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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

INDEX

O.A/T.A No. 71/01

R.A/C.P No.....

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SECTION OFFICER (Judl.)

5/12/17

FORM NO.4

(See Rule 42)

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

ORDER SHEET
APPLICATION NO 71/2001 OF 200

Applicant (S) K. Prem Kumar Singh, H.S.

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Dr. N.K. Singh
Mr R.K. Deb Choudhury

Advocate for Respondent(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
IPO/BD No. 22/332 Dated 22.12.2000 Dy. Registrar 14/02	15.2.01	Present: Hon'ble Mr.Justice D.N.Choudhury, Vice-Chairman and hon'ble Mr.K.K.Sharma, Administrative Member. Heard learned counsel for the parties. Application is admitted. Call for records. Issue notice on the respondents. Returnable by 4 weeks List on 16.3.01 for orders.
		Member Vice-Chairman
1) Registered D/Cover filed. 14/3/01	16.3.01	List on 30.4.01 to enable the respondents to file written statement.
22.2.2001 Service of Notice issued to the respondents vide No. 678-693 dt. 23.2.2001. Service report are awaited. 15.3.01		Member Vice-Chairman

(2)

O.A.71 of 2001

30.4.01 Written statement has been filed on behalf of respondent No.1. The applicant may file rejoinder if any within 2 weeks. List on 28.5.01 for orders. In the meantime the other respondents may file written statement within two weeks.

Member Vice-Chairman

lm

29.3.01

Notice duly served on respdt No. 2, 6, 13, 15, 16, 18. 4, 8, 17.

28.5.01 (Imphal) Present : The Hon'ble Mr Justice A.Agarwal, Chairman and Hon'ble Mr K.K.Sharma, Administrative Member.

On application made by the learned counsel for the contending parties the present O.A. is stood over in order to complete the pleadings by the parties.

List on 25.6.2001 for order.

By order

1.5.2001

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

2.7.2001 Respondent No.1 has filed written statement. Other respondents are yet to file written statement. Mr.S.Sarma, learned counsel appearing for the respondent No.9, mentions that his name has not been shown. Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents request time to file written statment on behalf of respondentx No.2.

List on 31-7-2001, showing the name of Mr. S.Sarma for respondent No.9

Member

Notice returned Un-Served on R.No.14,

31.7.01 List for hearing on 1-8-2001 alongwith O.A. 69 and 70 of 2001.

Member Vice-Chairman

21.6.01

Written Statement filed on behalf of R.No. 1, other Respondent not yet filed.

30.7.01

O.A.71 of 2001

Notes of the Registry	Date	Order of the Tribunal
	1.8.2001	Heard Mr.S.Sarma, learned counsel for the applicant. List the matter on 6.8.2001 for hearing in presence of the learned counsel for the respondents. I C Usha — Member; Vice-Chairman
	bb 06.08.01	Heard in part. List again on 10/8/01 for hearing. I C Usha — Member; Vice-Chairman
	mb 10.9.	Heard Mr. N. Kashyap, learned Counsel for the applicant & Mr. B.C. Pathak, Addl. C.G.S.C. for Respondent no. 1 & Mr. B.K. Sharma, learned Counsel for respondent no. 9, Hearing Concluded. Judgment reserved. Pto. A.K. Jha 10/9
24.8.2001 Copy of the Judgment has been sent to the Office for issuing the same to the applicant as well as to the L/Advs for the Respts	16.8.2001	Judgment pronounced in open court. The application is disposed of. No order as to costs. I C Usha — Member; Vice-Chairman
	nkm	

Notes of the Registry	Date	Order of the Tribunal
	1.8.2001	

IN THE CENTRAL ADMINISTATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.194 of 2000
Original Application No.303 of 2000
Original Application No.69 of 2001
Original Application No.70 of 2001
And
Original Application No.71 of 2001

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

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

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

1. O.A.No.194/2000

Shri Gaurish Ranjan Paul, IFS .....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma and Mr U.K. Goswami.

- versus -

The Union of India and others .....Respondents

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

2. O.A.No.303/2000

Achintya Kumar Sinha, IFS .....Applicant

By Advocates Dr N.K. Singh and Mr R.K. Dev Choudhury.

