. of Assam and "Joint Cadre Authority" for favour of your kind information.
2. The Commissioner and Secretary to the Govt of Assam, Department of personnel, Dispur for favour of your kind information.
3. The Principal Chief Conservator of Forests, Assam, Rehbari, Guwahati-8 for favour your kind information.
4. The Secretary, Govt. of India, Ministry of Environment & Forests, C.G.O. Complex, Lodhi Road, New Delhi for favour of your kind information.

(Prantosh Roy, I.F.S., D.C.f.)
Deputy Director, Monas Tiger
Project, Borpeto Road.

*Attested
Anni Kumar
Advocate*

To

The Commissioner & Secretary,
Govt. of Assam, Forest Department,
Dispur.

Through the P.C.C.F., Assam, Rehbari,
Guwahati.

Ref : Govt. Notification No. FBE 64/94/Pt/1 dated
29/11/1999 and my earlier representation.

Sir,

With reference to the above mentioned subject, I have the honour to inform you that I was promoted to the Senior Time Scale from the date of taking over charge by the Govt. Notification No. FBE 64/94/Pt/1 dated 29/11/1999 (ANNEXURE 1). In continuation of my earlier representation for retrospective promotion I want to reiterate some facts which perhaps has not been considered during my promotion to Senior Time Scale.

(1). That Sir, Hon'ble Guwahati High Court by it's judgement on C.R. No. 2979/1997 dated 25/7/1997 directed the State Govt. to consider my representation for promotion to Senior Scale with regard to the requirement of Rule 6A(3) of the I.F.S. (Recruitment) Rules, 1966. It left to the discretion of the State Govt. to withhold promotion on the basis of Rule 6A(3).

Rule (2) clause (h) of the I.F.S. (Recruitment) Rules, 1966 defines State Govt. in relation to Joint Cadre as the Joint cadre Authority. Joint Cadre Authority for the "Assam - Meghalaya" Joint Cadre is the Chief Secretary, Govt. of Assam. Sri Anup Kr. Srivastava, IFS, 1991 Batch of "Assam-Meghalaya" Joint Cadre was promoted to Senior Time Scale by Not.No. FOR 140/91/Pt/1 dt. 25/1/1996 (ANNEXURE 2 & 2A) without any restriction on the basis of Rule 6A(3). In view of the same if I am not promoted retrospectively there will be violation of fundamental rights of equality (Art 14) and equal opportunity for public appointment (Art.16(1)) enshrined within the CONSTITUTION OF INDIA. Even junior IFS officers in Meghalaya have also been promoted without any restriction on the basis of Rule 6A(3) of IFS Recruitment Rules, 1966 (ANNEXURE 3).

(contd. 2)

Attested
Ann. Adv. Advocate.

(2)

(2). I.A.S., I.P.S., I.F.S. are three All India Services having similar Recruitment Rules 6A(3). However, IAS, IPS officers of 1991, 1992, 1994, 1995 batches have got their promotion after completion of four years of service without imposing any restriction on the basis of Rule 6A(3) of the Recruitment Rules. So if I am not considered for promotion retrospectively from completion of four years of service, there will be violation of Fundamental Right to equality (Art. 14) of the Constitution of India.

(3). The Junior IFS Officer Sri Rajpal Singh, IFS, 1991 batch & Sri S.S.P.V. Ravi Kumar, IFS, 1992 batch was promoted (ANNEXURE 4, 5) when there was no change of ~~this~~ ^{their} status with regard to Rule 6A(3) to that of after completion of ~~this~~ ^{their} four years of service. So I may kindly be considered ^{for} promotion with retrospective effect from the completion of four years of service only.

(4). There is no statutorily prescribed departmental examination exists for IFS Officers in the State. The Rule for the conduct of Imperial Forest Service, 1936 is redundant and no longer exists in view of the Section 4 of the All India Services Act, 1951 (ANNEXURE 6). I.F.S. was created in 1966 as a new All India Service by virtue of section 2A of the AIS Act, 1951 (ANNEXURE 7). Govt. of Assam by its Notification No. FRI 120/98/24 dt. 14/10/99 constituted a Committee for framing Rules for the conduct of Departmental Examination for I.F.S. officers in this State. The Rules for the conduct of departmental examination for IFS Officers was submitted to the Govt. of Assam only on 11/11/1999.