- versus -

The Union of India and others .....Respondents

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

3. O.A.No.69/2001

Shri K. Jagadishwar Singh, IFS .....Applicant

By Advocates Dr N.K. Singh and Mr R.K. Dev Choudhury.

- versus -

The Union of India and others .....Respondents

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

4. O.A.No.70/2001

Shri L. Gopal Singh, IFS .....Applicant

By Advocates Dr N.K. Singh and Mr R.K. Dev Choudhury.

- versus -

The Union of India and others .....Respondents

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

5. O.A.No.71/2001

Shri K. Premkumar Singh, IFS .....Applicant

By Advocates Dr N.K. Singh and Mr R.K. Dev Choudhury.

- versus -

The Union of India and others .....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.
Mr B.K. Sharma and Mr S. Sarma.

.....

O R D E R

CHOWHDURY. J. (V.C.)

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

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

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

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

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

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

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

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

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

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
14 FEB 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 71 / 2001

BETWEEN

Sri K. Prem Kumar Singh, IFS.
Deputy Conservator of Forests,
Central Forest Division, Imphal, Manipur,
.... **APPLICANT.**

- VERSUS -

Union of India & Others. ..... **RESPONDENTS.**

I N D E X

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Filed by-
Ranjit Kumar Dev Choudhury
Advocate

Filed by the applicant through Gautam Dev Chowdhury Advocate 12/2/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 2004.

BETWEEN

Shri K. Premkumar Singh, IFS,
Deputy Conservator of Forests,
Central Forest Division,
Manipur.

...Applicant.

-VERSUS-

1] Union of India, represented by the Secretary to the Govt. of India, Ministry of Environment & Forests, Paryabharan Bhawan, CGO Complex, New Delhi, 110003.

2] The Union Public Service Commission, represented by its Chairman, Dholpur House, Shahajahan Road, New Delhi.

3] The State of Tripura, represented by the Secretary, Department of Forest, Govt. of Tripura, Agartala-799001.

4] The State of Manipur, represented by the Secretary, Department of Personnel & A.R., Govt. of Manipur, Imphal-795001.

5] Shri B.N. Mohanty, IFS, P.G. Deptt. of Botany, Utkal University, P.O.-Bhubaneshor, Orissa.

6] A. Rastogi, IFS, Dy. Conservator of Forests, C/o Principal Chief Conservator of Forests, Tripura, P.O.-Kunjavan, Tripura-799006.

7] P.K. Pant, IFS, Asstt. Prof., Indira Gandhi National Forest Academy, P.O.-New Forest, Dehradun.

K. Premkumar Singh

8] D.J.N. Anand, IFS, DFO, Southern Forest Division, Churachandpur, P.O.-Churachandpur, Manipur.

9] Shri Th. Ibobi Singh, IFS, DFO, Social Forestry Division No. I, P.O.-Mantripukhri-795002.

10] Shri Jagadish Singh, AIG, Research & Training, Ministry of Environment & Forest, Government of India, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi-110003.

11] Shri S.K. Srivastava, AIG, Ministry of Rural Development Department, Deptt. of Land Resources, G. Wing N.B.O. Building, Nirman Bhawan, New Delhi-110011.

12] Shri S.C. Srivastava, IFS, Dy. Conservator of Forests, C/o Principal Chief Conservator of Forests, Tripura, P.O.-Kunjavan, Agartala-799006.

13] Ngulkhohao, IFS, DFO, Northern Forest Division, P.O.-Kangpokpi Division, Manipur.

14] Dr. Khaizalian, IFS, DFO, Tengnoupal Forest Division, P.O.-Chandel, Manipur.

15] Shri D.K. Sharma, IFS, Dy. Conservator of Forests, C/o Principal Chief Conservator of Forests, Tripura, P.O.-Kunjavan, Agartala-799006.

16] Shri R. Das, IFS, Dy. Conservator of Forests, General Manager, Dioscoria Project, T.F.D.P.C. Ltd. P.O.-Kunjavan, Agartala, 799006.

17] Shri Lamkhoasei Baite, IFS, DFO Working Plan No. II, P.O.-Mantripukhri, Manipur-795002.

18] Shri Gaurish Ranjan Paul, IFS, DFO, Working Plan No. I, Tripura West.

...Respondents.

DETAILS OF APPLICATION

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

K. Premkumar Sin

The O.A. is directed against delayed promotion of the applicant to the IFS due to delayed encadrement of the existing post in the IFS in Manipur-Tripura Cadre (Manipur Part) and non-fixation of promotion quota considering 33.33% of the Central Deputation Reserve (20%) and senior Duty Officers and 25% as State Deputation Reserve under the IFS (fixation of Cadre strength) Regulation, 1966.

2. JURISDICTION OF THE TRIBUNAL :

The applicant is at present working as Deputy Conservator of Forests, Central Forest Division, Imphal Manipur and the respondents are the functionaries of the Central Govt. and the State Gocts of Manipur and Tripura under the jurisdiction of this Hon'ble Tribunal. The Guwahati Bench has the jurisdiction to decide the case.

3. LIMITATION :

This application is filed within the limitation prescribed under Section 21 of the Central Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

4.1. That on the recommendation of the Manipur Public Service Commission (M.P.S.C.) and on successful completion of training in Diploma Course in the State Forest Service College- Cum-Research Centre, Burnihat, the Govt. of Manipur appointed the applicant on 15-5-79 as Assistant Conservator of Forests on regular basis against the vacant post of ACF. The applicant was confirmed in the post of ACF w.e.f. 2-5-81.

4.2. That by order No. 17013/12/90-IFS-II, Govt. Of India, Ministry of Environment and Forests, dated 1-6-92 the applicant was appointed to the Indian Forests

R. Bheemkumar Singh

Service and allotted to the Manipur-Tripura joint cadre of the Indian Forest Service.

Annexure A/1 is a copy of the above order dated 1-6-92.

4.3. That thereafter, the Govt. of India, Ministry of Environment and Forests by order dated 18-5-95 declared the year of allotment and seniority of the promotee officers borne on the Manipur-Tripura joint cadre of the Indian Forest Service, wherein the date of the applicant's appointment to the IFS was shown as 1-6-92 and the year of allotment shown as 1988.

Annexure A/2 is a copy of the above order dated 18-5-95.

4.4. That the Govt. of Manipur, Forest Department by order No. 52/5/82-For dated 13-7-88 fixed the seniority of Asstt. Conservator of Forests, Manipur, showing the name of the applicant in serial No. 4.

Annexure A/3 is a copy of the above order dated 13-7-88.

4.5. That under the Indian Forest Service (Appointment by Promotion) Regulation, 1966, an office appointed to the State Forest Service is eligible for promotion to the service after eight years of continuous service. In computing the period of continuous service there shall be included the period the officer has undertaken training.

4.6. That the applicant was eligible for being considered for promotion to the IFS in January, 1986 after eight years of continuous service in the State

R. Bheemkumar Singh.

cadre. But as stated above the applicant was appointed by promotion to the IFS on 1-6-92.

4.7. That the applicant's appointment by promotion to the IFS was delayed due to non-availability of promotion post vis a-vis non-issue of notification of triennial cadre review of Manipur-Tripura cadre in time and non-computation of State Deputation Reserve in the calculation of promotion post.

4.8. That Jacob P. Thomas -Vs- Union of India and Ors., (1993) 24 Administrative Tribunal Cases 196, laid down the scope of Triennial Cadre Review. It was held that notification for Triennial Cadre Review must be issued on third anniversary of previous notification. Delayed notification is deemed to be effective from third anniversary and promotion will also have to be given to person entitled to such promotion on the basis of his position in the current select list.

4.9. That by applying the above principle the Triennial Cadre Review notification dated 16-1-81 should have been followed by Triennial Cadre Review notification dated 16-1-84, 16-1-87, 16-1-90 and so on. However, the respondents issued the Triennial Cadre Review notification for Manipur-Tripura cadre was issued only on 16-1-81, 28-3-85 and 22-11-90. In this connection it is stated that the Triennial Cadre Review notification dated 22-11-90 is to be deemed as the one which was due on 16-1-87.

4.10. That Rules 8 and 9 of the IFS (Recruitment) Rules, 1966 provide that the Central Govt. may recruit to the service persons by promotion from amongst the substantive members of the State Forest Service which shall not exceed 33.1/3% of the number of senior duty

K. Preemkumar Singh

posts borne in the cadre of that State or group of States.