In view of the same I may kindly be considered promotion to Senior Scale retrospectively from the due date i.e. First of January, 1995 after completion of four years of service with all consequential benefits e.g. annual increments etc.

Thanking you in anticipation with your kind, sympathetic and early action.

Yours faithfully,

(Prantosh Roy, IFS, DCF)
Deputy Director, Manas Tiger Project
Assam, Sarpeta Road.

(contd.3)

Attended
Tuni: 10/12/99
Advocate

① Advance copy to the Commissioner & Secretary, Govt. of Assam, Forest Department, Dispur for favour of your kind information and necessary action please.

Prantesh Roy, I.F.S., D.C.F.
Deputy Director, Manas Tiger Project
Assam, Barpeta Road.

Copy to-

1). The Secretary, Govt. of India, Ministry of Environment, Forests and Wildlife, C.O.O. Complex, Lodi Road, New Delhi for favour of your kind information and necessary action please.

2). The Secretary, Govt. of India, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, North Block, New Delhi for favour of your kind information and necessary action please.

3). The Chief Secretary, Govt. of Assam and Joint Cadre Authority for 'Assam-Meghalaya' Joint Cadre for favour of your kind information and necessary action please.

4). The Commissioner & Secretary, Govt. of Assam, Department of Personnel for favour your kind information.

(Prantesh Roy, I.F.S., D.C.F.)
Deputy Director, Manas Tiger Project
Assam, Barpeta Road.

6556

*Attended
Ann's book
Advocate*

dated 9/8/2010

ANNEXURE-12

Shri Prantosh Ray, IFS, DCF
Deputy Director, Manas Tiger Project,
Bakpeta Road.

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

Subj:- Prayer for granting promotion to Senior Scale
retrospectively from the due date.

Ref: (1) Govt. Notification No. FNR 64/94/Pt/1 dated 29.11.1999
(2) -Do- No. FNR 120/98/24 dated 14/10/1999.
(3) Govt. order No. 64/94/112 dated 19/2/1998.
(4) My earlier two representations praying pro-
motion to Sr. Scale from the due date.

Sir,

I have the honour to draw your kind attention that I was promoted to Senior Scale by Govt. Notification No. FNR 64/94/Pt/1 dated 29/11/1999 from the date of taking over charges (Annexure I). I would humbly pray before you to consider my promotion to Senior Scale retrospectively from the due date in view of the following facts and circumstances.

That Sir, As per Rule 3(1) of the I.F.S. Pay Rules, 1968, my promotion to Senior Scale was due after completion of four years of service. Although Hon'ble CAT, Guwahati by its Order on C.A. No. 141/96 dated 2/4/1997 directed the State Govt. to promote me from the due date, Hon'ble Guwahati High Court by its order dated 25/7/1997 on C.A. No. 2979/97 held that the State Govt. had the discretion to withhold appointment of Senior Scale as per Rule 4 A(3) of the I.F.S. Recruitment Rules, 1966 (Annexure-II) i.e. due to non-clearance of the prescribed departmental examination and non-confirmation. The Hon'ble Guwahati H.C. also directed the State Govt. to consider my representations with regard to the requirement of Rule 6A(3) of the I.F.S. Recruitment Rule, 1966.

That Sir, Govt. of Assam by its Order No. FNR 64/94/112 dated 19/2/1998 rejected my promotion on the ground of (1) non-clearance of prescribed departmental examination and (2) non-confirmation (Annexure-III).

That Sir, two junior IFS officers Sri S.P. Singh & Sri K.S.P.V. Pavan Kumar (1992 batch) were promoted to Senior Scale by Govt. Notification No. FNR 51/96/117 dated 24/12/1998 and Govt. Notification No. FNR 64/94/161 dt. 8/3/1999 without fulfilling any pre-condition that was trusted on me by Govt. Order No. FNR 64/94/112 dt. 19/2/1998 (Annexure IV & V). I think that discretion can not be infinite and it is within the limit of equity and justice. So I am respectfully requesting you to reconsider the Govt. Order FNR 64/94/112 dt. 19/2/1998 which was not based on equity & justice and liable to be void.