4.11. That on 22-11-90 the Govt. of India, notified the Indian Forest Services (Fixation of Cadre Strength) Amendment Regulation, 1990. Under the same notification the total member of senior duty posts for the Manipur-Tripura cadre is 46 and the alloted cadre strength of each of the States is 23; the Central Deputation Reserve @ 20% of the total strenght; the Deputation Reserve @ 25% of the total strength; 33.1/3% the post to be filled up in accordance with Rule 8 of the IFS (Recruitment) Rules, 1966.

Annexure A/4 is a copy of the above notification dated 22-11-90.

4.12. That K.K. Goswami and Anr. -Vs- Union of India and Anr., 1987(4) SLJ (CAT) 194 (Jab) held that the Deputation Reserve listed as Item-5 of the schedule under the Cadre Strength Regulation has to be included for calculating the 33.1/3% promotion quota under Rule 9 of the IFS (Recruitment) Rules. It was held that the State Cadre has to be determined by taking into consideration (1) Senior Duty Posts (2) Posts under Central Deputation Reserve and (3) State Internal Deputation Reserve Post. The same principle was followed in Dyuti Kr. Basur & Anr. -Vs- Union of India & Ors. (1995) 29 ATC 244. (Cal).

4.13. That on the basis of the principle laid down by the above mentioned case, namely K.K. Goswami and Arn -Vs- Union of India and Anr, the number of posts to be filled up by promotion in accordance with Rules 8 and 9 at the IFS (Recruitment) Rules as amended/ Notified on 22-11-90, is 11. In this connection the applicant begs to state the following tabulation :-

K. Premkumar Singh

1.	Item No. 1 of Deemed Authorised Cadre Strength (DACS)	= 23
2.	Item No. 2 – Central Deputation Reserve @ 20% of 1	= 5
3.	Item No. 5 – Deputation Reserve @ 25% of 1	= 6
4.	Promotion quota as per DACS – 33.1/3% of 1+2+3	= 11
5.	No. of persons working against promotion quota as on 22-11-90	= 7
6.	Vacancies in Promotion quota, i.e. 11 – 7	= 4

4.14. That as on 16-1-87 there were only 7 IFS promotees, namely- (1) Sri N. Kunjo Songh, (2) Sri T. Ngauthoi Singh (3) Th. Priyobor Songh, (4) H. Neugsong, (5) K. Jaychandra Singh, (6) L. Gharat Chandra Singh (7) K. Thaubon Singh and 4 Officers namely Kh. Kalchand Singh (sihce retired on 31-1-96), Sri Th. Ibobi Singh, Sri K. Premkumar Singh (the applicant herein) and Sri K. Jagadishore Singh were all eligible for being promoted to the IFS.

4.15. That the applicant's appointment by promotion to the IFS should have been made effective from the year 1987 and the year of allotment should have been fixed accordingly as per the rules.

4.16. That the applicant honestly believed and hoped that the respondents/ authorities would rectify the errors. Delay in promoting the applicant to the IFS and fixing the year of allotment.

4.17. That the principles laid down in the aforementioned cases have been followed by this Hon'ble Tribunal.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that inaction or failure of the respondents authorities in rectifying the error in computing the

K. Premkumar Singh

promotion quota in the IFS has caused miscarriage of justice.

5.2. For that the act or omission of the Respondent authorities violates the applicant's Fundamental Rights under Articles 14 and 16 of the Constitution of India.

5.3. For that it is the fundamental principles of Law that rules and principles of law are to be applied uniformally to all the persons similarly situated and as such the applicant is entitled to the benefits of rulings of 1987 (4) FAT 194 (Jab); (1993) 24 ATC 196 (Exn.). and (1995) 29 ATC 244 (Cal.) as his service conditions are the same.

6. **DETAINLS OF REMEDIES EXHAUSTED**

That there is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal.

7. **MATTERS NOT PREVIOUSLY FILLED OR PENDING IN ANY OTHER COURT.**

That the applicant declares that the matter regarding which the application has been made is not pending before any Court of law or any other authority or any other bench of the Hon'ble Tribunal

8. **RELIEF SOUGHT FOR :**

That under the above facts and circumstances the applicant prays for grant of the following reliefs :

8.1. That the respondents be directed that deputation posts listed as item No. 5 of the schedule under the cadre Strength Regulation be included for computing the promotion quota.

K. Sreenivasan Sigh

8.2. That the respondents be directed that notification for triennial Cadre review be issued on third anniversary of previous notification and delayed notification be deemed to be effective from third anniversary and error in notifying Triennial Cadre Review earlier be rectified and the applicant's promotion and year of allotment be fixed correctly.

8.3. That the respondents be directed that the applicant's appointment by promotion to the IFS be made effective from the year 1987 and the year of allotment be fixed accordingly.

8.4. That the notification No. 17013/12/90-IFS-11 of the Govt. of India, Ministry of Environment & Forests dated 1-6-1992 appointing the applicant on promotion to the IFS be declared illegal.

8.5. That the notification N. 17013/12/90-IFS-11 Govt. of India, Ministry of Environment & Forests dated 18-5-1995 fixing the applicants' allotment year 1988 be declared illegal.

8.6. That the respondents/ authorities be directed to fix the applicants appointment by promotion to the IFS be refixed making effective from the year 1987 and the year of allotment be fixed accordingly.

8.7. The respondents/ authorities be directed to apply the principles laid down in the aforesaid rulings to the applicants case.

9. **INTERIM ORDER PRAYED FOR :**

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

M. Sreenivasa Singh

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10. **THIS APPLICATION IS FILED THROUGH ADVOCATE**

11. **PARTICULARS OF I.P.O.**

1.	I.P.O. No.	: 771337
2.	Dated	: 20/12/2000
3.	Payable at	: Guwahati.

12. **LIST OF ENCLOSURES :**

As stated in the Index.

R. Sreenivasan Singh.

VERIFICATION

I, Sri K. Prem Kumar Singh IFS, Son of K. Madhu Singh aged about 46 years, at present working as Deputy Conservator of Forests, do hereby solemnly affirm and verify that the statements made in paragraph Nos. 4.6, 4.7 are true to my knowledge and those made in paragraph Nos. 4.1 to 4.5 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign this verification on this the 21 th day of December, 2000.

K. Premkumar Singh

SIGNATURE

-12-

15/7/92 ANNEXURE- A/1

(TO BE PUBLISHED IN PART I SECTION 2 OF THE GAZETTE OF INDIA)

No.17013/12/90-IFS-II
Government of India
Ministry of Environment & Forests
***

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

Dated: 1st June,1992.

NOTIFICATION

In exercise of the powers conferred by sub-rule(1) of rule 8 of the Indian Forest Service(Recruitment) Rules,1966 read with sub-regulation(1) of regulation 9 of the Indian Forest Service (Appointment by promotion) Regulations,1966, the President is pleased to appoint with immediate effect , the under-mentioned 2(TWO) officers of State Forest Service of Manipur to the Indian Forest Service on probation , and to allocate them to the Manipur-Tripura joint cadre of the Indian Forest Service under sub-rule (1) of the rule 5 of the Indian Forest Service (Cadre) Rules, 1966 . viz .

S. No.	Name of the Officer	Date of Birth .
01.	S/Sh. Kh. Kalachand Singh	01.01. 1939
02.	Sh. K. Premkumar Singh	01.03. 1955

(Sachchidanand Jha)
Deputy Secretary to the Govt. of India

To

The Manager,
Govt. of India Press,
Faridabad (Haryana).

Copy to :-
1.The Chief Secretary, Government of Manipur, Imphal.
2.The Secretary, Department of Personnel & A.R.(Personnel Division) Government of Manipur, Imphal.
3.The Principal Chief Conservator of Forests, Manipur, Imphal.
4.The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110011 with reference to their letter No.F. 10/12/91- AIS Dated 21st February,1992.
5.Officer concerned through Principal Chief Conservator of Forests, Manipur, Imphal.
6.The Accountant General, Manipur , Imphal.
7.Guard File/ Spare copies.

(Sachchidana Jha)
Deputy Secretary to t Govt. of India.

Attested
Advocate

-13-
1552
26-5-9

ANNEXURE A/2

F.No.17013/12/90-IFS.II
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS
*****

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

Dated the 18th May, 1995

ORDER

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

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

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

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

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

Attested
Advocate

cont...

(91)

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

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

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

Distribution:

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

A/3
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GOVERNMENT OF MANIPUR
SECRETARIAT : FOREST DEPARTMENT
...

ORDERS BY THE GOVERNOR : MANIPUR
Imphal, the 13th July, 1988.