(contd. 2)

Attested
for
Advocate

That Sir, Sri Anus Kr. Srivastava, I.F.S., 1991 batch posted in Mayo was promoted to senior scale by Notification No. FWA 140/91/Pt/ dated 26/1/1996 and Sri Harish Chandro Choudhury, I.F.S., 1992 batch was promoted to Senior Scale by Govt. Notification No. FWA 30/91/170 dated 12/2/1998 without any pre-condition (Annexure VI & VII). In joint cadre no discretion can not be different in the constituent states. (Annexure VIII) The ~~same~~ discretion vested by Hon'ble Guwahati H.C. must have to be applied equitably and uniformly in a joint cadre to all its constituent state. And since I.F.S. officers of the same joint cadre had already been promoted, I am requesting you to re-consider Govt. Order No. FWA 64/94/112 dated 19/2/1998 which was in violation of the Article (14) of the constitution of India i.e. right to equality and equal opportunity of public employment.

For That Sir, a disciplinary proceeding was initiated against me by Govt. Order No. FWA 117/91/Pt 11/25 dated 2/1/1998 and Govt. Order No. FWA 117/91/Pt-11/44 57 dated 6/6/1998. I was placed under suspension by Govt. Order No. FWA 117/91/Pt-11/43 dated 24/3/1998. I was reinstated in service by Govt. Order No. FWA 117/91/Pt-11/134 dated 6/1/1999 from the date of taking over charges which was modified by Govt. Notification No. FWA 15/94/87 dated 6/7/1999. The charges were closed by Govt. Order No. FWA 117/91/Pt-11/191 dated 7/6/1999 and the period of suspension had been treated as on duty for all purposes (Annexure IX) I have been promoted to senior scale by Govt. Notification No. FWA 64/94/Pt/1 dated 27/11/1999 from the date of taking over the charge. However, as per Rule 6 A(2) (a) of the I.F.S. Recruitment Rule, 1966, you must consider my promotion to senior scale from the date my junior have been promoted in the cadre, even keeping aside the other facts and circumstances and legal issues involved.

That Sir, it has been noted by the Department of personnel Govt. of Assam, during my promotion to senior scale in file No. FWA 64/94 that through it appears that as per Rule 6 A (3) of the Indian Forest Service (Recruitment) Rule, 1966, the State Govt. may withhold the promotion of an officer to the senior scale till he passes the prescribed departmental examination but from the available materials there appears no Rule of Forest Department prescribing such departmental examination (Annexure X) further, when there is prescribed departmental examination for the I.A.S. and I.P.S. officers in this State they are given promotion after completion of four years of service irrespective of their passing departmental examination. Even exemption from passing departmental examination. Even exemption from is given to IAS/IPS Officers for getting annual increments if one fails to clear examination.

The forest department was asked to take action accordingly and from Rules for departmental examination's in conformity with such rules for IAS/IPS.

(Contd. 3/-)

*Submitted for
Mr. Inake*

That Sir, as a result of Govt. of Assam by it's notification No. 120/90/24 dated 1/1/1999 had constituted a committee in connection with framing rules for the conduct of the departmental examination for Indian Forest Service officers and other forest officers (Annexure-XI) the Principal Chief Conservator of Forests, Assam, by his letter No. F.F. 1/11/1999 dated 11/11/1999 had forwarded the drafted rules to the State Govt. (Annexure-XII) the State Govt. is yet to prescribe rules for the I.F.S. officers in this State. In the light of above I am requesting you to re-view the Govt. Order No. F.F. 64/94/112 dated 19/2/1998 rejecting my promotion to Senior Scale due to absence of any prescribed rules and promote me retrospectively from the due date.