No.52/5/82-For : In supercession of this Government order of even number dated 12.1.1988, the Governor of Manipur is pleased to fix the seniority of the Assistant Conservators of Forest, Forest Department, Manipur as shown below :

Sl. No.	Name of the Officer.	Date of birth	Date of entry into the the service.	Date of appointment to the present post.	Date of confirmation to the present post.
1	2	3	4	5	6
1)	Kh.Kalachand Singh (P	1.1.1939	7.10.63	21.12.73	28.3.77
2)	Vungkham Kipgen (P)	1.3.1933	8.9.58	10.8.75	10.8.77
3)	Th. Ibobi Singh (D)	1.3.1954	2.5.78	2.5.78	2.5.80
4)	K.Premkumar Singh (D)	1.3.1955	3.5.79	3.5.79	2.5.81
5)	K.Jagadishore Singh (D)	1.12.1956	3.5.79	3.5.79	2.5.81
6)	L.Gopal Singh (D)	1.12.1955	27.10.80	27.10.80	27.10.82
7)	Moses Nipuni (D)	1.10.1950	27.10.80	27.10.80	27.10.82
8)	S.Dhananjoy Singh (D)	1.3.1959	9.11.81	9.11.81	9.11.83
9)	H.Brajamani Sharma (D)	9.9.1958	3.2.82	3.2.82	3.2.84
10)	Kh. Ibomcha Singh (D)	2.12.1955	2.11.82	2.11.82	2.11.84
11)	L.Muhindro Singh (D)	1.1.1957	2.11.82	2.11.82	2.11.84
12)	Th.Mohendro Pratap Singh. (D)	1.3.1960	2.11.82	2.11.82	Not confirmed.
13)	Kh.Brojendro Singh (D)	1.2.1960	27.10.83	27.10.83	-do-
14)	Kakai Haokip (D)	16.6.1957	27.10.83	27.10.83	-do-
15)	M.L.Dilipkumar (P)	1.5.1937	19.11.59	3.12.84	-do-
16)	N.Shyamkishore Singh (P)	1.4.1937	16.10.53	3.12.84	-do-
17)	Y.Pishakton Singh (P)	1.1.1941		3.12.84	-do-
18)	Kh.Shyam Singh (D)	1.7.1959	2.11.85	2.11.85	-do-
19)	Kh. Ibohal Singh (D)	1.3.1959	2.11.85	2.11.85	-do-
20)	W.Yaiskul Singh (D)	1.1.1961	2.11.87	2.11.87	-do-
21)	Mani Charenamei (D)		2.11.87	2.11.87	-do-

By order and in the name of the Governor,

Sd/-
(B.R.Basu)
Commissioner(Forest), Govt. of Manipur.

...

P.T.O...2/-

Attested
Advocate

Memo. No.52/5/82-For: Imphal, the 13th July, 1988.

Copy to :-

1. The Dy.Secretary(DP), Govt. of Manipur.
2. The Under Secretary, MPSC, Imphal.
3. The Principal Chief Conservator of Forests, Manipur.
4. The Addl.C.C.F., Manipur.
5. All Conservators of Forests, Manipur.
6. All Dy.Conservators of Forests, Manipur.
7. All Asstt.Conservators of Forests, Manipur.
8. The Director, Printing & Sty, Manipur for favour of publication in the Gazette. Published in Gazette No.15 dt.27.7.88
9. Order Book/Guard File.

13/7/88

(Ksh.Tombi Singh)
Under Secretary(Forest), Govt. of Manipur

...

K. Jagadishwar Singh DCF
Manipur Zoological Garden
Iroisemba.

ANNEX A/3-1

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART II SEC. 3(i)) A/4

No.16016/6/90-AIS(II)-A
Government of India
Ministry of Personnal, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, the 22-11-90

NOTIFICATION

GSR No.....In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 (61 of 1951), read with rule 4 of the Indian Forest Service (Cadre) Rules, 1966, the Central Government, in consultation with the Governments of Manipur and Tripura, hereby makes following regulations further to amend the Indian Forest Servie (Fixation of Cadre Strength) REgulations, 1966, namely:-

1. (1) These regulations may be called the Indian Forest Service (Fixation of Cadre Strength) Fourth Amendment Regulations, 1990.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength), REgulations, 1966, for the heading "Manipur-Tripura" and the entries occuring thereunder the following shall be substituted, namely:-

MANIPUR - TRIPURA

1.	Senior Duty Posts in the State Government (Manipur)	23
	Principal Chief Conservator of Forests	1
	Chief Conservator of Forests (Wildlife)	1
	Chief Conservator of Forests (General)	1
	Conservator of Forests	3
	Deputy Conservator of Forests	7
	Deputy Conservator of Forests (REsources Survey Division)	1
	Deputy Conservator of Forests (Wildlife)	1
	Deputy Conservator of Forests(Working Plan)	2
	Deputy Conservator of Forests (Social Forestry)	1
	Deputy Conservator of Forests(Soil Conservation)	2
	Deputy Conservator of Forests(Headquarters)	1
	Deputy Conservator of Forests (Research, Silviculture & Training)	1
	Deputy Conservator of Forests (Rubber)	

...2/-

1186 Attested by Advocate.

1187

Senior Duty Posts under the State Government(Tripura)

Principal Chief Conservator of Forests	1
Chief Conservator of Forests	1
Conservator of Forests	2
Deputy Conservator of Forests	3
Deputy Conservator of Forests (Wildlife)	9
Deputy Conservator of Forests (Working Plan)	1
Deputy Conservator of Forests (Headquarters)	1
Deputy Conservator of Forests (Research)	1
Deputy Conservator of Forests (Training)	1
Deputy Conservator of Forests (Planning & Development)	1
Deputy Conservator of Forests (Planning & Social Forestry)	1
Total senior duty posts of Manipur & Tripura Cadres	46
2. Central Deputation Reserve @ 20% of 1 above	9
3. Posts to be filled by promotion in accordance with rule 8 of the Indian Forests Service (Recruitment) Rules, 1966	13
4. Posts to be filled by direct recruitment	17
5. Deputation Reserve @ 25% of 3 & 4 above	11
6. Junior Posts, Leave Reserve & Training Reserve	17
Direct Recruitment Posts	62
Promotion Posts	16
Total Authorised Strength	23

(CHANDER PRAKASH)
DESK OFFICER

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
30 APR 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

Filed by
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati
30/4/01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

O.A. No.71/2001

Shri K. Prem Kumar Singh ..... Applicant

Versus

Union of India and Others ..... Respondents

Reply on behalf of Respondent No.1

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

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

PRELIMINARY OBJECTIONS:

3. The applicant through this application has raised the issue of re-caclulation of promotion

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

vacancies and that of cadre review pertaining to the period more than 10 years old. The application is, therefore, clearly barred by limitation on the ground of laches and delay.

4. The applicant through this application has prayed for a direction to the respondents to :-

i) include State Deputation Reserve i.e. Item No.5 of the Schedule to the Cadre Strength Regulations for computing promotion posts in the Manipur-Tripura Joint cadre of the IFS.

ii) issue the notification of triennial cadre review on the third anniversary of previous notification.

iii) make his promotion to the IFS effective from the year 1987 and fix his year of allotment accordingly.

iv) rectify the notification No.17013/12/90-IFS.II dated 17.03.93 appointing him to the IFS.

v) rectify the order No.17013/12/90-IFS.II dated 18.5.95 fixing his year of allotment as '1988'.

(R. [illegible] NIJWAL)
अवर सचिव/Under Secretary
पर्यावरण एवं वन मंत्रालय
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

At the outset, it is submitted that the date of appointment of the applicant to the IFS is 1.6.92 and not 17.3.93 as stated by him.

5. It is further submitted that prior to 22.2.89, rule-9 of the IFS(Recruitment) Rules, 1966 (hereinafter referred to as 'Recruitment Rules') provided as under:-

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

Shri K.K. Goswami, an SFS officer of Madhya Pradesh, challenged this rule arguing, among other things, that the Senior duty posts included the State Deputation Reserve also. The Jabalpur Bench of this Hon'ble Tribunal before whom the matter again came up for examination held that the State Deputation Reserve was also covered under the Senior duty posts. The SLP filed against the judgment was discussed by the Supreme Court. The Central Government, therefore, implemented the Tribunal's decision by amending the Schedule to the Cadre Strength Regulations in respect of Madhya Pradesh cadre vide notification dated 22.2.89 as personal to that individual case. On the same date another notification was issued amending rule-9 of the Recruitment Rules which reads as under:

> "The number of persons recruited under rule-8 in any State or group of States shall not, at

any time, exceed 33 1/3 per cent of the number posts as are shown against items 1 & 2 of the Cadre in relation to that State or the group of States, in the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966."