That Sir, It is to be noted that till date Govt. is not holding non-confirmation as a bar for promotion. Also confirmation of I.F.S. officers from 1989 batches onwards are still pending due to delay in submission of proposal to the central Govt. The Govt. of India by it's letter No. 20013/1/94-I.F.S.-II dated 21/4/1994 ^{directly} ~~asked~~ the State Govt. to promote I.F.S. officers to Senior Scale whose confirmations are pending due to non submission of proposals by the State Govt. who are otherwise obliged to get the same. So the rejection of my promotion ^{on} ~~are~~ the ground of non-confirmation as per Govt. Order No. F.F. 64/94/112 dated 19/2/1998 does not stand. So the Govt. Order No. F.F. 64/94/112 dated 19/2/1998 may kindly be re-viewed.

That Sir, the Govt. of India by it's letter No. 11030/15/97-AIS(II) dated 15/10/97 has clarified the statutory due date for senior scale for I.F.S. officers which ^{is} the first day of January of the relevant ~~is~~ ^{is} year calculated from the year of allotment (Annexure-XIII). The above is applicable, mutatis-mutandis to the member of Indian Police Service and Indian Forest Service. Since I am an I.F.S. officer of 1991 batch, my promotion was due from 1st of January 1995 as per Rule 3(1) of the I.F.S. pay Rule 1960.

That Sir, I have been suffering due to non-granting of promotion to senior scale retrospectively from the due date, May I therefore humbly pray before you to look into the matter and grant me promotion retrospectively from the due date, i.e. 1st of January, 1995 and oblige.

Thanking you in anticipation with your kind and sympathetic action.

Yours faithfully,

Prantosh Roy
(Prantosh Roy, I.F.S., D.C.F.)
Deputy Director, Manas Tiger
Project, Borpatra Road, Assam.

Attested
Luni Mishra
Advocate

(Contd. 4/-)

(4)

Copy to :-

- ✓ 1). The Chief Secretary Govt. of Assam & Joint Cadre Authority for favour of your kind information and necessary action.
- ✓ 2). The Secretary, Ministry of Environment & Forests, C.G.O. Complex, Lodi Road, New Delhi-110003 for favour of your kind information and necessary action.
- ✓ 3). The Inspector General of Forests and Special Secy. Govt. of India for favour of your kind information and necessary action.
- ✓ 4). The Principal Chief Conservator of Forests, Assam, Raha Bori, Gauhati-8 for favour of your kind information and necessary action.

(Prantosh Roy, I.F.S., D.C.F.,)
Deputy Director, Nongma Tiger
Project, Barnaga Road, Assam.

- 4 -

Attested
Anni Indr
Advocate

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GOVERNMENT OF ASSAM
FOREST DEPARTMENT :::::::::: DISPUR.

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 1st November, 2000.

ND.FRE. 141/97/76 :- The following Notification issued by Govt. of India, Ministry of Environment & Forests is re-published for information of all concerned.

" Notification No. 18012/02/98-IFS-II, dtd. 11.10.2000 of the Govt. of India, Ministry of Environment & Forests "

In exercise of the powers conferred by Rule 4 of the Indian Forest Service (Probation) Rules, 1968, the Central Government hereby confirm the following directly recruited officers borne on the Assam Segment of the joint cadre of Assam-Meghalaya, in the Indian Forest Service with effect from the dates indicated against their names :-

S.No.	Name of officer	Date of Appointment	Date of Confirmation
	S/Shri		
01	M.K. Yadav	(1989) 20.08.90	20.08.98
02	Sandeep Kumar	(1989) 03.07.89	03.07.92
03	Y. Suryanarayan	(1990) 24.12.90	24.12.93
04	Prantosh Roy	(1991) 15.09.91	15.09.94
05	Rajpal Singh	(1991) 11.10.92	11.10.95
06	K.S.P.V. Pawan Kumar	(1992) 01.01.93	01.01.96
07	P.J. Vijaykar	(1993) 03.06.94	03.06.97
08	Vinay Gupta	(1993) 16.05.94	16.05.97
09	S.P. Vashishtha	(1994) 08.06.94	08.06.97

(R. Sanhwal)

Under Secretary to the Govt. of India.

Sd/- A.B. Md. Eunus,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

Contd...P/2..

attested
Ann: hmk
Advocate

No. 18012/22/93-IFS.11
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

BY SPEED POST

New Delhi, the 9th October, 1997.

The Forest Secretary,
Government of

Subject: Confirmation of I.F.S. Officers - Proposal regarding
Sir, *****

I am directed to say that as per the provisions of Indian Forest Service (Probation) Rules, 1968, the Indian Forest Service Officer shall be confirmed on completion of the probation period subject to other provisions of the said rules.

2. It is noticed that there has been delay in respect of confirmation proposals from the State Government in regard to the confirmation of Indian Forest Service Officers recruited through the I.F.S. Examinations conducted by the Union Public Service Commission and also inducted from the State Forest Service to the Indian Forest Service even after completion of their probation period. It is, therefore, again requested that the proposals in respect of all the officers who have completed their probation period satisfactorily may please be furnished to this Ministry alongwith the following documents for taking necessary action:-

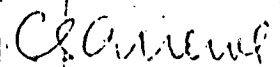
A. For Officers recruited through I.F.S. Examinations

- Assessment Report & Confidential Reports for on-the-job training period of eight months in the State.
- Vigilance Clearance certificate

B. For Officers Inducted to the Indian Forest Service

All the cases of officers who have attained the age of 52 years and the cases of officers who have not yet attained the age of 52 years but successfully completed their Induction Training conducted through IGNEA, Dehra Dun alongwith Assessment & Confidential Reports for only one year for the period from their appointment alongwith vigilance clearance certificate.

Yours faithfully,



(R. Santhwal)

Under Secretary to the Govt. of India.

Attested
Advocate

-63-

ANNEXURE-15

F.No. 18012/22/93-IFS-11
Government of India
Ministry of Environment & Forests

Haryavaran Bhaug
CGO Complex, Lodi Road,
New Delhi-110003

dated the 27th November, 1997
jorn

To

The Secretary,
Forest Department,
Government of Assam,
Dispur.

The Principal Secretary,
Forest and Environment Department,
Government of Meghalaya,
Shillong.

SUB: Confirmation of Indian Forest Service officers from
the Joint Cadre of Assam-Meghalaya - Regarding

Sir,

I am directed to say that as per the provisions of
Indian Forest Service (Probation) Rules, 1968, the Indian
Forest Service Officer shall be confirmed on completion of the
probation subject to other provisions of the said Rules.

It is seen from the records that the cases of the
following direct Recruit IFS officers upto 1991 batch who have
already completed their probation are also pending for
confirmation :

1. Dalip Brar (RR-1989)
2. Sandeep Kumar (RR-1989)
3. Mahendra Kumar Yadav (RR-1989)
4. Raja Shekhar (RR-1989)
5. Suryanarayana (RR-1990)
6. Prantosh Roy (RR-1991)
7. Rajpal Singh (RR-1991)

The State Government are requested to forward
proposals alongwith necessary documents as called for vide
this Ministry letter of even no. dated the 9th 10/11/97
(copy enclosed for ready reference) in respect of
aforesaid officers for confirmation, to enable this Ministry
to take up their cases for consideration.

Yours faithfully

(R. Sanchwal)

Under Secretary to the Govt. of India

Attested
Anni Bork
Advocate

T.S.
Most urgent
Pl put up in file
J. Sanchwal
21.11.97

- 64 -

ANNEXURE-16

No. 20013/1/94-115-11
Government of India
Ministry of Environment and Forests
(IFS Division)

Parag Mehta Bhawan,
CGO Complex, Lodi Road,
New Delhi-110003.

April 21st, 1994.

To: All Chief Secretaries,
States/UTs.

Subject: Indian Forest Service - Grant of Senior-time
Scale, Selection Grade and Super-time Scale - reg.

Sir,

As per proviso to Rule 3(1) of the Indian Forest Service (Pay) Rules, 1968, subject to the provisions of Sub Rule (2) of Rule 6 A of the Indian Forest Service (Recruitment) Rules, 1966, a direct recruit officer has to be considered for appointment to senior scale on his completion of four years of service and to the Junior Administrative Grade on completing nine years of service (service calculated from the year of allotment). The eligible officers are to be appointed to Senior time scale w.e.f. 1st of April of the year in which they complete four years of service as per instructions issued by this Ministry.

2. As per Rule 3 (3) of IFS(Pay) Rules, 1968, the eligible Indian Forest Service officers who have completed 13 years of service shall be considered for appointment to the selection grade depending upon the vacancies available in the State cadre which shall be equal to 20% of the total of senior posts in the State as per provisions of Part B(1) of Schedule III of IFS(Pay) Rules, 1968.

3. Further, as per instructions issued from this Ministry, depending upon the availability of vacancies in the Super-time scale at the level of Conservator of Forests, all eligible officers who have completed 13 years of service should be considered for grant of super time scale (Rs.4500-5700).

4. Representations have been received in the Ministry from various quarters that in spite of vacancies being available at various levels, the eligible IFS officers are not considered/granted senior time scale/selection grade/super time scale in time. State Governments are requested to kindly see that all eligible IFS officers are given the scale/grade in time, they are due for. The State Governments are requested to kindly convene the Departmental Promotion Committee meetings frequently and in time as soon as vacancies in super-time scale/above super time scale are available in the cadre so that the officers get due opportunity to be considered for promotions and rise in their service career.

(Signature)

*Attested
Anni Sah
Advocate*

5. Further in a few States the IFS officers who have not been confirmed into service are to non-reject all of complete proposals from the State Governments, and who otherwise are eligible to be considered for grant of senior time scale, are not promoted to this scale for want of their confirmation into service. It may be pointed that not being confirmed into service is not a bar for giving senior time scale to IFS officers who are otherwise eligible to get the same.

6. It is requested that the instructions mentioned above may kindly be scrupulously followed.

Yours faithfully,

A.K. Goyal

(A.K. Goyal)
Deputy Secretary to the Government of India.

Copy to:

1. Secretary (Forests), Government of

2. PCCF, Government of

for kind immediate action.

A.K. Goyal

(A.K. Goyal)
Deputy Secretary to the Government of India.

GOVERNMENT OF ASSAM
FOREST DEPARTMENT : : : DISPUR

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 14th October, 1999.

NO.FRE.120/98/24 : The Governor of Assam is pleased to constitute a Committee in connection with framing of Rules for the conduct of Departmental Examinations for Indian Forest Service and Assam State Forest Service Class I and II officers with the following members :-

- | | | |
|---|---|-------------------|
| 1) Principal Chief Conservator of Forests. | - | Chairman |
| 2) Chief Conservator of Forests (Territorial) | - | Member |
| 3) Chief Conservator of Forests (Social Forestry) | - | Member |
| 4) Chief Conservator of Forests (Wild Life). | - | Member |
| 5) Chief Conservator of Forests (Research, Education and Working Plan). | - | Member |
| 6) Conservator of Forests (Head Quarters) - | | Member Secretary. |

Terms of Reference :

(i) The Committee will offer its suggestions/ advice to the Government on framing of the aforesaid rules keeping in view the existing rules for the conduct of departmental examinations for other All India Service / State Service officers.

(ii) The Committee will give its views on the subjects, syllabus and standards of examination for the Forest Service Officers.

The Committee will submit the draft rules alongwith its suggestions/advice to the Government on or before 31-10-99.

Sd/- Alok Jain,
Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur

Attested
Anni Singh
Advocate

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

No. FE.18/Depttl. Exam/99,

Dated Guwahati, the 11th Nov., '99

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

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

Sub : Framing of rules for conduct of Departmental Examinations for Indian
Forest Service and Assam State Forest Service (Class I & II) officers.

Ref : Government Notification No. FRE.120/98/24, Dated 14.10.99.

Sir,

In pursuance to the direction contained in the aforesaid Government Notification under reference, the Committee constituted for drafting of the rules for conduct of Departmental Examinations for the Indian Forest Service and Assam State Forest Service (Class I & II) Officers drafted the Rules, which is enclosed herewith for your perusal and needful.

Encl : As stated above.

Yours faithfully,

P. Lahan
(P. Lahan),

Principal Chief Conservator of Forests,
Assam :: Guwahati.

*Attested
Mini Pooj
Advocate*