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

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

(रवीश सानेहवाल)
(R. SANEHWAL)
अवर सचिव/Under Secretary
पर्यावरण [illegible]
Ministry of [illegible]
भारत [illegible] of India
नई [illegible] New Delhi

before the Chandigarh Bench of this Hon'ble Tribunal in OA No.1122/HR/96. Deciding the case on 14.10.97, the Hon'ble Tribunal held that the matter was time-barred. The relevant portion of the judgment of the Hon'ble Tribunal is extracted below:-

> " .....While the first notification amended the cadre strength regulations in respect of Madhya Pradesh cadre in order to increase the number of vacancies in promotion quota in the IFS of the said cadre after taking into account the State Deputation Reserve alongwith the senior duty posts as also Central Deputation Reserved i.e. item Nos.1, 2 and 5 of the Cadre Strength Regulations. However, by the second notification issued on the same date, the recruitment rules were also amended according to which the number of persons recruited under Rule-8 in any State would not at any time exceed 33 1/3 per cent of the number of posts shown against items No.1 and 2 of the Cadre Strength in relation to that State in the Schedule to the Cadre Strength Regulations.
>
> 15. With the issuance of the aforesaid notification, it was made known to all the State Forest Officers serving in different States that the notification of the Govt. of India was explicit not to provide promotion quota more than 33 1/3 percent of the number of posts shown against items No.1 and 2 of the Cadre Strength in the Schedule. Thus, if any member of the State Forest Service had any grievance, he ought to have challenged the legality of the above stated provisions within the prescribed period of limitation. As pleaded by the applicant himself, he became eligible for appointment to the IFS in the year 1988. He did not challenge the above stated provisions till he filed the present OA in the year 1997. Even in the year 1993, th applicant was considered and placed in the select list, and the promotion quota was calculated in terms of the above stated Regulations. the applicant did not question the said method of calculation of promotion quota within the period of limitation even after his placement int he select list of 1993. In this background, if the claim of the

(रवीश सांगेहवाल)
(R. SANGHWAL)
अवर सचिव/Under Secretary
पर्यावरण एवं वन मंत्रालय
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

applicant is accepted at this stage, the retrospective increase in the promotion quota in the IFS cadre of Haryana is bound to adversely affect the seniority of those directly recruited IFS officers who have been appointed during this long interval of 8 years from the year 1989 till date. None of them has been impleaded in the array respondents in the present OA."

In view of the above observations of the Hon'ble Tribunal, the applicants cannot raise the issue of increase in the number of promotion vacancies at this stage when the Rules had been amended long before in 1989 specifying Item 1 & 2 only of the schedule to the Cadre Strength Regulations to be taken into account for the purposes of calculating promotion vacancies.

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

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

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

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

(आर. सानेहवाल)
(R. SANEHWAL)
अवर सचिव/Under Secretary
पर्यावरण एवं वन मंत्रालय
Ministry of Env. & For.
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

of mandamus for the retrospective seniority in regard to the posts already included in the State IAS cadre strength by virtue of 1997 amendments."

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

9. The answering respondent craves leave of this Hon'ble Tribunal to make further submissions during hearing of the present case.

PRAYER

In view of the position explained in the foregoing paragraphs, the instant application is devoid of any merit. It is, therefore, respectfully prayed that the same me be a dismissed by this Hon'ble Tribunal by awarding cost in favour of the answering respondent.

Place: New Delhi

Date: 09.04.2001

For Respondent No.1

VERIFICATION

I, R. Sanehwal, Under Secretary to the Govt. of India, having my office at Paryavaran Bhavan, Lodi Road, New Delhi-110003, do hereby verify that the

contents stated above are true and correct to the best of my knowledge, belief and information and that nothing has been supressed therefrom.

Verified at New Delhi on this the 9th day of April, 2001.

For Respondent No.1

(R. [illegible] NLHVAL)
अवर सचिव / Under Secretary
पर्यावरण एवं वन मंत्रालय
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi