

01/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 148/2003

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 148/2003,

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Sri A.K. Sen

Respondents: - U.B.I. Zone,

Advocate for the Applicants: -

Advocate for the Respondents: -

Notes of the Registry	Date	File	Order of the Tribunal
<p>1. This application is filed in the form laid down in the <u>Central Government Rules, 2003</u>. 2. Filled / not filled / or Rs. 5/- paid / or Rs. 5/- paid 3. Vade IPO/B No <u>488103</u> 4. Dated <u>17.6.03</u>.</p> <p>11c By <u>S. Sarma</u> 27/6/03</p>	30.6.2003	mb	<p>Heard Mr. S. Sarma, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. List again on 4.8.2003 for admission.</p> <p><i>L</i></p> <p>Vice-Chairman</p>
<p>Steps taken</p> <p><u>My</u> <u>26.6.03</u>.</p> <p>Pl. comply order dated 30/6/03</p> <p><u>30/6/03</u></p> <p>Notice prepared & sent to DIB for informing the respondent No. 1 w/c by Regd. A.I.D. Encls not Ser. Adm. Col. DINo 1425 w 1428</p> <p>Dtd <u>2/7/03</u></p>	4.8.2003	mb	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. N.D. Dayal, Administrative Member.</p> <p>Put up on 8.8.2003 for admission.</p> <p><i>L</i></p> <p>Member</p> <p>Vice-Chairman</p>

(2)

O.A. 148 of 2003

No. reply has been
billed.

330
7.8.03

8.8.2003

Heard Ms.U.Das learned counsel
for the applicant and also Mr.B.C.
Pathak, learned Addl.C.G.S.C. for
the Respondents.

No. reply has been
billed.

330
10.9.03

The Application is admitted.
Call for records. No fresh notice
need be issued. The Respondents may
file reply within 4 weeks.

List on 11.9.2003, for orders.

Member

Vice-Chairman

lm

11.9.2003 Present : The Hon'ble Sri K.V. Prahalad-
an, Member (A).

No. reply has been
billed.

330
28.10.03

Four weeks time is given to the
Respondents to file written statement.

List again on 28.10.2003 for
orders.

KV Prahalad
Member

mb

28.10.2003 On the prayer made by Mr.B.C.Pathak
learned Addl.C.G.S.C. the case is listed
on 28.11.2003 allowing four weeks time
to the respondents to file written state-
ment.

No. W.Ls has been
billed.

KV Prahalad
Member

Vice-Chairman

bb

28.11.03 No. hearing today. adjourned
to 1.1.04.

330
h

17.12.2003 List on 9.1.2004 for orders.

KV Prahalad
Member (A)

mb

(3)

3

1.1.2004 List the case on 30.1.2004 for filing of written statement.

KV Prakleden
Member (A)

7.1.04

bb

Ms. submitted
by Respondent No. 3 & 4.

Ans.

19.2.2004 Written statement has been filed by the Respondent Nos. 3 and 4. Four weeks time is allowed to the other respondents to file written statement.

List on 23.3.2004 for orders.

Mrs. A. Sharma, appeared on behalf of State of Arunachal Pradesh.

KV Prakleden
Member (A)

mb

23.3.2004 Heard Ms. U. Das, learned counsel for the applicant and also Mr. B.C. Pathak, learned add. C.G.S.C. for the Central Government, Mrs. A. Sharma, learned counsel for the respondent Nos. 3 and 4.

On the plea of counsel for the applicant four weeks time is allowed to the applicant to file rejoinder. List on 26.4.2004 for orders.

No rejoinder has been filed.

3/3

13.4.04

KV Prakleden
Member (A)

mb

26.4.2004 On the plea of Ms. U. Das, learned counsel for the applicant, three weeks time is allowed to the applicant to file rejoinder.

List on 14.5.2004 for order.

No rejoinder has been filed by the applicant.

NS
11/6/04

KV Prakleden
Member (A)

bb

14.5.04 Present : The Hon'ble Shri Mukesh Kuma Gupta, Judicial Member
The Hon'ble Shri K.V.prahladan Admn.Member

Despite sufficient opportunities granted to the respondent no reply has been filed by respondents No.1 and 2.

As a last chance four weeks time is granted to them to file written statement. ^{It is made clear that} No reply shall be accepted after four weeks.

List on 14.6.2004 for order.

I.C.P. Palitabandhu
Member (A)

Shri K.V. Prahladan
Member (J)

pg

14.6.04 At the request of learned counsel for the applicant case is adjourned to 18.6.04. for orders.

K.V. Prahladan
Member (A)

Shri K.V. Prahladan
Member (J)

lm

18.6.2004 Present: The Hon'ble Smt. Bharati Roy Member (J)

The Hon'ble Shri K.V.Prahladan Member (A).

At the request of the learned counsel for the applicant, Ms.U.Das the matter is posted before the next Division Bench.

K.V. Prahladan
Member (A)

Shri K.V. Prahladan
Member (J)

bb

20.12.2004 List on 3.1.2005 for hearing.

I.C.P. Palitabandhu
Member (A)

mb

Application has been
filed on behalf of the
Respondent on 21.3.05

07.01.2005 List on 15.02.2005 for
hearing. Meanwhile, the applicant
may file rejoinder, if any.

K. Pahladan
Member (A)

1m

21.3.05. Present: Hon'ble Mr. Justice S. Sivaranjan, Vice-Chairman.
Hon'ble Mr. K. V. Pahladan, Administrative Member.

The matter is from Arunachal Pradesh. There is no representation to contest the case on behalf of the Respondent, State of Arunachal Pradesh. Mr. A. K. Choudhury, Addl. C.G.S.C. submit the fact that sitting of regular Division Bench of the Tribunal was not known to many of the counsel and probably for this reason that the Standing counsel is not present in the Court to-day.

Post the matter for hearing on 24.3.05.

K. Pahladan
Member

E. Sivaranjan
Vice-Chairman

24.3.05
No appeal or notice
filed by the counsel
for State of A.P.

b)

1m

24.3.05.

At the request of learned counsel for the Respondents case is adjourned to 28.4.05.

K. Pahladan
Member

E. Sivaranjan
Vice-Chairman

1m

Rest of the matter on 28.4.05.

E. Sivaranjan
Vice-Chairman

28.4.05

Post the matter on 18.5.05.

E. Sivaranjan
Vice-Chairman

1m

18.5.2005 Mr. M.U. Ahmed, learned Addl.

C.G.S.C. for the respondents submits that he requires some time to argue this matter. Post on 10.6.2005. The name of Govt. Advocate, Arunachal Pradesh must be shown in the cause list.

Case is ready for hearing.

K. Pradeep
Member

Pradeep
Vice-Chairman

mb

10.6.2005 No Division Bench. Post on 22.6.2005 for hearing.

The Case is ready
for hearing.

Pradeep
21.6.05

mb

Two sets order sheets
Received with order
dated 22.6.05

Pradeep
22.6.05

22.6.2005

Mr. S. Sarma, learned counsel for the applicant submits that this is a very complicated matter and therefore he will prepare and synopsis and file. Hence post on 25.7.2005.

K. Pradeep
Member

Pradeep
Vice-Chairman

bb

25.7.05 Post on 26.7.05 for hearing.

K. Pradeep
Member

Pradeep
Vice-Chairman

26.7.2005 Heard Mr S. Sarma, learned counsel for the applicant, Mr B. Banerjee,

learned Government Advocate, Arunachal Pradesh, Mr A.K. Chaudhuri, learned Addl. C.G.S.C. Hearing concluded. Order reserved.

K. Pradeep
Member

Pradeep
Vice-Chairman

nkm

9.8.2005

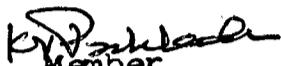
Judgment delivered in

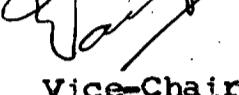
open Court, kept in separate sheets. The application is dismissed in terms of the order passed in separate sheets. No order as to costs.

26.8.05

Copy of the Judgment
has been served to the
Office for issuing
the same to the applicant
as well as to the
Respondent No 3 by Post.

SL


K. Venkateswaran
Member


G. Venkateswaran
Vice-Chairman

mb

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CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI BENCH.

O.A. No. 148 of 2003

DATE OF DECISION: 09.08.2005.

Sri Ajit Kumar Sen, DCF (Retd)

APPLICANT(S)

Mr. S.Sarma

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr.A.K.Chaudhuri, Addl.C.G.S.C. &
Mr.B.Banerjee, Govt. Advocate, Arunachal
Pradesh

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment? *Ab*
2. To be referred to the Reporter or not? *Ye*
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? *Ys*

Judgment delivered by Hon'ble Vice-Chairman.

9
Ajit Sen

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CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Original Application No.148 of 2003

Date of Order: This, the 9th Day of August, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

**Sri Ajit Kumar Sen, DCF (Retd)
7 Ashotosh Chetterjee Road
Dhakuria, Kolkata - 31.**

..... Applicant.

By Advocates S/Shri S. Sarma & U.K.Nair.

- Versus -

1. **The Union of India
Represented by Secretary
to the Govt. of India
Ministry of Environment and Forest
CGO Complex, New Delhi.**
2. **The Inspector General of Forests
Ministry of Environment and Forest
Govt. of India
C.G.O. Complex, New Delhi.**
3. **The State of Arunachal Pradesh
Represented by the Secretary to the
Govt. of Arunachal Pradesh (Dept. of Forests)
Itanagar.**
4. **The Principal Chief Conservator of Forest
Dept. of Environment and Forests
Govt. of Arunachal Pradesh
Itanagar, (A.P.).** Respondents.

By Mr. A. K. Chaudhuri, Addl. C. G. S. C. for 1st & 2nd respondents
& Mr. B. Banerjee, Govt. Advocate, for State of Arunachal Pradesh
i.e. 3rd respondent and 4th respondent.

ORDER

SIVARAJAN, I (V.C.):

The applicant, a State Forest Service Officer who retired from service as Deputy Conservator of Forests (DCF) (SFS) on attaining the age of superannuation, has filed this application for the following reliefs:-

"8.1 To direct the Respondents to consider the case of the applicant for promotion to the cadre of IFS w.e.f. 1988 onwards and after such consideration to promote him to IFS with retrospective effect with all consequential service benefits.

8.2 To direct the respondents to convene triennial cadre review and to review the cadre strength since 1988 following the mandatory provisions of IFS cadre Rules."

The grievance of the applicant is that though he had become eligible for promotion to Indian Forest Service (IFS in short) in 1988, his case for promotion to IFS was not considered by the respondents till the date of his retirement on 28.2.2003. The applicant has approached this Tribunal only when the Union Public Service Commission (UPSC in short), New Delhi issued a communication dated 5.12.2002 (Annexure-8) wherein the UPSC had requested the Chief Secretary, Government of Arunachal Pradesh, Itanagar for a revised self contained proposal for preparation of year-wise select lists of 2000 and 2002 with certain information/documents. It was inter alia mentioned in paragraph 3 thereof as follows:-

"It is also observed that the State Govt. have included the name of Shri A.K.Sen (DOB-01.03.1945) at Sr. No.1 in the eligibility list for the year 2002, whereas he is not eligible in



✓

terms of Regulation 5(3) of IFS (Appointment by Promotion) Regulations 1966 as he has attained the age of 54 years of age as on 01.03.1999. This name may kindly be excluded from the eligibility list for the year 2002."

The above observation has provoked the applicant to file this O.A.

2. The applicant has alleged that though the respondents are bound under the Indian Forest Service (Appointment by Promotion) Regulation, 1966, Regulation No.5 thereof to prepare a list of suitable officers (SFS) for promotion to IFS, although there were vacancies occurred every year since 1988 onwards the respondents did not convene DPCs to fill up the said vacancies. It is his case that if any selection committee meeting was held by the respondents for promotion to IFS for the years 1988 onwards till 1999 inclusive, the applicant would have been in the zone of consideration and would have got inducted in IFS. It is stated that the respondents never conducted any DPC under the aforesaid rules for the years from 1988 to 1996. The applicant has also stated that in the revised gradation list of ACF (SFS) as on 1.1.1983 the applicant appeared at Sl. No.35, when one Sri M. C. Baruah whose name appeared at Sl. No.33 having his date of birth 31.10.1941 challenged the inaction in convening the selection by filing O.A. No.345/1999 before this Tribunal he got reliefs based on the Tribunal order dated 21.5.2001 (Annexure-6). The applicant claimed that he is also entitled to the same treatment. The applicant in paragraph 4.13 of the application has stated that as per the information gathered by him there were four vacancies in the year 1996, two vacancies in the year 1997, two vacancies in the year 1998 and two vacancies in the year 1999 and that due to the non-convening of DPC the said vacancies could not be filled up from the eligible SFS

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officers. The applicant, it is stated, came within the zone of consideration right from the year 1988. It is also stated that in the year 1988 as per Regulation No.5 of the Indian Forest Service (Appointment by Promotion) Regulation, 1966 the applicant completed the requisite eight years of service in the substantive capacity in the State Forest Service and as such his case was required to be considered for induction to IFS with retrospective effect by convening year wise DPC w.e.f. 1988 onwards. It is further averred that though the respondents had convened DPC in the year 2002 by clubbing the vacancies from 2000 to 2002 and prepared the list of suitable SFS officers for induction to IFS, the case of the applicant was not considered on the plea of his becoming over aged. It is stated that there are instances of persons who had crossed 54 years of age being considered for IFS. The names of S/Shri S. Choudhury, M. C. Baruah and B. C. Das were mentioned in this regard.

3. On behalf of respondent nos. 3 and 4 a written statement is filed. Paragraph 4 of the said written statement which is relevant for the purpose of adjudication of this case reads as under:-

"4) That as regard the statements made in para 1 of the application, the deponent states that as per Sub Rule 5(2) of the Indian Forest Service (Appointment by Promotion) Regulation 1966 an State Forest Service Officer who has rendered 8 years service in the grade & substantive in the post of Assistant Conservator of Forests is eligible for promotion to Indian Forest Service cadre. The applicant was declared confirmed in the post of Assistant Conservator of Forests in State Forest Service w.e.f. 1.6.1999 vide No.For/114/E(A)/89/Pt/30942-31000 dated 20.10.2000. The name of the Applicant was recommended by the State Govt for his induction to Indian Forest Service cadre in the proposal submitted vide No.For/400/E-2/83/Vol-I/17702-04 dated 6.6.2001 and No.

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For/400/E-2/83/Vol-I/636-38 dated 10.7.2002 respectively to the Govt of India, Union Public Service Commission, New Delhi. However his date of birth being 1.3.1945, he attained 54 years age as on 1.3.1999 and as such he was not considered eligible for promotion to Indian Forest Service cadre in terms of Regulation 3 of Indian Forest Service (Appointment by Promotion) Regulation 1966. Accordingly, the Union Public Service Commission, New Delhi vide letter No.10/22/2002-AIS dated 5.12.2002 directed the State Government to exclude the name of the applicant from the eligibility list for the year 2002. Accordingly name of the applicant was not recommended by the State Govt. while submitting proposal to Union Public Service Commission, New Delhi vide No.For/400/E-2/83/Vol-I/385-86 dated 18/12/2002 (for the year 2000) and No.For/400/E-2/83/Vol-I/387-88 dated 18/12/2002 (for the year 2002). However, the contention of the petitioner for not convening Departmental Promotion Committee by the Respondents for preparation of select list of suitable officers for promotion to the Indian Forest Service in the AGMUT Joint Cadre is not correct. The Departmental Promotional Committee meeting is convened by the Govt of India, Union Public Service Commission from time to time and Departmental Promotion Committee meeting held on 26.3.1996 and 18.12.99 and 21.12.2002 respectively by the Union Public Service Commission."

The factual details are also stated in paragraph 12 of the written statement which also reads as follows:-

"12) That as regard the statement made in para 4.8 of the application, the deponent states that the applicant while holding the post of Forest Ranger was promoted to the post of Assistant Conservator of Forests vide order dated 15.10.80 and he assumed the charge of the post of Assistant Conservator of Forests w.e.f. 29.10.80. As stated in para-1 an State Forest Service Officer becomes eligible for consideration for promotion/induction to Indian Forest Service only on completion of 8 years service in the post of Assistant Conservator of Forests and holding the said post in substantive capacity i.e. confirmed. Though the petitioner completed on 29.10.88 8 years service in the Grade he was not

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eligible for promotion to Indian Forest Service cadre w.e.f. 29.10.1988 because he did not fulfill the other condition of being becoming eligible for induction to Indian Forest Service Cadre i.e. not being confirmed in the post of Assistant Conservator of Forests till 1.6.1999 due to failure of passing departmental examination, which was conducted by the Department through Arunachal Pradesh Public Service Commission from time to time. He cleared the departmental examination during the month of March/99 and accordingly he was informed to have passed the departmental examination in all the subjects vide Notification No.For/10/E(AP)/91/19414-95 dated 1.6.99. The case of Applicant was recommended by the State Govt for his induction to Indian Forest Service cadre during 2001 vide letter No.For/400/E-2/83/Vol-I/17702-04 dated 6.6.2001 & during 2002 vide letter No.For/400/E-2/83/Vol-I/636-38 dated 10.7.2002 and No.For/400/E-2/83/Vol-I/385-86 dated 18.12.2002 and No.For/400/E-2/83/Vol-I/387-88 dated 18.12.2002. But for his having attained the age of 54 years as on 1.3.99, his name was dropped from the eligibility list as per UPSC's instructions communicated vide letter dated 5.12.2003."

Various other details are also stated in the written statement.

4. The applicant has filed a rejoinder. In reply to paragraph 4 of the written statement it is stated in the rejoinder that the applicant's service stood confirmed w.e.f. 16.9.1986 as Assistant Conservator of Forests by operation of the recruitment rule wherein there has been specific mention regarding completion of such probationary period after two years. It is also stated that law is well settled that in absence of any blemish the authority is duty bound to confirm the service of the officer immediately after the expiry of the probationary period failing which applying the due provision the service of the applicant got confirmed by operation of law. It is also stated that according to the Recruitment Rules 20 (b), the service of the applicant should have been confirmed w.e.f. 16.9.1986 in the post

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of Assistant Conservator of Forests instead of 1.6.1999. However, though the respondents in paragraph 12 of the written statement has stated, "*Though the petitioner completed on 29.10.1988 8 years service in the Grade he was not eligible for promotion to Indian Forest Service cadre w.e.f. 29.10.1988 because he did not fulfill the other condition of being becoming eligible for induction to Indian Forest Service i.e. not being confirmed in the post of Assistant Conservator of Forests till 1.6.1999 due to failure of passing departmental examination, which was conducted by the Department through Arunachal Pradesh Public Service Commission from time to time.*", no explanation is offered to the said statement in paragraph 7 of the rejoinder. Admittedly, the applicant had cleared the departmental examination only during the month of March, 1999 and accordingly he was informed to have passed the departmental examination in all the subjects vide notification No. For/10/E(AP)/91/19414-95 dated 1.6.1999.

5. We have heard Mr. S. Sarma, learned counsel for the applicant, Mr. A. K. Chaudhuri, learned Addl.C.G.S.C for the 1st and 2nd respondents and Mr. B. Banerjee, learned Government Advocate, Arunachal Pradesh appearing for the 3rd and 4th respondents. Mr. S. Sarma submits that the applicant was appointed as Assistant Conservator of Forests as per order dated 15.10.1980 (Annexure-4) in a substantive capacity; that he had meritorious and outstanding service career throughout and that he had completed 8 years of service as such on 29.10.1988. Counsel submits that there were vacancies for promotion to IFS since 1988 onwards till 1999 but the respondents did not convene the DPCs every year for selection to IFS as provided under the Indian Forest Service (Appointment by

Spm

Promotion) Regulation, 1966. Counsel submit that had the respondents convened the DPCs every year, the applicant would have been in the zone of consideration and in the absence of any disabling factors, such as disciplinary proceeding etc. and in view of the outstanding service career of the applicant, he would have been selected for promotion to IFS. Counsel submits that passing of departmental examinations is not a condition precedent for recommending the case of the applicant to the UPSC for promotion to IFS. He also submits that the applicant had crossed the age of 54 years only in March, 1999 and therefore, he was eligible for being considered for the years upto 1999. He also submits that the respondents have the power to consider the case even beyond the age of 54 years under the proviso to Rule 5 (3) of the Regulations and the applicant's case deserves to be considered for the year 2002 as originally recommended by the State Government. He submits that the respondents must be directed to conduct review DPCs for each year commencing from 1988 till 1999 (both years inclusive) and also in the year 2002 and to promote the applicant to IFS accordingly. Counsel has also relied on a decision of the Hon'ble Supreme Court in State of Punjab vs. Rupinder Kawal Sahib and Others, (2002) 10 SCC 179 in support.

6. Mr. A. K. Chaudhuri, Addl. C.G.S.C. appearing for the 1st and 2nd respondents submits that the UPSC had rightly requested the State Government to omit the name of the applicant from the list of 2002 since the applicant had crossed the age of 54 years in March, 1999. Mr. B. Banerjee, Government Advocate representing the State of Arunachal Pradesh and the 4th respondent submitted that though the applicant had completed 8 years of service in the post of Assistant



Conservator of Forests in the year 1988, he could not be considered for promotion to IFS for the years from 1988 to 1999 (both years inclusive) since he did not pass the departmental examination for confirming him in the said post. The Government Advocate further took us to paragraphs 4 and 12 of the written statement which we have already extracted above and submitted that as per sub-rule 5 (2) of the Indian Forest Service (Appointment by Promotion) Regulation, 1966 a State Forest Service officer, who has rendered 8 years service in the Grade and confirmed in the post of Assistant Conservator of Forests, is eligible for promotion to IFS cadre but the applicant was confirmed in the post of Assistant Conservator of Forests only w.e.f. 1.6.1999 vide notification dated 20.10.2000. He also submitted that the name of the applicant was sent for consideration in the select list in the year 2000 and 2002 but his case was not considered by the UPSC since he had attained the age of 54 years as on 1.3.1999. The Government Advocate further submitted that the Departmental Promotion Committee meeting was convened by the Government of India, UPSC from time to time and DPC meetings were held on 26.3.1996, 18.12.1999 and 21.12.2002. He further pointed out that only the Assistant Conservator of Forests holding the said post in a substantive capacity i.e. confirmed and who completes 8 years of service in the grade alone is eligible for consideration for promotion/induction to IFS. He submitted that the applicant was confirmed in the said post only w.e.f. 1.6.1999.

7. We have considered the rival submissions. There is no doubt that the applicant was promoted to the post of Assistant Conservator of Forests as per order dated 15.10.1980 and that he had completed 8 years of service in the said post on 29.10.1988. The fact

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that the applicant has got meritorious service in the various posts held by him is not in dispute. However, the fact remains that the applicant was on probation since 29.10.1980 in the post of Assistant Conservator of Forests and he was confirmed in the said post, as already noted, only on 1.6.1999. The contention of the applicant is that he has become eligible for being considered for promotion/induction to IFS since 29.10.1988 having completed 8 years of service in the post of Assistant Conservator of Forests and since he has not crossed the age of 54 years from 29.10.1988 onwards till 1999. His further case is that there were vacancies in IFS every year since 1988 and that DPC on yearly basis was not being held regularly. The respondents in the written statement have stated that the DPCs were being convened from time to time and that DPC meetings were held on 26.3.1996, 18.12.1999 and 21.12.2002. The respondents have also stated in the written statement that there were 4 vacancies upto 1996, one vacancy in 1997, 2 vacancies in 1998 and 3 vacancies in 1999.

8. As already noted, according to the respondents, the case of the applicant for promotion/induction to IFS could not be considered for the years from 1988 till 1999 (both years inclusive) for the reason that he was not confirmed in the post of Assistant Conservator of Forests till June, 1999 since he did not pass the departmental examination. The stand of the applicant, as can be seen from the rejoinder filed by him, is that he, having satisfactorily completed the probation of the initial period of two years, in the absence of any misconduct or similar circumstances, must be deemed to have completed the period of probation after expiry of two years. In other words, his contention is that confirmation in the said post is

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automatic on the expiry of the period of probation or on the expiry of the extended period of probation and in the instant case since the applicant has got meritorious service through out the period, he must be deemed to have completed the probation and was confirmed in the post of Assistant Conservator of Forests since 1988. It is also his case that confirmation in the said post is not a condition precedent for promotion to IFS.

9. Let us now consider the Recruitment Rules of the State Forest Service. The applicant, admittedly, is a State Forest Service Class-I officer. He is covered by the Assam Forest Service (Class I) Rules, 1942. The post of Assistant Conservator of Forests is one of the 24 posts detailed in Rule 3. Rule 4 of the Rules deals with the source of recruitment – by direct recruitment and by promotion. Rule 4 (c) provides that appointment to the service shall be made by the Governor by promotion from the Provincial Forest Service or Subordinate Forest Service of men of proved merit and efficiency who are considered fit to hold charge of an important Forest Division. Rule 7 provides for appointment on probation. The said Rule says, *"Recruits (a) promoted to the Service from the Subordinate Forest Service (b) recruits under Rule 4 (a) on satisfactorily completing the course prescribed in Rule 6, and (c) direct recruits under Rule 4 (b) will be appointed to the Service subject to the conditions prescribed in Rules 8 and 9."* Rule 8 reads thus:-

"8. Period of probation.- (a) member of the service appointed by promotion under Rule 4(c) shall be deemed to be on probation for a period of two years and shall within the said period pass such departmental examinations or tests as may be prescribed for the Service from time to time provided that he shall not be required to pass again any such examination

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or test as he may already have passed before promotion, and provided also that the Governor may in any case extend or reduce the period aforesaid. A member so appointed on probation shall, if he fails to satisfy the Governor within the period aforesaid or any further period for which extension has been granted that he is in every respect fit for promotion, revert to his substantive post.

(b) Every member of the Service directly recruited under Rule 4(a) and (b) shall be on probation for 2 years from the date of commencement of service which shall be from the day following the convocation at the Forest College, or until he passes tests as aforesaid, whichever is later."

Rule 9 provides for confirmation which reads as follows:-

" Every member of the Service shall be confirmed in his appointment when -

- (i) he has completed the period of probation in Rule 8 (a) or 8 (b) as the case may be, and*
- (ii) the Governor is satisfied that he is fit for confirmation."*

Rule 10 (a) says, *"Until confirmed every member of the Service will unless his appointment is terminated, continue to hold his appointment on probation"* and sub-rule (b) says, *"Every confirmation shall be notified in the Assam Gazette."*

10. From the above provisions, the following situations emerge:-

The appointment to the State Forest service from the Subordinate Forest Service by promotion is subject to the condition prescribed in Rules 8 and 9. Rule 8 provides for probation for a period of 2 years within which time the officer has to pass such departmental examination or test

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as may be prescribed for the service from time to time. The Governor is given the power to extend or reduce the period of probation and a member who fails to satisfy the Governor within the aforesaid period that he is in every respect fit for promotion, has to be reverted to his substantive post. Further, Rule 9 provides for confirmation in his appointment when he has completed the probation under Rule 8 and the Governor is satisfied that he is fit for confirmation. This contemplates a written order of confirmation by the Governor. Added to this, Rule 10 (a) clearly says that until confirmed every member of the service will unless his appointment is terminated, continue to hold his appointment on probation and sub-rule (b) says that every confirmation shall be notified in the Assam Gazette.

11. The contention of the applicant, as already noted, is that once the period of probation or the extended period of probation is over there is an automatic confirmation for which no separate orders are required. The provisions of the Rules discussed above clearly indicate the necessity of a confirmation order and that too by notifying in the Assam Gazette. Thus, the contention of the applicant regarding automatic confirmation is against the Rules and therefore unsustainable. Even in the absence of Rules providing for confirmation the Supreme Court has time and again held that there is no question of automatic confirmation on the expiry of the period of probation and that a positive order of confirmation is required (See Registrar, High Court of Gujarat and Another vs. C. G. Sharma (2005)

1 SCC 132, Para 26 at Page 141, Commissioner of Police, Hubli &

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Another vs. R. S. More 2003 (2) SLR 8 SC Paras 3 and 8 and M. P. Chandoria vs. State of M. P. and Others (1996) 11 SCC 173 Para 5 at Page 175).

12. Now let us see the provisions of the Indian Forest Service (Appointment by Promotion) Regulation, 1966. Rule 5 of the Regulation provides for preparation of list of suitable officers. The 3rd proviso to sub-rule (2) thereof reads as follows:-

"Provided also that the Committee shall not consider the case of a member of the State Forest Service unless, on the first day of January of the year in which it meets, he is substantive in the State Forest Service and has completed not less than eight years of continuous service (whether officiating or substantive) in per cent(s) included in the State Forest Service."

This proviso makes the position clear that the officers holding the post substantively in the State Forest Service alone are entitled for being considered by the Selection Committee. However, for the purpose of reckoning 8 years continuous service such service can be officiating or substantive. In other words, for reckoning the period of 8 years the officer need not be holding the post, in a substantive capacity. As already noted, under the Recruitment Rules of the State Forest Service for appointment in a substantive capacity the probation must be satisfactorily completed and only on confirmation it can be said that the officer holds the post in the State Forest Service in a substantive capacity. The following observations of the Supreme Court in H. F. Sangati vs. Registrar General, High Court of Karnataka and Others (2001) 3 SCC 117 at Page 121 Para 8:-

"It is well settled by a series of decisions of this Court. that services

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of an appointee to a permanent post on probation can be terminated or dispensed with during or at the end of the period of probation because the appointee does not acquire any right to hold or continue to hold such a post during the period of probation. (underlining supplied)."

A person holding a substantive post cannot be terminated or dispensed with otherwise than in accordance with law for he had acquired a right to hold such post. This position, the applicant could acquire only in June, 1999 that too by virtue of issuance of the notification in 2000 contemplated under Rule 10 of the Recruitment Rules. Thus, though the applicant had completed 8 years of continuous service in the post of Assistant Conservator of Forests in the year 1988, he was not eligible for being considered for selection to IFS until he was appointed substantively to the said post on confirmation which event happened only in June, 1999. Of course, the applicant crossed the age of 54 years only in March, 1999. Thus, the inhibition contained in the 3rd proviso to sub-rule (2) of Rule 5 of the Regulations was operative for the periods upto and including the year 1999.

13. In view of what is stated above, the claim of the applicant for consideration of his case for being promoted/inducted to IFS for the periods 1988 to 1999 (both years inclusive) cannot be sustained since the applicant was not holding the post of Assistant Conservator of Forests in a substantive capacity during the said period. Though Mr. Sarma, counsel for the applicant has relied on the decision of the Supreme Court in State of Punjab vs. Rupinder Kawal Sahib and Others (supra) the said decision, according to us, has no application to the facts and circumstances of this case. The said decision deals with

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a totally different situation. Needless to say that since the applicant had crossed the age of 54 years in March, 1999 the inhibition contained in sub-rule (3) of Regulation 5 of the IFS (Appointment by Promotion) Regulations, 1966 applied and therefore in spite of the fact that the State Government had recommended the case of the applicant for inclusion in the select list for IFS for the years 2000 and 2002 the UPSC had rightly directed the State Government to delete the name of the applicant from the list to be forwarded by the State Government pursuant to the impugned communication.

14. Mr.S.Sarma has placed reliance on the 2nd proviso to sub-rule 3 of Regulation 5 of the IFS (Appointment by Promotion) Regulations, 1966. The said proviso reads thus:-

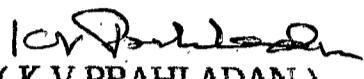
"Provided further that a member of the State Forest Service who has attained the age of fifty-four years on the first day of January of the year in which the Committee meets shall be considered by the Committee, if he was eligible for consideration on the first day of January of the year or any of the years immediately preceding the year in which such meeting is held but could not be considered as no meeting of the Committee was held during such preceding year or years."

This proviso, according to us, has no application since the DPC for the year 1999 was held by the UPSC on 18.12.1999. Further, the applicant was not eligible for being considered for the year 1999 since he was not holding the post of Assistant Conservator of Forests in a substantive capacity. The respondents had convened DPC for 2000 and 2002 vacancies of IFS. Since the proviso has no application for the reasons stated above the applicant is over aged and his name was rightly excluded.

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For all these reasons the application is devoid of any merit. It is accordingly dismissed.

In the circumstances, there will be no order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.SIVARAJAN)
VICE CHAIRMAN

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 148/03... of 2003

Sri Ajit Kumar Sen

.....Applicant

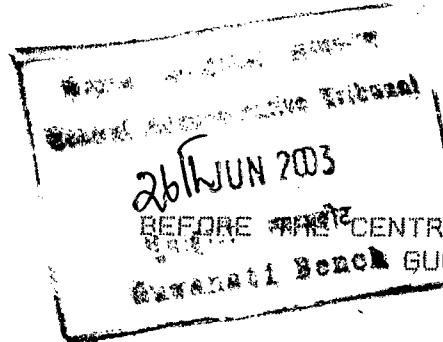
-VS-

Union of India & Ors.

.....Respondents

LIST OF DATES

1. 26.1.76 Commendation certificate awarded by the Lt. Governor, A.P. for the meritorious service rendered by the applicant.
2. 30.9.79 Certificate awarded by the Crocodile Breeding and Management Training Institute at Hyderabad, for successfull completion of Diploma Course in Crocodile Breeding and Sanctuary Management.
3. 2.5.1980 Order rejecting the prayer made by the applicant for the post of Assistant Inspector at Central Crocodile Breeding Institute at Hyderabad.
4. 15.10.80 Order issued by the respondent promoting the applicant to the post of Assistant Conservator of Forest.
5. 3.6.88 Order rejecting the prayer made by the applicant for the post of Asstt. Director (Wildlife Prevention) in the Wildlife Regional Office under the Deptt. of Environment Forests & Wildlife by transfer on deputation.
6. 21.5.2001 Judgment and order passed in OA No.345/99 (Sri M. C. Barman -VS- Union of India & Ors.)
7. Gradation list of Asstt. of Asstt. Conservator of Forest as on 1.1.83.
8. 5.12.2002 The impugned communication against which this application is made.



Title of the case : O.A. No. 146 of 2003

BETWEEN

Shri Ajit Kumar Sen Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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Filed by : Abha Das

Regn. No.:

File : C:\WS\AJITKUMA

Date 28

28
Filed by
the applicant through
Abha Deka
Advocate
17/6/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No. 148 of 2003

BETWEEN

Sri Ajit Kumar Sen, DCF (Retd)
7 Ashotosh Chetterjee Road,
Dhakuria, Kolkata-31

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Environment and Forest,
C.G.O. Complex, New Delhi.
2. The Inspector General of Forests
Ministry of Environment and Forest
Govt. of India,
C.G.O. Complex, New Delhi.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Govt. of Arunachal Pradesh (Dept. of Forests)
Itanagar.
4. The Principal Chief Conservator of Forest
Dept. of Environment and Forests,
Govt. of Arunachal Pradesh,
Itanagar. (A.P.)

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is made against the action of the respondents in not considering the case of the applicant for promotion to IFS by issuing the impugned communication dated 5.12.2002. This application is also directed against the action of the respondents in not convening regular DPC for

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preparation of list of suitable officer for promotion to IFS in the AGMUT joint cadre.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Hon'ble Administrative Tribunal.

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, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant is a science graduate and after his graduation he underwent training in Forestry and Allied subjects at Northern Forest Rangers College at Dehradoon in the year 1967-1969. After completion of the said course by obtaining Higher Standard Certificate, he got his initial posting at Namchik range, Changlang Forest Division as Forest Ranger and under the said capacity he had occasion to work at various places. The applicant during his service tenure attended/completed various training courses viz. -Advanced Wildlife Management Diploma Course, Central Crocodile Breeding Diploma Course, course of Inservice Training at State Forest Officers in the year 1993.

4.3. That the applicant had a distinguished service carrier, and the Govt. recognised his such brilliance in service number of times. The petitioner while was working as Forest Ranger in Namdapha Wildlife Sanctuary Mehao, he was awarded Commendation Certificate for his meritorious service by the Lt. Governor, Arunachal Pradesh on 26.1.1976.

A copy of the said certificate dated 26.1.76 is annexed herewith and marked as Annexure-1.

4.4. That as stated above the applicant during the year 1978-79 successfully completed a course in the Central Crocodile Breeding and Management Training Institute at Hyderabad and after clearing the examination he was awarded Diploma in Crocodile Breeding and Sanctuary Management on 30.9.79.

A copy of the said certificate dated 30.9.79 is annexed herewith and marked as Annexure-2.

4.5. That the applicant while was serving as Forest Ranger attached to the Tirap Wildlife Division applied for the post Assistant Inspector at Central Crocodile Breeding Institute at Hyderabad. However, the Chief Conservator of Forest, Arunachal Pradesh vide his letter dated 2.5.80 informed the chief Wildlife Warden, Arunachal Pradesh, Tirap that the application of the applicant could not be forwarded to the addressive as the Govt. couldn't spare the applicant due to shortage of trained Ranger in the department.

A copy of the said letter dated 2.5.80 is annexed herewith and marked as Annexure 3.

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4.6. That the applicant had a distinguished and outstanding services carrier without any blemish and at no point of time he was communicated with any adverse remark, whatsoever during his service tenure. The respondents in consideration of his meritorious and outstanding service carrier promoted him to the post of Assistant Conservator of Forest vide order dated 15.10.1980 and accordingly he joined the said promotional post of Assistant Conservator of Forest (ACF in short) on 29.10.80.

A copy of the aforesaid order dated 15.10.80 is annexed herewith and marked as Annexure 4.

4.7. That the applicant while was working as Divisional Forest Officer, Mehalo Wildlife Division, he applied for the post of Assistant Director (Wildlife Preservation) in the Wildlife Regional Office under the department of Environment and Forest and Wildlife of Govt. of India. However the Chief conservator of Forest, Arunachal Pradesh vide his letter dated 3.6.88 informed the Chief Wildlife Warden, Arunachal Pradesh that due to acute shortage of trained officer in the Forest Department, A.P., the application filed by the applicant could not be forwarded.

A copy of the said letter dated 3.6.88 is annexed herewith and marked as Annexure 5.

4.8. That the applicant states that he got his promotion to ACF (State Forest Service) on 15.10.1980 and he assumed charge on 29.10.1980 taking into consideration this factual aspect of the matter he attained the eligibility for being considered for promotion in the rank of IFS w.e.f. 29.10.1988 but unfortunately due to the reasons best known

to the respondents no DPC was held till 1996. In the year 1996 select list of suitable officers (SFS) was prepared for promotion to the rank of IFS but the case of the applicant was not taken into consideration. As per the seniority list prepared by the respondents the applicant was very much within the zone of consideration and most of his juniors were included in the said list from which some of them got induction to IFS. It is stated that there is no dispute regarding the outstanding service career of the applicant and had the respondents took into consideration his case definitely he would have got inducted to IFS.

4.9. That the applicant states that since 1988 to 1996 the respondents never convene DPC as required under the rules in terms of Indian Forest Service (Appointment by promotion) Regulation 1966, Regulation 5 the respondents are duty bound to prepare a list of suitable officers (SFS) for promotion to IFS. Although there were vacancies occurred each year right from 1988 the respondents never convene DPC to fill up vacancies. had there been regular/year wise DPC the applicant could have come within the zone of consideration and he would have got the induction to IFS.

4.10. That the applicant states that the respondents circulated a revised gradation list of ACF (SFS) as on 1.1.83 and in the said gradation list the name of the applicant appeared at serial No.35. In this context it is pertinent to mention here that the name of one Sri M.C. Baruah whose name appeared at Sl. No.33 having his date of birth as 31.10.1941 making a challenge to the aforesaid in action on the part of the respondents preferred OA No. 345/99 before this Hon'ble Tribunal praying for inclusion of his name in the select list for promotion to the rank of

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IFS. Said Mr. Baruah also pointed out the fact that for the last several years no select list was prepared for promotion to the rank of IFS and as such he had to suffer for non-consideration of his case. The Hon'ble Tribunal after hearing the parties to the proceeding and after considering the law laid down by the Apex Court directed the respondents to consider the case of the applicant for promotion to IFS against the vacancy even when no select list was in force. Pursuant to the said judgment the concerned authority considered the case of said Mr. Baruah promoted him to the rank of IFS in terms of the said judgment.

A copy of the aforementioned judgment and order dated 21.5.2001 is annexed herewith and marked as Annexure-6.

4.11. That the applicant states that taking into consideration the gradation list of ACF (SFS) Officers as on 1.1.83 the case of the applicant is required to be considered for promotion to the rank of IFS, as was done in case of Sri. M.C. Baruah.

A copy of the said gradation list as on 1.1.83 is annexed herewith and marked as Annexure 7.

4.12. That the applicant states that as stated above there were vacancies available right from the year 1988 but the respondents never convened regular DPC for promotion to IFS amongst the SFS Officers and this has caused serious prejudice and the applicant had to suffer a lot in the matter of promotion. In the year 1966 there were four vacancies and as per the regulation the respondents

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forwarded a list of SFS officers. As per the information gathered by the applicant names of SFS officers were sent by the state of A.P. wherein the name of the applicant should have in at Sl. No.7 just below Sri M.C. Baruah. However the respondents never forwarded the name of the applicant although below Mr. Baruah and the present applicant, names of 7 juniors were sent for such promotion. As per the Regulation the respondents ought to have sent the name of 16 officials in order of seniority but the respondents did not follow the said Regulation.

4.13. That the applicant states that the applicant states that though there never vacancies the respondents never considered the case of the applicant right from 1988.

As per the information gathered by the applicant in the year 1996 there were four vacancies, 1997 two vacancies, 1998 two

vacancies and in the year 1999 there were two vacancies. 1

Apart from that from 1988 to 1996 there were nos. of vacancies surfaced each year, but due to non-convening of year wise DPC, no-vacancy could be filled up from amongst the eligible SFS Officers. Admittedly the applicant came within the zone of consideration right from the year 1988 and he had occasions to hold the charge of cadre post right from the year 1986. During his 23 years of service as ACF he had occasions to hold the charge of the Division for about 17 years and this reflects the efficiency and outstanding service career of the applicant. The respondents however have not taken into consideration that aspect of the matter and for the reasons best known to them excluded the name of the applicant. In the year 1988 as per the Regulation 5 of IFS (Appointment by Promotion) Regulation, 1966 the applicant completed the requisite 8 years of service in the

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substantive capacity in the state Forest Service and as such his case was required to be considered for induction to IFS with retrospective effect by reconvening year wise DPC w.e.f. 1988 onwards. The respondents in the year 2002 again convene the select committee meeting clubbing the vacancies from 2000 to 2002 and prepared the list of suitable SFS officers for induction to IFS. The case of the applicant however was not considered on the plea of his became over aged. The Under Secretary, UPSC wrote a letter dated 5.12.2002 to the Chief Secretary, Arunachal Pradesh clarifying some of the quarries made in this regard. In the same communication itself in para 2 it has been indicated that the vacancies of each year will required to be filled up from separate eligible list for each year without there being any clubbing of vacancies, and to that effect State Govt. A.P. has been requested to send separate eligibility list for each year. In the said communication itself it has been indicated that although the name of the applicant appeared at sl. No.1 in the eligibility list of 2002, his case was not considered as he attained the age of 54 as on 1.3.99. In fact there are instances where the respondents themselves have promoted Sri S. Choudhury ; M.C. Baruah and B.C. Das to IFS even though they were much above 54 years of age.

A copy of the said impugned communication dated 5.12.2002 is annexed herewith and marked as Annexure-8.

4.14. That the applicant states that since 1988 the Selection Committee meeting was held only thrice,

one in the year 1996 another in the year 1999 and lastly in the year 2002. It is stated that during the intervening years when no select list was prepared, vacancies surfaced but it was clubbed together and by a single DPC all the vacancies were filled up. It is pertinent to mention here that right from the year 1988 there has been no cadre review in A.P. cadre of IFS under AGMUT Joint Cadre as contemplated under Rule 4 of IFS Cadre Rules 1966. In terms of the said rules the respondents are duty bound to review the cadre strength in the interest of three years but in the instant case till date no such exercise has been made to review the cadre. For this above in-action on the part of the respondents in not complying the mandatory provisions of the rules the applicant had to suffer a lot in the matter of promotion.

4.15. That the applicant states that w.e.f. 28.2.2003 he was retired from his service as Deputy Conservator of Forest (DCP) (SFS) on attaining the age of superannuation. The applicant who had a distinguished service career had to retire as a State Forest Service Officer whereas most of his juniors have been given the benefit of promotion/induction to IFS. In their cases the respondents however have not raise the question of age at all. There are instances where State Govt. in consultation with Central Govt. of their own has relaxed the criteria of age bar taking into consideration the fact that in each selection Committee meeting the vacancies were clubbed together by a single DPC and all those vacancies have been filled up. As per the provision contained in the Regulation of 1966 the respondents ought not to have rejected the case

of the applicant on the ground of attaining his age of 54 years as since 1988 he was eligible for consideration for promotion to the rank of IFS coupled with the fact that no year wise panel was prepared for such promotion.

4.16. That the applicant states that in a nutshell the grievance raised by him is relating to the inaction on the part of the respondents in not convening year wise DPC and in not receiving the cadre strength violating the mandatory provisions of the Rules and Regulations. The applicant since retired from his service w.e.f. 28.2.2003 in the event of his inclusion in the select list would also be benefited by service of another two years as at the time of superannuation he was a State Forest Service Officer. The applicant highlighting his grievance has prepared representations to the concerned authority but same yielded no result in positive. The applicant inspite of his best efforts could not collect the exact data of vacancies arose since 1988 and he also could not get hold of the minors of the select committee meetings held during these years and as such he craves leave of this Hon'ble Tribunal for a direction towards the respondents to produce those records at the time of hearing of this case.

4.17 That the applicant states that the respondents have acted illegally in not considering his case for promotion to the IFS as overaged. In fact, the respondents while clubbing the vacancies of number of years they failed to take into consideration the fact that for the proceedings years, the said selection should have been treated as review selection and eligibility of candidates should have been as of that date when the vacancies arose. The respondents, during the

service tenure of the applicant harassed him in each stage and even in case of his confirmation of service as ACF, the respondents did not consider his case as per the rules guiding the field and for that the applicant has preferred a writ petition before the Hon'ble High Court and the matter is now pending.

~~RECORDED~~
~~SEARCHED~~ ~~INDEXED~~ ~~FILED~~
~~RECORDED~~

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents in denying the legitimate promotion to the applicant in the cadre IFS is per-se illegal and violative of Art.14 and Art 16 of the Constitution of India and laws framed thereunder and as such action/inaction on the part of the respondents are required to be set aside and quashed.

5.2. For that the respondents have acted illegally in not following the mandatory provision of the Regulation in respect of preparation of select list each year and thereby caused undue hardship to the applicant and as such appropriate direction need be issued to the respondents to reconsider the matter of the applicant as of 1988 onwards and to promote him to the cadre of IFS with retrospective effect with all Consequential service benefits.

5.3. For that the respondents have acted contrary to the provisions contained in the Indian Forest Service Cadre Rules in not reviewing the cadre strength and as such

appropriate direction need be issued to the respondents for review of the cadre strength as of 1988 onwards and to review the entire cadre of IFS in A.P. segment of AGMUT Joint Cadre.

5.4. For that the respondents have acted contrary to the settled proposition of law as well as rules guiding the field in rejecting the claim of the applicant by issuing the impugned communication dated 5.12.2002 more so when similarly situated employees got the benefit of age relaxation and as such the aforesaid impugned communication is not sustainable in the eye of law and liable to be set aside and quashed.

5.5. For that the respondents have violated the settled law laid down by the Hon'ble Apex Court in respect of preparation of select list and in respect of triennial cadre review and as such appropriate direction need be issued to the respondents to take into consideration the case of the applicant as of 1988 onwards and to promote him to the cadre of IFS with all consequential service benefits.

5.6. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

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That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the Respondents to consider the case of the applicant for promotion to the cadre of IFS w.e.f. 1988 onwards and after such consideration, to promote him to IFS with retrospective effect with all consequential service benefits.

8.2. To direct the respondents to convene triennial cadre review and to review the cadre strength since 1988 following the mandatory provisions of IFS cadre Rules.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

During the pendency of the OA and taking into consideration facts and circumstances of the case the applicant prays for an interim order directing the respondents to consider his case for promotion to IFS w.e.f. 1988 onwards.

10. *****

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

1. I.P.O. No. : 86 488103
2. Date : 17/6/03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Ajit Kumar Sen, son of Late Hem Ch. Sen, aged about 58 years, at resident of 7 Ashutosh Road, Kolkata-31, do hereby solemnly affirm and verify that the statements made in paragraphs 1,2,3,4.1,4.2,4.8,4.9,4.12, 4.14 to 4.17 & 5tr12 are true to my knowledge and those made in paragraphs 4.3 to 4.7, 4.10, 4.11, 4.13 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 on this the Verification on this the 16th day of June, 2003.

Signature.

Ajit Kumar Sen

GOVERNMENT OF

Arunachal Pradesh



Lieutenant Governor's Commendation Certificate

I. K. A. A. RAJA, do hereby award

Shri A. K. Sen, Forest Ranger, Nandapha Wild Sanctuary, Mizo

this Commendation Certificate in recognition of the

meritorious services rendered by him in

Arunachal Pradesh.

Raj Nivas

Itanagar, the 26th January 1976.

Lieutenant Governor

Arunachal Pradesh

ANNEXURE — 1

Attested
User
Advocate

Central Crocodile Breeding and Management Training Institute
Hyderabad



Given under the Seal
of the Institution

Shri Ajit Kumar Sen
S/o Hem Chandra Sen

has successfully completed the course in this Institute
during the year 1978 -1979
and passed the Examinations prescribed therefor

With Credit

He is therefore awarded the Diploma in Crocodile
Breeding and Sanctuary Management

Rakesh Ray
Director

Certified to be
true copy
of the original
document
the 30th Sept. 1979

Attested
MDM
Advocates

COPY

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE CHIEF CONSERVATOR
OF FORESTS, ITANAGAR 791111

No. TOR/43/69/10.330 Dtd, Itanagar, the 2nd May/80.

WS.

To the Chief Wildlife Warden,
Arunachal Pradesh, Tirap.

Subject: Application for the post of Asstt. Inspector
at Central Crocodile Breeding Institute at
Hyderabad.

Ref: Your Memo No. OWL/24/78/Orgl/1437 dtd. 24.80.

The application of Shri A.K. Sen, F.R. can
not be forwarded to the addressee as we cannot spare
him due to shortage of trained Ranger in this Department.
The official may be informed accordingly.

8d/-
for CHIEF CONSERVATOR OF FORESTS
ARUNACHAL PRADESH, ITANAGAR.

Mem No. OWL/24/78/2324-15 Dtd. Tirap, the 13th June/80
Via-Ledo.

- 1) Copy to Assistant Conservator of Forests,
In-charge Tirap Wildlife Division, Tirap.
- 2) ✓ Shri A.K. Sen, Forest Ranger for information.

(A.K. CHOUDHURY)
CHIEF WILDLIFE WARDEN
ARUNACHAL PRADESH, ITAP.

certified to be
true copy
by
P. B. D. C. A.

Amrit
Kumar
Advocate.

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE SECRETARY(FORESTS)
ITANAGAR.

NO.FOR.233/72/Part:-

Dated Itanagar,
The 15th Oct '80.ORDER

The Lt. Governor, Arunachal Pradesh is pleased to nominate the following serving Forest Officers of Arunachal Pradesh Forest Department to the posts of Asstt. Conservator of Forests (Bands-B Gazetted) temporarily in the Pay Department, G.P.B.B.30-740-35-010-ER-35-800-40-1207/a P.M. plus other allowances as admissible under rules from time to time w.e.f. the date they take over charge of Asstt. Conservator of Forests.

Name of Officer.Chain of vacancies.

1. Shri A. K. Sen	.. Against the post created vide order No.FOR.141/72/Pt/9465-82 dated 24-4-80.
2. Shri B.C. Das (now on deputation to A.P.Forest Corporation Ltd.).	.. Against the post created vide order No.FOR.170/77/782-807 dated 14-1-80.
3. Shri B.K. Dher	.. Against the post created vide order No.FOR.174/77/1281-330 dated 17-1-80.
4. Shri B.C.Deb (now on deputation to A.P.Forest Corporation Ltd.).	.. Against the post created vide order No.FOR.158/77/737-81 dated 14-1-80.

Sd/- E.S. Thangam
Secretary(Forests),
Govt.of Arunachal Pradesh,
Itanagar.

MEMO NO.FOR.233/72/Pt/25,453-505; /Dated Itanagar the 15th Oct '80.

Copy to:-

1. The Addl.Accountant General,(Central & A.O.) Shillong.
2. The D.I.P.R., Arunachal Pradesh, Shillong for publication of the order in the next issue of the Gazette.
3. The Chief Wildlife Warden for information & necessary action.
4. The Conservator of Forests, Eastern Circle for information & necessary action.
5. The Conservator of Forests, (P&D) & Western Circle for their information.
6. The Managing Director, Arunachal Pradesh Forest Corporation Ltd. He will please obtain the CTC of the Officers concerned and forward early. S/Chri B.C.Das & B.C.Deb will continue in the Arunachal Pradesh Forest Corporation till their deputation period are expired.
7. All Divisional Forest Officers, Arunachal Pradesh.
8. The Officers Concerned.
9. All DCs & ADCs of Arunachal Pradesh.
10. 10 Smart copies.

A.K. Sen
F.P.
etc.
Pabali V.L.C.O.
Signature:

Certified to be
true copy
Pabali V.L.C.O.
14/11/80

(S. E. Thangam)
Secretary(Forests),
Govt. of Arunachal Pradesh,
Itanagar.

14/11/80

Attested
by
Advocate

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE CHIEF WILDLIFE WARDEN
ITANAGAR.

No. FOR. 43/69/17, 687

Dtd. Itanagar, the 3rd June 88

SK

To,

The chief wildlife warden,
Arunachal pradesh,
Itanagar.

Sub:- prayer for the post of Ass't. Director
(wildlife preservation) in the wildlife
Regional office under the Déptt. of
Environment Forests & wildlife by
transfcr. on deputation.

Ref:- Shri A.K. Sen ACF i/c Nahuo wildlife
sanctuary Division. Dtd. 19th Letter
at. 26.4.88.

The Department is at present short of wild life
trained officers. Therefore, it is not possible
to spare any wildlife trained officer from this
Administration. It is regretted to inform that
the application of Shri A.K. Sen Assistant, of
Conservator of Forest, cannot be recommended
for the deputation post as requested. Shri A.K.
Sen, ACF may be informed accordingly.

For chief conservator Forests
Arunachal pradesh,
Itanagar.

No. C.W./E/43/80/-2039-20

Dtd. Itanagar, the 10th June/
88.

Copy to,

Shri A.K. Sen ACF. for information.

certified to be
true copy
by
D.P.J.

(C.S. THAIWAL)
CHIEF WILDLIFE WARDEN
ARUNACHAL PRADESH ITANAGAR

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Attested
by
Advocate

6 set 210
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE

Original Application No.345 of 1999

Date of decision: This the 25th day of May 2001

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

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

Shri Manmohan Chandra Baruah,
Working as General Manager,
APF Corporation Ltd.,
Deomali, District-Tirap.

.....Application

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

1. The Union of India, through the Secretary to the Government of India, Ministry of Environment and Forests, CGO Complex, New Delhi.
2. The Inspector General of Forests, Ministry of Environment and Forests, Government of India, CGO Complex, New Delhi.
3. The Secretary, Environment and Forests, Government of Arunachal Pradesh, Itanagar.
4. The Principal Chief Conservator of Forests, Department of Environment and Forests, Government of Arunachal Pradesh, Itanagar.
5. The Union Public Service Commission, Through its Secretary, New Delhi.

.....Respondents

By Advocates Mr B.C. Pathak, Addl. C.G.S.C., Mr. B. Sinha, Government Advocate, Arunachal Pradesh.

ORDER (ORAL)

CHOWDHURY.J. (V.C.)

The subject matter of this proceeding pertains to appointment of members of the State Forest Service to the Indian Forest Service under the Indian Forest Service (Recruitment) Rules, 1966 (hereinafter

*Revised
K.K.S.
Advocate*

referred to as the Rules 1966) with the aid of the Indian Forest Service (Appointment by Promotion) Regulations, 1966 (hereinafter referred to as the Regulations 1966), in the following circumstances:

2. The applicant, at the relevant time, belonged to the State Forest Service of the State of Arunachal Pradesh. He was promoted as Assistant Conservator of Forests on 2.5.1979. He was subsequently promoted as Deputy Conservator of Forests. It was averred in the application that in course of time as per his service seniority he became eligible for consideration for promotion to the Indian Forest Service (hereinafter referred to as IFS) under the Rules 1966 read with the Regulations 1966. His name was recommended by the State Government in order of seniority as per the revised gradation list of Assistant Conservator of Forests (ACF for short) as on 1.1.1983 alongwith other eligible officers to the Government of India in November 1993. After 1993 also his name was recommended from time to time by the State Government till 1995. There was no meeting of the Selection Committee for preparing the Select List for selection to the IFS FROM 1993 to 1995. The meeting of the Selection Committee constituted under Regulation 5 of the Regulations 1966 was held only on 26.3.1996. The Selection Committee prepared the Select List and sent the same for approval to the Union Public Service Commission (UPSC for short). The UPSC vide communication dated 19.7.1996 approved the Select List of officers of the State Forest Service of Arunachal Pradesh cadre for promotion to the IFS prepared by the Selection Committee on 26.3.1996. The Select List consisted of six names and the name of the applicant figured at serial No.6 in respect of the State of Arunachal Pradesh. Above the applicant the name of one Shri S. Choudhury, a State Forest Service Officer, appeared at serial No.5. By order dated 26.9.1996, the first four officers of the said list, namely, Shri S.J. Jongsam (1978-80 batch), Shri R.K. Deori (1978-80 batch), Shri M.K. Palit (1979-81 batch) and Shri S. Thirunavukarasu (1979-81 batch) were appointed to

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M.D.A.
Advocate

the IFS against the existing vacancies of the State of Arunachal Pradesh. S.C. Choudhury as well as the applicant, being aggrieved by their non-promotion to the IFS submitted representation which was forwarded to the Government of India, Ministry of Environment vide letter dated 19.6.1997 by the State of Arunachal Pradesh for consideration of their case for promotion to the IFS cadre. In the said communication the State of Arunachal Pradesh communicated to the Government of India that the allotted cadre strength of IFS in respect of State of Arunachal Pradesh was thirtyfour as per communication dated 26.10.1995 of the Government of India and the State of Arunachal Pradesh was having fourteen posts against promotion quota against which there were only twelve incumbents, leaving two clear vacancies against promotion quota available in the State of Arunachal Pradesh. The communication indicated that the aforesaid two vacancies were caused due to death of following two promotee officials while in service - (1) Late R.P. Neog, with effect from 13.5.1996 and (2) Late B.S. Beniwal, with effect from 7.4.1997.

By the aforesaid communication the Government of Arunachal Pradesh requested the Government of India to consider the case of Shri S.C. Choudhury as well as the applicant, State Forest Service Officers, from the Select List of IFS for appointment/promotion to the cadre of IFS against the promotional quota available in the State. The case of Shri Choudhury was considered and he was promoted to the IFS cadre with effect from 10.2.1998 vide Government of India's order dated 17.12.1997.

In the application the applicant also stated that Shri S. Thirunavakarasu who was appointed to the IFS from the State Service was junior to him in service, but overlooking the case of the applicant Shri S. Thirunavakarasu was promoted. The applicant moved the authority from time to time and finally submitted a lawyer's notice on 24.3.1999 on the respondents. The Principal Secretary, Environment and Forests, Government of Arunachal Pradesh by communication dated 23.4.1999 intimated the applicant that fresh proposals were submitted to the UPSC during December 1998, wherein the name of the applicant was also

recommended.....

Accused
Under
Advocate.

recommended by the Government of Arunachal Pradesh along with other eligible candidates for induction in the IFS cadre. The communication inter alia, mentioned that the proposal was under consideration by the Government of India and the results were awaited. The applicant thereafter sent an application to the Inspector General of Forests and the Special Secretary, Ministry of Environment and Forests, Government of India, for inducting the applicant in the IFS cadre in the AGMUT cadre with retrospective effect, more so, in view of the fact that he was going to superannuate on 31.10.1999. Failing to get appropriate remedy the applicant moved the Tribunal by way of an application which was numbered and registered as O.A.No.255 of 1999. By order dated 25.8.1999, the Tribunal ordered the respondents to dispose of the representation already filed by the applicant by a reasoned order within the period prescribed. The applicant thereafter moved the competent authority for remedial measure by a representation dated 31.8.1999. On his failure to get remedy from the Administration, the applicant moved the Tribunal by way of this application, assailing the action of the respondents in not appointing him in the All India Service as per law.

3. The respondents submitted their written statement. The respondent Nos.1 and 2 in their written statement stated that meetings of the Selection Committee for promotion to the erstwhile Union Territory cadre, which was subsequently re-organised as Arunachal Pradesh - Goa - Mizoram - Union Territories (AGMUT) Joint Cadre of IFS could not be held in 1988 and subsequent years as the issues relating to the constitution of a Joint Cadre in place of the erstwhile Union Territory cadre consequent on the conferment of statehood to Arunachal Pradesh, Goa and Mizoram, constitution of a Joint Cadre, Authority to function as the State in relation to the service distribution of powers of the Joint Cadre Authority amongst the constituent States and the Union

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Ministry of Environment and Forests, constitution of the Joint Cadre Authority exclusively for the IFS in the AGMUT Joint Cadre were being addressed and sorted out by the respondents in consultation with the Department of Personnel and Training and the Ministry of Law and Justice and the constituent State Governments of the Joint Cadre. It was further stated in the written statement that with the conferment of Statehood on the Union Territories of Arunachal Pradesh, Goa and Mizoram, participating in the then Union Territories cadre of the IFS, the Joint Cadre for Arunachal Pradesh - Goa - Mizoram - Union Territories (AGMUT) was notified by the Department of Personnel and Training vide Notification dated 3.4.1989. With the attainment of statehood by the aforesaid Union Territories the Joint AGMUT cadre came into existence. It took some time for the Joint Cadre Authority to make notional allocation of the promotion quota vacancies in the Joint Cadre among the four constituent units decided by the Joint Cadre Authority and accordingly the Selection Committee Meeting could be held only

in the year 1996. It was also asserted that the Selection Committee Meeting was held on 26.3.1996 and not 23.6.1996 as mentioned by the applicant. Shri S.C. Choudhury was promoted and appointed to the IFS with effect from 17.12.1997 on the vacancies caused due to the death of two promotee IFS Officers. The case of Shri S.C. Choudhury who figured at serial No.5 alongwith the applicant, who figured at serial No.6 of the list was considered. Shri Choudhury was chosen for promotion to the IFS against the vacancy caused due to the death of Shri R.P. Neog on 13.5.1996. The applicant could not be promoted to the IFS against the vacancy caused by the death of Shri B.S. Beniwal on 7.4.1997 which happened more than 12 months after the date of preparation of the Select List i.e. on 26.3.1996. According to the respondents the scheme and structure of the rules as indicated in the clarification by the Department of Personnel and Training letter dated 12.1.1996 did not envisage operation of the Select List to fill up vacancies occurring beyond the period for which it was designed. The respondents also stated that.....

Advocate
Vikas
Vikas
Advocate

that pursuant to the direction of the Tribunal dated 25.8.1999 in O.A. No.255 of 1999 the competent authority disposed of the representation on 8.10.1999 by a speaking order and annexed the same alongwith their written statement. The respondents stated and asserted that there was justifiable reason for not holding the Selection Committee Meeting from 1988 to 1995. Cadre review of the Joint AGMUT Cadre was done in 1995 and adequate number of posts were allotted to the Arunachal Pradesh Unit of the Joint Cadre as a result of the Cadre review. The respondents in support of their stand, at para 5.4 of the written statement, stated that the reason for non-promotion of the applicant to the IFS was already explained, "the vacancy against which the Applicant claims promotion to IFS, unfortunately for him, occurred a few days too late i.e. on 7th April, 1997 instead of before 26th March, 1997."

4. Mr B.K. Sharma, learned Sr. Counsel appearing on behalf of the applicant, submitted that the respondent authority in a most illegal fashion superseded the applicant ignoring his seniority. Mr Sharma referring to the records stated that the applicant was selected for the post of ACF on 30.4.1979 and he joined the post on 2.5.1979, whereas S. Thirunavakarasu was sent to the training long after the applicant joined as ACF on 2.5.1979. Mr B.C. Pathak, learned Addl. C.G.S.C. as well as Mr B. Sinha, learned Government Advocate, Arunachal Pradesh stated that the service of the applicant on and from 2.5.1979 was only a stop gap arrangement and for that he was not entitled for seniority. Mr Sharma, on the other hand, referred to a decision of the High Court as well as the Tribunal finally declaring the inter se seniority among the officers of the State. We are not inclined to go into the controversy since the present application can be decided without going into the said issues. On the face of the materials on record, the vacancy arose on 7.4.1997. According to the respondents the Select List expired on 26.3.1997 after expiry of one year from the date of the meeting of

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Attested
V.S. Sinha
Advocate.

The Selection Committee, which was actually held on 26.3.1996. The respondents stated that unforeseen/fortuitous vacancies that may occur during the period of next twelve months from the commencing of the list were to be filled up from the 'waiting list' part of the Select List, which was subject to a minimum of two and maximum of 20% of the substantive vacancies. The scheme and structure of the rules did not envisage operation of the Select List to fill up vacancies beyond the period for which it was designed which was twelve months commencing from the date of meeting. The sole ground for not considering the case of the applicant for appointment to the All India Service was the late emergence of the vacancy by twelve days.

5. Mr. B.C. Pathak referred to Clause (g) of para 2 of the Regulations 1966 and para 5, more particularly, sub-para 4 of para 7. The IFS (Appointment by Promotion) Regulations, 1966, enclosed to the written statement by the respondents, was the Regulations those were brought in by the IFS (Appointment by Promotion) Second Amendment Regulations, 1997. By the said amendment Clause (g) was added to the definition by inserting the expression "'Year' means the period commencing on the first day of January and ending on the 31st day of December of the same year." The amendment came into force on 1.1.1998 and the same was notified by Notification No.G.S.R.734(E) dated 31.12.1997, published in the Gazette of India, Extraordinary Part II, Section 3(i) dated 31.12.1997. Prior to it Clause (g) was not there in the Regulations. As per the unamended Sub-regulation (4) of Regulation 7 of the Regulations 1966, the Select List was ordinarily to be in force until its review and revision, effected under sub-regulation (4) of Regulation 5, is approved under sub-regulation (1) or, as the case may be, finally approved under sub-regulation (2).

6. In the instant case the Selection Committee met on 26.3.1996 for the post of AGMUT Cadre. The amended rules came into force on 1st day of January 1998. Therefore, the amended rules could not stand in the way of the applicant for consideration of his case against the.....

Attested
W.D.
Advocate.

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the other vacancy, which arose on the death of B.S. Beniwal on 7.4.1997. Sub-regulation (1) of Regulation 5, prior to the second amendment, reads as follows:

"(1) Each Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Forest Service as are held by them to be suitable for promotion to the Service. The number of members of the State Forest Service included in the list shall not be more than twice the number of substantive vacancies anticipated in the course of the period of twelve months, commencing from the date of preparation of the list, in the posts available for them under rule 9 of the Recruitment Rules, or 5 per cent of the senior posts shown against items 1 and 2 of the cadre schedule of each State or group of States, whichever is greater."

As per Sub-regulation (1) of Regulation 5, the number of members of the State Forest Service to be included in the list was to be calculated as the number of substantive vacancies anticipated in the course of the period of twelve months commencing from the date of preparation of the list, in the posts available for them under Rule 9 of the Recruitment Rules or 5% of the senior posts shown against items 1 and 2 of the cadre schedule of each State or Group of States, whichever is greater. The Regulation enjoins that each Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Forest Service as are held by them to be suitable for promotion to the Service. The expression 'ordinarily' means the anticipated vacancies to be considered, i.e. only those vacancies which may occur in twelve months from the date of meeting of the Selection Committee. It did not prevent inclusion of the anticipated vacancies that occur after twelve months from the date of preparation of the Select List and before meeting of the next Selection Committee. The expression 'ordinarily' mentioned in Sub-regulation (1) of Regulation 5 is to be given a meaningful interpretation, keeping in mind the candidates kept in the waiting list to be promoted and to enable the Department to fill up the vacancies which are essential for its administration. Any other interpretation would be counter to the scheme of the Regulations. The view we have taken is in conformity with the view expressed

by.....

Advocate.

by the Hyderabad Bench of the Central Administrative Tribunal in O.A.No.558 of 1997 disposed of on 26.2.1998, reported in 1999(3) SLJ (CAT) 86. In the aforesaid decision, the Hyderabad Bench took aid of the decision rendered by the Supreme Court in Nepal Singh Tanwar vs. Union of India, reported in 1998(1) Scale (SP) 7. In Nepal Singh's case the Supreme Court quashed the order of the Tribunal and upheld the appointment of Shri. Nepal Singh to the All India Service. In the above case the Selection Committee for the year 1991-92 for promotion to the Indian Administrative Service Cadre met on 26.3.1992 and selected eight candidates for appointment to the All India Service against six vacancies. The first six persons were appointed against the six vacancies. Shri N. Singh was appointed on 12.8.1992 against the vacancy which became available by then. The Selection Committee for the next year 1992-93 did not meet till 12.8.1992. The appointment of Shri N. Singh was challenged before the Tribunal on the ground that he could not have been appointed as by then the list had exhausted. The Tribunal quashed the appointment holding that it was mandatory under the rules to prepare the list within one year and with the expiry of one year the previous Select List lapsed. The Supreme Court quashed the order of the Tribunal as erroneous and upheld the appointment of Shri N. Singh on 12.8.1992 even after a lapse of twelve months from the date of the meeting of the Selection Committee. In the instant case also no Select List was prepared till 7.4.1997. In the circumstances it was not justified on the part of the respondents to refuse to consider the case of the applicant for being appointed in the All India Services. For the foregoing reasons the rejection of the claim of the applicant for being appointed to the vacancy that surfaced on 7.4.1997 was not justified and accordingly the order No.22012/81/IFS.II dated 8.10.1999 of the Government of India, Ministry of Environment and Forests, New Delhi could not be sustained.

Affested

W.Sen

Advocate

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7. In the result the application is allowed. The respondents are directed to consider the case of the applicant for appointment to the Indian Forest Service Cadre against the vacancy that arose on the death of B.S. Beniwal on 7.4.1997 and pass necessary orders thereof. The respondents are directed to complete the aforesaid exercise within two months from the date of receipt of the order.

No order as to costs.

sd/ VICE CHAIRMAN

sd/ MEMBER (Adm)

Certified to be true Copy

মুদ্রিত প্রক্রিয়া

W.S. 23/5/2001

Section Officer (U)
রাজ্য পরিষদ (সর্বোচ্চ নির্বাচিত)
Central Administrative Tribunal

গুৱাহাটী মুদ্রিত দফতর
Guwahati Bench, Guwahati-8
মাত্রানির্দিষ্ট, পুস্তক

23/9/2001

প্রক্রিয়া
প্রক্রিয়া
প্রক্রিয়া

~~PROV. 11~~
LIST
REVISED GRADATION OF ASSIST. CONSERVATOR OF FORESTS AS ON 1.1.1983

No.	Name of officials	Designation	Educational qualification	Date of birth	Date of Ist appointment to Govt. service	Date of appointment to the present post.	Remarks
1.	S/Shri B.K. Baruah	ACF	B. Sc.	1.5. 1940	31.3. 1966	31.3. 1966	Resigned w.e.f. 5.11. 84.
2.	" S.E. Choudhury	ACF	Isc, B.A	1.2. 1934	1.4. 1956	6.4. 1976	Inducted into IFS cadre w.e.f. 20.7.1983
3.	" P.K. Sur	ACF	ISC passed	1.2. 1930	4.5. 1954	15.4. 1970	Inducted into IFS cadre w.e.f. 20.7.1983.
4.	" B.S. Baniwal	ACF	B.Sc.	10.6. 1948	3.3. 1974	3.3. 1974	Inducted into IFS Cadre w.e.f 20.7.1983
5.	" K.C. Malakar	ACF	Matriculate	28.2. 1931	8.12. 1951	17.3. 1976	Expired on 5.10.1984
6.	" P.K. Sen	ACF	ISC	1.7. 1942	4.7. 1964	27.2. 1975	Inducted into IFS cadre w.e.f. 20.7.1983
7.	" A.K. Chattarjee	ACF	M.Sc	25.5. 1949	27.2. 1975	27.2. 1975	Inducted into IFS cadre w.e.f. 19.6.84
8.	" M.R. Sarma Roy	ACF	ISC passed	2.4. 1931	30.9. 1951	28.3. 1973	Inducted into IFS cadre w.e.f. 20.7.1983 retired on 30.4.1985
9.	" R. Modi	ACF	B.Sc	1.3. 1947	31.3. 1973	1.5. 1978	Inducted into IFS cadre w.e.f. 29.6.86
10.	" T. Millang	ACF	B.Sc	14.3. 1950	3.3. 1974	1.5. 1978	Retired w.e.f. 31.3.87
11.	" C.C. Deka	ACF	ISC passed	1.4. 1929	1.4. 1950	15.12.1977	Inducted into IFS cadre w.e.f. 12.6.87
12.	" Hamsagar	ACF	B.Sc	26.5. 1951	1.5. 1979	1.5. 1979	Inducted into IFS cadre w.e.f. 12.6.87
13.	" D. Bhattacharya	ACF	B.Sc (Agri)	22.8. 1953	1.5. 1979	1.5. 1979	Inducted into IFS cadre w.e.f. 12.6.87
	" D. Goswami	ACF	DSC (BA)	1.6. 1931	1.4. 1956	15.12.1977	Retired w.e.f. 31.5.88

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Advocate

Contd.

1.	2.	3.	4.	5.	6.	7.	8.
15.	S/Shri K.D. Chowdhury	ACF	ISC passed	1.11. 1935	1.4. 1957	15.12.1977	Promoted as DCF (S&S) w.e. from 1.8. 1987.
16.	" B.C. Sinha,	ACF	Matriculate	28.2. 1930	15.9.1948	15.12. 1977	Retired on 31.7.1988
17.	" R.K. Sengupta,	ACF	ISC passed	12.8.1936	15.12. 1977	Expired on 18.5. 1991	
18.	" S.C. Sarma	ACF	Matriculate	1.3. 1929	15.9.1948	15.12. 1977	Retired on 28.2. 1988
19.	" F. Chakraborty	ACF	Matriculate	29.2. 1934	22.11. 1953	15.12. 1977	
20.	" S.J. Jonason (D)	ACF	B.Sc	3.1. 1955	1.4. 1981	1.4. 1981	1978-1980 S&S course promoted to DCF (S&S) w.e. from 1.8. 1987. (---)
21.	" R.K. Deori, (D)	ACF	B.Sc	1.3. 1959	1.4. 1981	1.4. 1981	1978-80 S&S Course.
22.	" A.K. Bhattacharjee	ACF	Matriculate	1.1. 1935	7.10.1953	10.1. 1979	
23.	" M.K. Palit (D)	ACF	M.Sc	28.2. 1955	6.11. 1981	6.11.1981	
24.	" J.R. Dey (P)	ACF	I.Sc passed	1.2. 1939	1.9. 1960	5.3. 1979	1979-81 (S&S course) (---).
25.	" S. Thirunawukarasu (D)	ACF	B. Sc	4.2. 1954	6.11. 1981	6.11. 1981	
26.	" S.K. Paul (E)	ACF	Matriculate	1.10. 1931	3.6. 1955	11.1. 1979	1979-81 (S&S Course) (---).
27.	" N. Bhattacharjee (P)	ACF	-do-	1.2. 1930	8.10. 1953	1.3. 1979	(Retired) w.e.f. 30.9. 1989
28.	" A.N. Chakraborty (P)	ACF	- do -	1.2. 1930	16.7. 1953	8.1. 1979	(Retired) w.e.f. 29.9. 1984.
29.	" P.R. Deb, (P)	ACF	- do -	1.5. 1929	1.10. 1953	9.1. 1979	(Retired) w.e.f. 31.1. 1988
30.	" S.R. Paniker (F)	ACI	Passed	7.3. 1935	23.9. 1954	9.2. 1979	(Retired) w.e.f. 30.4. 1987.
31.	" S. Chowdhury, (E)	ACF	SSLC				
			I.Sc	1.4. 1940	10.7. 1957	4.6. 1979	

32.	S/Shri L.K. Phukan (P)	ACF	Matriculate	1.7. 1930	13.12.1951	26.6.1979	(Retired)
33.	" M.C. Baruah (P)	ACF	I.Sc passed	31.10. 1941	14.10.1961	2.5. 1979	30.6.88.
34.	" P.K. Chakrabarty (P)	ACF	Matriculate	1.5. 1940	3.7. 1961	21.5. 1979	... expired on 7.3. 1985.
35.	" A.K. Sen (P)	ACF	B. Sc	1.3. 1945	2.4. 1969	29.10.80	
36.	" K. Tailong (D)	ACF	B.Sc	5.2. 1957	31.1. 1982	31.1. 1982	1980-82 (SFS course)
37.	" B.C. Das (P)	ACF	B.Sc	1.8. 1945	1.4. 1970	29.10. 1980	
38.	" K. Fertin (E)	ACF	B. Sc MA (Pre)	7.3. 1958	1. 11. 1982	1. 11. 1982	1980-82 (SFS (Course))
39.	" B.C. Deb (P)	ACF	Matriculate	1.4. 1938	31.1. 1962	30.10.1980	
40.	" Hibu Elu (D)	ACF	B. Sc	27.1. 1957	1. 11. 1982	1. 11. 1982	1980-82 course
41.	" B.K. Dhar, (P)	ACF	Matriculate	1.2. 1932	10.7. 1958	5.1. 1981	(Retired) w.e.f. 31.1.90
42.	" Anand Krishna (I)	ACF	M.Sc	5.7. 1958	26.10. 1983	26.10. 1983	1981-83 SFS course
43.	" T. Sitang (D)	ACF	B.Sc	1.3. 1959	26.10.1983	26.10.1983	- do -

1 - 3 - 4

Attested
W.B.
Advocate.

2001
Contd. 4/-

1.	2.	3.	4.	5.	6.	7.	8.
44. S/ Shri Hiba Dole (D) 9	ACP	B. Sc	28.10. 1957	26.10.1983	26.10. 1983	1981-83 (S.S Course)	()
45. C.K. Namsoom (D) 10	AC	B.Sc	23.4. 1958	26.10. 1983	26.10. 1983	do	
46. Soni Das (D) 11	ACP	B. Sc	7.11. 1959	26.10. 1983	26.10. 1983	do	
47. Dasu Shra (D) 12	AG	B.Sc	1.9. 1959	26.10. 1983	26.10. 1983	do	
48. B. Banerjee (D) 13	ACP	B.Sc	8.2. 1955	26.4. 1980	3.11. 1984	1982-84 (S.S Course)	()

N.B :- P denotes Promotee

D denotes Direct

Memo.No. For. 180/E-2/84/ 33986-592

Copy to :-

1. The Chief Conservator of Forests (W.L, Wasteland & Vigilance) A.F.
2. All Conservator of Forests A.F. Forest Department.
3. The Managing Director, A.F. Forest Corporation Ltd.
4. All Divisional Forest Officers, including Dy. C.W.L.W.
5. File No. Ph. 15/E-2/87/Ft-1.

(J.K. MEHTA)
Principal Chief Conservator of Forests & Secretary (Forests) 26.10.92
Govt. of Arunachal Pradesh

Itanagar.

Dtd. Itanagar,
the 24 Oct/92.

For information & guidance. The above
gradation list may please be brought to
notice of the concerned individuals

Attested
under
Signature

(J.K. MEHTA)
Principal Chief Conservator of Forests & Secretary (Forests)
Arunachal Pradesh :: Itanagar.

PRIORITY

E-mail: upsc@vsnl.net
FAX :011-3385345 / 3782049

FAX

No. 10/22/2002-AIS

UNION PUBLIC SERVICE COMMISSION
DHOLPUR HOUSE, SHAHJAHAN ROAD,
NEW DELHI-11001105th December, 2002

To

The Chief Secretary
Govt. of Arunachal Pradesh
Itanagar

[Kind Attention: Shri S. R. Mehta, Principal Secretary(E&F)]

Subject:-IFS-Selection Committee Meeting for preparation of Select List of SFS officers of Arunachal Pradesh for promotion to IFS of Joint AGMUT Cadre during the years 2000, 2001 and 2002.

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Sir,

I am directed to refer to your letter dated 16.11.2002 regarding preparation of the Select List of 2002 and to say that as per the amended Regulations the Select Lists for the previous years are also required to be prepared along with the current Select List. The Govt. of India, vide their letter dated 20th October, 2001, have determined vacancies in the promotion quota in respect of Arunachal Pradesh Segment for appointment to the IFS of joint AGMUT Cadre for the years 2000 and 2001 as 02 and Nil respectively. The vacancies for the year 2002 have also been determined as 03 vide Govt. of India's letter dated 15th Nov. 2002 (copy enclosed).

2. A revised self contained proposal for preparation of year-wise Select Lists of 2000 and 2002 along with the following information/documents may also be furnished to the Commission immediately.

i) As per the amended Indian Forest Service Promotion Regulations, the Selection Committee would prepare year-wise Select Lists as per the following vacancy position.

Year	Vacancies	Zone of eligible officers
2000	2	6
2001	0	0 (no select list to be prepared)
2002	3	9

The State Govt. is therefore requested to forward separate eligibility lists for each of the years as per the zone indicated above, duly signed by the competent authority.

Attested
W.S. Son
Advocate.

(i) The latest published Seniority List indicating the position as on 01.01.2002 duly authenticated may be furnished.

(ii) The latest certificate regarding the Integrity, communication of adverse remarks, pending disciplinary proceedings (with date of issue of Charge-Sheet to the officer concerned) and the ACR dossiers (other than those available with the Commission) in respect of all the eligible officers may be furnished.

(iii) It is observed that the State Govt. have not furnished the certificate regarding the Integrity in respect of S/Shri Anand Krishna, and Oni Dai. Apparently the State Govt. have withheld their Integrity. A Certificate withholding their Integrity duly signed by the Chief Secretary may kindly be furnished to the Commission.

(iv) Statement of Court cases having a bearing on the Select List.

(v) The statement of major/minor penalties imposed, if any, on the eligible officer during the last 10 years may be sent.

(vi) A copy of Govt. of India's Notification appointing the officers from the Select List of 1999.

3. It is also observed that the State Govt. have included the name of Shri A. K. Sen (DOB-01.03.1945) at Sr. No. 1 in the eligibility list for the year 2002, whereas he is not eligible in terms of Regulation 5(3) of IFS (Appointment by Promotion) Regulations 1966 as he has attained the age of 54 years of age as on 01.03.1999. This name may kindly be excluded from the eligibility list for the year 2002.

4. The above information/ documents may be furnished to the Commission urgently so as to enable them to convene the meeting of the Selection Committee before 31.12.2002.

Yours faithfully,

RS Sinha
(R. S. Sinha)
Under Secretary(AIS)
Union Public Service Commission
Tele: 3381406

File No. 10/22/2002-AIS

New Delhi

December 05, 2002

Copy to the Secretary to the Govt. of India Ministry of Environment and Forest, Paryawaran Bhawan, C. G. O. Complex Lodhi Road, New Delhi. (Kind Attn: Dr. M. Surya Prakash, Director)

RS Sinha
(R. S. Sinha)
Under Secretary(AIS)
Tele: 3381406

Attested
u/s/
Advocate.

DISTRICT :

Central Administrative Tribunal
SUBJAN 2004
मुद्रात्मक सालीय
Gauhati Bench

Filed by the & copies
to, R. Ranvir
Senior Govt. Advocate
Arunachal Pradesh

Debonayagan Bishwanath
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

O.A. NO. 148/2003

IN THE MATTER OF :

O.A. No. 148/2003

Sri Ajit Kumar Sen

...Applicant

-Versus-

The Union of India & Ors

...Respondents

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENT

NOS 3 AND 4/

- 1) That a copy at the Original Application which has been filed before the Central Administrative Tribunal has been registered as O.A. No. 148/2003. A copy of the same have been served upon to the State of Arunachal Pradesh and the Principal Chief Conservator of Forest, Department of Environment & Forest, Arunachal Pradesh being Respondent Nos. 3 and 4.
- 2) That the Respondents have perused the Original Application and have ~~been~~ understood the contents thereof. The deponent has been authorised to verify the written statement and being conversant with the facts and circumstances of the case.

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Debmalya Biswas

3) That all the averments ~~re~~ and submission made in the Original Application(herein after referred as "Application") are denied by the answering Respondents save and~~e~~ except what has been specifically admitted herein and what appears from the records of the case.

4) That as regard the statements made in para 1 of the application, the deponent states that as per Sub Rule 5(2) of the Indian Forest Service (Appointment by promotion) Regulation 1966 an State Forest Service Officer who has rendered 8 years service in the grade & substantive in the post of Assistant Conservator of Forests is eligible for promotion to Indian Forest Service cadre. The applicant was declared confirmed in the post of Assistant Conservator of Forests in State Forest Service w.e.f. 1.6.1999 vide No. For/114/E(A)/89/Pt/30942-31000 dated 20.10.2000. The name of the Applicant was recommended by the State Govt for his induction to Indian Forest Service cadre in the proposal submitted vide No. For/400/E-2/83/Vol-I/17702-04 dated 6.6.2001 and No. For/400/E-2/83/Vol-I/636-38 dtd 10.7.2002 respectively to the Govt of India, Union Public Service Commission, New Delhi. However his date of birth being 1.3.1945, he attained 54 years age as on 1.3.1999 and as such he was not considered eligible for promotion to Indian Forest Service cadre in terms of Regulation 3 of Indian Forest Service (Appointment by promotion) Regulation 1966. Accordingly, the Union Public Service Commission, New Delhi vide letter No.10/22/2002-AIS dated 5.12.2002 directed the State Government to exclude the name of the applicant from the eligibility list for the year 2002. Accordingly name of the applicant was not recommended by the State Govt. while submitting proposal to Union Public

Service Commission, New Delhi vide No. For/400/E-2/83/Vol-I/385-86 dated 18/12/2002 (for the year 2000) and No. For/400/E-2/83/Vol-II/387-88 dated 18/12/2002 (for the year 2002). However, the contention of the petitioner for not convening Departmental Promotion Committee by the Respondents for preparation of select list of suitable officers for promotion to the Indian Forest Service in the AGMUT Joint Cadre is not correct. The Departmental Promotion Committee meeting is convened by the Govt of India, Union Public Service Commission from time to time and Departmental Promotion Committee meeting held on 26.3.1996 and 18.12.99 and 21.12.2002 respectively by the Union Public Service Commission.

Copies of the order dated 20.10.2000, IFS (Appointment by Promotion) Regulations, 1966, Proposal dated 6/6/2001 and 10.7.2002, UPS's letter dated 5.12.2002, Proposals dated 18/12/2002 (for the year 2000) and dated 18/12/2002 (for the year 2002) are enclosed herewith and marked as Annexures-A, B, C, D, E, F and G respectively.

- 5) That as regard the statements made in paragraphs 2, 3, 4 and 4.1 of the application, the deponent states that same are matters of records and the deponent does not admit anything which are contrary to and inconsistent with the same.
- 6) That as regards the statements made in para 4.2. of the application, the deponent has nothing to comment since the statements is based on records. The

Debrajayan Bikram

applicant was initially appointed as Forest Ranger w.e.f. 2.4.1969. During the course of his service in the Department and being an executive officer he was deputed for various training courses in different institutions in the country.

- 7) That as regard the statements made in paragraph 4.3 of the application, the deponent states that same are matter of records and the deponent does not admit anything which are contrary to and inconsistent with the same.
- 8) That as regard the statements made in para 4.4 of the application, the deponent states that on successful completion of a course in the Central Crocodile Breeding and Management Training Institute at Hyderabad and after clearing the examination during 78-79, the applicant was awarded Diploma in Crocodile Breeding and Sanctuary Management.
- 9) That as regard the statements made in para 4.5 of the application, the deponent states that same are matters of records and the deponent does not admit anything which are contrary to and inconsistent with the same.
- 10) That as regard the statements made in paragraph 4.6 of the application, the deponent states that the contention of the petitioner that he was promoted to the post of Assistant Conservator of Forests for his meritorious service in the department w.e.f. 29.10.1980 vide order No. For.233/72/Pt/25,453-505 dated 15.10.80 is not correct. In fact in course of time as per normal procedure and against available vacancy he was promoted to the post of Assistant Conservator of Forests vide order dated 15.10.80 as per recommendation of the Departmental Promotion committee alongwith other eligible officers.

A copy of the order dated 15.10.80
is annexed herewith and marked as
Annexure-H.

11) That as regard the statements made in para 4.7 of the application, the deponent states that same are matter of records and the deponent does not admit anything which are contrary to and inconsistent with the same.

12) That as regard the statements made in para 4.8 of the application, the deponent states that the applicant while holding the post of Forest Ranger was promoted to the post of Assistant Conservator of Forests vide order dated 15.10.80 and he assumed the charge of the post of Assistant Conservator of Forests w.e.f. 29.10.80. As stated in para-1 an State Forest Service Officer becomes eligible for consideration for promotion/induction to Indian Forest Service only on completion of 8 years service in the post of Assistant Conservator of Forests and holding the said post in substantive capacity i.e. confirmed. Though the petitioner completed on 29.10.88 8 years service in the Grade he was not eligible for promotion to Indian Forest Service cadre w.e.f. 29.10.1988 because ~~he~~ he did not fulfil the other condition of being becoming eligible for induction to Indian Forest Service Cadre i.e. not being confirmed in the post of Assistant Conservator of Forests till 1.6.1999 due to ~~failure~~ failure of passing departmental examination, which was conducted by the Department through Arunachal Pradesh Public Service Commission from time to time. He cleared the departmental examination during the month of March/99 and accordingly he was informed to have passed the departmental examination in

Debnarayan Biju

all the subjects vide Notification No. For/10/E(A)/91/19414-95 dated 1.6.99. The case of ~~Applicant~~ Applicant was recommended by the State Govt for his induction to Indian Forest Service cadre during 2001 vide letter No. For/400/E-2/83/Vol-I/17702-04 dated 6.6.2001 & during 2002 vide letter No. For/400/E-2/83/Vol-I/636-38 dated 10.7.2002 and No. For/400/E-2/83/Vol-I/387-86 dated 18.12.2002. But and No. For/400/E-2/83/Vol-I/387-88 dated 18.12.2002, But for his having attained the aged of 54 years as on 1.3.99, his name was dropped from the eligibility list as per UPSC's instructions communicated vide letter dated 5.12.2003.

A copy of the Notification dated 1.6.99 is annexed herewith and marked as Annexure-I.

13) That as regard the statements made in paragraph 4.9 of the application, the deponent ~~✓~~ states that this is concerned with the Govt of India, Ministry of Environment & Forests, New~~De~~ Delhi, However, it may be stated that the Govt of India, Ministry of Environment & Forests, New Delhi/Union Public Service Commission could not convene Departmental Promotion Committee from 1988 to 1996. The Departmental Promotion Committee meeting for promotion of State Forest Service Officer to Indian Forest Service was held during the year 1996 on 26.3.1996. As per select list the following eligible officers who were senior to the Applicant ~~✓~~ as per Revised Gradation List of Assistant Conservator of Forests as on 1.1.83 issued vide No. For/180/E-2/84/21316-364 dated 3-30/7/1998 were promoted to Indian Forest Service cadre vide Govt of India, Ministry of

Environment & Forest's Notification No.32012/1/93/IFS-
I dated 26/9/1996.

1. Shri R. Moddi(ST)
2. Shri S.J.Jongsam(ST)
3. Shri R.K.Deori(ST)
4. Shri Thirunaavukarasu.

It may be added that though the applicant was in the zone of promotion to Indian Forest Service cadre w.e.f. 29-10-88 but because of his failure to pass the Departmental examination and not being substantive in the state Forest Service till 1-6-1999, his name was not recommended by the State Govt for his promotion to Indian Forest Service cadre till 2000. On his being confirmed in the post of ACF w.e.f. 1.6.99, his name was recommended by the State Govt during 2001 & thereafter during 2002.

Copies of the Revised gradation lists dated 3-30/7/1993 and notification dated 26.9.96 are annexed herewith and marked as Annexures J & K respectively.

14) That as regard the statements made in paragraph 4.10 of the application, the deponent state that the Revised Gradation list of Assistant Conservator of Forests as on 1.1.83 was published on 3-30/7/1993 (1993) vide No. For.180/E-2/84/21316-364 dated 30/7/1993. In the said gradation list, his name was under Sl.No.35. It may be stated that as Shri M.C. Baruah was substantive in the State Forest Service and in the zone of eligibility for promotion to Indian Forest Service cadre, his name was

AP
Debmalyan Biswas

Debmoyan Biswas

recommended by the State Govt. for his induction to Indian Forest Service cadre from time to time. His name was also in the select list of 1996-97 as communicated by the Govt. of India, Ministry of Environment & Forests vide No.32012/1/93-IFS-I dated 23-7-1996. However, he could not be promoted during the year 1996 alongwith other selected officers due to non-availability of vacancy. Meanwhile Shri M.C.Boruah being date of birth 30-10-41 and attaining age of superannuation retired from State Forest Service w.e.f. 31-10-1999. Thereafter he filed a case ~~before~~ before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for his promotion to Indian Forest service cadre. The case was numbered as OA No.345/1999. It is fact that as per judgement dtd 21-5-2001 of the Hon'ble Tribunal Shri M.C. Baruah was promoted to Indian Forest Service cadre w.e.f. 10.2.1998 vide Govt of India, Ministry of Environment & Forests Notification No. A-18011/6/99-IFS-I dated 8.8.2001.

Copies of letter dated 23-7-1996, Judgement dated 21-5-2001 and Notification dated 8.8.2001 are annexed herewith and marked as Annexures L, M and N respectively.

15) That as regard the statements made in paragraph 4.11 of the application, the deponent states that the case of applicant is quite different from that of Shri M.C. Baruah. The applicant became substantive in the State Forest Service only w.e.f. 1-6-1999 i.e. from the date he was declared confirmed in the post of Assistant Conservator of Forests (State Forest service)

and have become eligible for induction to Indian Forest Service cadre. But in view of attaining age of 54 years on 1-3-99 he became not eligible for promotion to Indian Forest Service Cadre in terms of Regulation 5(3) of Indian Forest Service (Appointment by promotion) Regulation 1996. Therefore, his prayer for consideration of his promotion to India Forest Service cadre at parity with that of Shri M.C. Baruah is not tenable at all in the instant case.

16) That as regard the statements made in paragraph 4.12 of the application, the deponent states that the name of the applicant was not recommended by the State Govt for his promotion to Indian forests Service cadre, as he was not confirmed in the State Forest Service prior to 1999. In the regard the deponent has fully stated in the paragraphs 4,12,13 and 15 of this affidavit-in-opposition.

17) That as regard the statements made in paragraph 4.13 of the application, the deponent states that same are matter of record and the deponent does not admit anything which are contrary to and inconsistent with the same ~~and the deponent with the same~~ and the deponent has fully stated in this regard in the foregoing paragraphs of this affidavit.

18) That as regard the statements made in paragraph 4.14 of the application, the deponent states that this is connected with the Govt of India, Ministry of Environment and Forests, New Delhi. As regards cadre review it is not a fact ~~that~~ that cadre review was not done from 1988. After

1988, cadre review was done during the year 1995 and 2002.

Copies of the Govt. of India, Ministry of Personnel, P.G. & Pension, New Delhi Notification dated 26.10.95 and notification dated 17.4.2002 are annexed herewith and marked as ANNEXURES O & P respectively.

19) That as regard the statements made in paragraph 4.15 of the application, the deponent states that this is concerned with Govt of India and hence the deponent has nothing to comment against this except which are fully stated in the paragraphs 4, 12, 13, ~~15~~ 14 and 15 of this written statements.

20) That as regard the statements made in paragraph 4.16 of the application, the deponent states that the accumulated vacancy position after 1988 is furnished as under as per available records :

Upto 1996	-	4 vacancies
1997	-	1 vacancy
1998	-	2 vacancies
1999	-	3 vacancies
2000	-	2 vacancies
2001	-	0
2002	-	1 vacancy
2003	-	1 vacancy

21) That as regard the statements made in paragraph 4.17 of the application, the deponent states that same are matter of records and the deponent does not admit

Debmoyan Bikram

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Debrajyan Biswas

anything which are contrary to and inconsistent with the same and states that the Respondent has acted accordingly as per Rule & guiding principles of the Govt of India communicated vide UPSC's letter dated 5.12.2002. Hence the contention of the petitioner that " the respondents have acted illegally not considering his case for promotion" is incorrect and misleading and hence the same are denied by the deponent.

22) That the statements made in paragraph 5.1 of the application are incorrect and misleading and hence the same are denied by the deponent and states that the respondents have acted accordingly as per Rules and in no case legitimate claim of the petitioner was denied and in this regard the deponent has fully stated in the paragraphs 4,12,13,14 and 15 of the written statements.

23) That the statements made in paragraphs 5.2 and 5.3 of the application are incorrect and hence the same are denied by the deponent and states that in this regard the deponent has fully stated in the foregoing paragraphs of this written statements.

24) That as regard the statements made in paragraph 5.4 of the application, the deponent states that this is concerned with the Ministry of Environment & Forests, New Delhi/Union Public Service Commission. This respondents have acted accordingly as per guiding principles communicated vide UPSC's letter dated 5.12.2002 (Annexure-E).

25) That as regard the statements made in paragraph 5.5. of the application, the deponent states that same are

Debmalya Biswas

matter of records and the deponent does not admit anything which are contrary to and inconsistent with the same and states that in this regard the deponent has fully stated in the foregoing paragraphs of this written statement.

26) That the statements made in paragraphs 5.6 of the application are incorrect, vague and misleading and hence the same are denied by the deponent and states that the respondents have acted according to Rules and guiding principles of the Govt of India and in this regard the deponent has fully stated in paragraphs 4, 12, 13, 14 and 15 of the written statement.

27) That as regard the statements made in paragraphs 6, 7 and 8 of the application, the deponent states that same are matter of records and the deponent does not admit anything which are contrary to and inconsistent with the same.

28) That as regard the statements made in paragraph 8.1 of the application, the deponent states that the question of consideration of promotion of the applicant to the Indian Forest Service cadre with retrospective effect from 1988 onwards with all consequential service benefits is not at all tenable as per Rules.

29) That as regard the statements made in paragraphs 8.2 and 8.3 of the application, the deponent states that same are matter of records and the deponent does not admit anything which are contrary to and inconsistent with the same.

2
Debmalyan Biswas

30) That as regard the statements made in paragraph 8.4 of the application, the deponent states that the Applicant is not entitled to any relief what soever and in this regard the deponent has fully stated in the foregoing paragraphs of this written statements.

31) That in view of the facts and circumstances of the case and the relevant provisions of law/Rules and guidelines, the applicant is not entitled to any relief as prayed for and the application is liable to be dismissed.

-Verification-

VERIFICATION

I, Sri Debprayan Biswas, son of late Dindandu Biswas aged about 57 years, presently residing at Itanagar in the District of Papumpare, Arunachal Pradesh and presently serving as ~~Administrative~~ officer in the Department of Environment & Forests, Govt of Arunachal Pradesh, Itanagar do hereby verify and I have been authorised to this affidavit on behalf of respondent No.

The statements made in paragraphs 1, 2, 3, 5 to 9, 22 & 30 are true to my knowledge and belief, those made in paragraphs 4, 10, to 21, — being matters of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material/information in this case.

And I sign this affidavit on this 23rd day of December 2003 at Guwahati.

Debprayan Biswas
SIGNATURE

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF ENVIRONMENT & FORESTS.
ITANAGAR.

O R D E R

The Governor of Arunachal Pradesh is pleased to confirm Shri AK Sen in the post of Asstt. Conservator of Forests in the Department of Environment & Forests, Arunachal Pradesh w.e.f. 1/6/99 against one of the 6(Six) posts converted into permanent vide Govt.'s order No. For. 260/E-2/84/17778-838 dated- 13/5/85.

Sd/- SR Mehta
Principal Secretary (E&F)
Arunachal Pradesh :: Itanagar.

Memo. No. For. 114/E(A)/89/Pt /30,942-31000 Dtd. Ita the Oct/2000

Copy to :-

1. The Accountant General (Accounts), Meghalaya, Mizoram and Arunachal Pradesh, Shillong.
2. The Secretary (POL), Govt of AP, Itanagar.
3. The Director of Information and Public Relations, Govt. of Arunachal Pradesh, Naharlagun for publication of the order in the next issue of the Gazettee.
4. The Chief Conservator of Forests, Wildlife, AP, Itanagar
5. All Conservator of Forests, Arunachal Pradesh.
6. The Director, SFRI, Chimpoo.
7. All Divisional Forest Officers, Arunachal Pradesh.
8. The Principal, AP Forest School, Roing.
9. The Confidential branch of this office.
10. Officer concerned.
11. Personal file of officer concerned.
12. 5(five) spare copies.

Mehta
(SR Mehta)
Principal Secretary (E & F) 20. X. 2000
Arunachal Pradesh :: Itanagar.

INDIAN FOREST SERVICE (APPOINTMENT BY PROMOTION) REGULATIONS, 1966¹

CONTENTS

Reg.	Reg.
1.	1. Short title and commencement.
2.	2. Definitions.
3.	3. Constitution of the Committee to make selection.
4.	4. Omitted
5.	5. Preparation of a list of suitable officers.
	6. Consultation with the Commission.
	7. Select List.
	8. Appointment to cadre posts from the Select List.
	9. Appointments to the Service from Select List.

In pursuance of sub-rule (1) of Rule 8 of the Indian Forest Service (Recruitment) Rules, 1966, the Central Government, in consultation with the State Governments, and the Union Public Service Commission, hereby makes the following regulations, namely :

1. Short title and commencement.—(1) These regulations may be called the Indian Forest Service (Appointment by Promotion) Regulations, 1966.
(2) They shall be deemed to have come into force with effect from the 1st July, 1966.
2. Definitions.—(1) In these regulations unless the context otherwise requires.—
 - (a) 'Cadre Officer' means a member of the Service;
 - (b) 'Cadre post' means any of the post specified as such in the regulations made under sub-rule (1) of Rule 4 the Cadre Rules;
 - (c) 'Cadre Rules' means the Indian Forest Service (Cadre) Rules, 1966;
 - (d) 'Committee' means the Committee set up in accordance with Regulation 3;
 - (e) 'Recruitment Rules' means the Indian Forest Service (Recruitment) Rules, 1966;
 - (f) 'State Government' means—
 - (i) in relation to a State in respect of which a separate cadre of the Service exists, the Government of such State;
 - (ii) in relation to a group of States in respect of which a Joint Cadre of the Service is constituted, the Joint Cadre Authority;

1. Vide MHA Notification No. 2/9/5-AIS (IV), dated 17-11-1965.
Substituted vide DP Notification No. 13/4/71-AIS (I), dated 11-1-1972.

2. ~~of NRSB~~

In exercise of the powers conferred by Section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government after consultation with the State Governments concerned and the Union Public Service Commission hereby makes the following regulations further to amend the Indian Forest Service (Appointment by Promotion) Regulations, 1966, namely :

1. (1) These Regulations may be called the Indian Forest Service (Appointment by Promotion) Second Amendment Regulations, 1997.
(2) They shall come into force on the first day of January, 1998.

(1075)

(III) In relation to the Union Territories, in respect of which a joint cadre of the Service is constituted, the Central Government.

[(g) 'year' means the period commencing on the first day of January and ending on the thirty first day of December of the same year;]

(2) All other words of expressions used in these regulations but not defined shall have the meaning respectively assigned to them in the Recruitment Rules.

3. Constitution of the Committee to make selection.—(1) There shall be constituted for each of the Joint Cadres a Committee consisting of the Chairman of the Commission or where the Chairman is unable to attend, any other members of the Commission representing and the following other members, namely—

(a) For States other than Joint Cadres and Union Territories—

- (i) the Chief Secretary or Additional Chief Secretary;
- (ii) Secretary to the Government dealing with Forests;
- (iii) Chief Conservator of Forest;
- (iv) a senior member of the Service not lower in rank than a Conservator of Forests; and

[(v) a nominee of the Government of India not below the rank of a Joint Secretary.]

[(aa) For Joint Cadre—

- (i) Chief Secretaries to the Governments of the Constituent States;
- (ii) Chief Conservator of Forests of the Constituent States;
- (iii) A nominee of the Government of India not below the rank of Joint Secretary.

(b) For Union Territories:

- (i) Joint Secretary in the Ministry of Home Affairs dealing with Union Territories;
- (ii) Inspector-General of Forests or Dy. Inspector-Central of Forests;
- (iii) Chief Secretary of one of the Union Territories;
- (iv) A senior member of the Service not lower in rank than a Conservator of Forests;

Provided that the Central Government may, if deemed necessary, after consultation with the State Government concerned after the composition of the Committee.

(2) The Chairman or the member of the Commission shall preside at all meetings of the Committee at which he is present.

[(3) The absence of a member other than the Chairman or member of the Commission, shall not invalidate the proceedings of the Committee if more than half of the members of the Committee had attended its meetings.]

1. Subs. by Notification No. GSR 734 (E), dated 31-12-1997.
2. Inserted vide MHA Notification No. S/18/67-AIS (IV), dated 12-3-69.
3. DOP Notification No. 18/1/71 AIS, dated January, 1972.
4. Added vide MHA Notification No. S/18/67-AIS (IV), dated 16-3-68.

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1 F 5 (APP BY PROMOTION) REGULATIONS, 1966

10.17

14. (100) Omitted.

15. **Preparation of a list of suitable officers.** Each Committee shall ordinarily meet every year and prepare a list of such members of the State Forest Service as are held by them to be suitable for promotion to the Service. The number of members of the State Forest Service to be included in the list shall be determined by the Central Government in consultation with the State Government concerned, and shall not exceed the number of substantive vacancies as on the first day of January of the year in which the meeting is held, in the posts available for them under Rule 9 of the recruitment rules. The date and venue of the meeting of the Committee to make the selection shall be determined by the Commission.

Provided that no meeting of the Committee shall be convened when the question shall be prepared when

Provided that no meeting of the Committee shall be held, and no list for the recruitment shall be prepared when:

(a) there are no substantive vacancies as on the first day of January of the year in the posts available for the members of the State Forest Service under Rule 9 of the recruitment rules; or

(b) the Central Government in consultation with the State Government decides that no recruitment shall be made during the year to the substantive vacancies as on the first day of January of the year in the posts available for the members of the State Forest Service under Rule 9 of the recruitment rules; or

(c) the Commission, on its own or on a proposal made by either the Central Government or the State Government after considering the facts and circumstances of each case, decides that it is not practicable to hold a meeting of the Committee to make the selection to prepare a select list.

Explanation.—In the case of joint cadres, a separate Select List shall be prepared in respect of each State Forest Service. (2) The Committee shall consider, for inclusion in the Select List, the following factors:

(2) The Committee shall consider, for inclusion in the said list, the cases of members of the State Forest Service in the order of seniority in that service of a number which is equal to three times the number referred to in sub-regulation (1):

Provided that such restriction shall not apply in respect of a State where the total number of eligible officers is less than three times the maximum permissible size of the Select List and in such a case the Committee shall consider all the eligible officers:

Provided further that in computing the number for inclusion in the field of consideration, the number of officers referred to in sub-regulation (3) shall be excluded:

Provided also that the Committee shall not consider the case of a member of the State Forest Service unless, on the [first] of January of the year in which it meets, he is substantive in the State Forest Service and has completed not less than eight years of continuous service (whether officiating or substantive) in per cent post (s) included in the State Forest Service.

Explanation 1.—The powers of the State Government under the third proviso to this sub-regulation shall be exercised in relation to the members of the State Forest Service of a constituent State, by the Government of that State.

Substituted by Notification No. GSR 734 (E), dated 31-12-1997
Substituted vide DP & AR Notification
Substituted vide Notification No. S9/70-AIS (IV), dated 3-1-1972
Regulation 4 omitted w.e.f. 15-1-1972 vide Notification No. S9/70-AIS (IV), dated 3-1-1972

Subsumed w.e.f. 15-1-1972 vide Notification No. S/9/70-AIS (IV), dated Subsumed by Notification No. GSR 734 (E), dated 31-12-1997.
Subsumed vide DP & AR Notification No. 11039/2/76-AIS (I)-C, dated 20-4-1976 -
Subsumed by Notification No. GSR 734 (E), dated 21-12-1997.

Submited vide DP & AR Notification No 11039/276-AIS (I),
Submited by Notification No. CSR 734 (E), dated 21-12-1999.

RECEIVED 31.12.1997

"Provided also that the officers belonging to any service referred to in item (ii) of Clause (y) of Rule 2 of the recruitment rules, shall not eligible to be considered for promotion to any cadre other than the Union Territories cadre.

"Provided also that in respect of any released Emergency Commissioned or Short Service Commissioned Officers appointed to the State Forest Service, eight years of continuous service as required under the preceding proviso shall be counted from the deemed date of their appointment to that service, subject to the condition that such officers shall be eligible for consideration if they have completed not less than four years of actual continuous service, on the [first day of January] of the year in which the Committee meets, in the post of Assistant Conservator of Forests.

"Explanation II.—In computing the period of continuous service for the purpose of this regulation there shall be included any period during which an officer has undertaken—

(a) training in a diploma course in the Forest Research Institute and Colleges, Dehra Dun; or

(b) such other training as may be approved by the Central Government in consultation with the Commission in any other institution.

"Explanation III.—Service in post (s) included in the State Forest Service would also be included service rendered in ex-cadre posts connected with forestry whether under the Government, or in—

(i) a company, association or body of individuals whether incorporated or not, which is wholly or substantially owned or controlled by Government a municipal or a local body, and

(ii) an international organisation, an autonomous body not controlled by Government or a private body:

Provided that the State Government certified that the officer concerned would have continued to hold a post included in the State Government Service but for his deputation to such ex-cadre post.

(3) The Committee shall not [••••] consider the case of the members of the State Forest Service who have attained the age of [54] years on the first day of January of the year in which it meets :

"Provided that a member of the State Forest Service whose name appears in the Select List in force immediately before the date of the meeting of the Committee and who has not been appointed to the Service only because he was included provisionally in the Select List shall be considered for inclusion in the fresh list to be prepared by the Committee, even if he has in the meanwhile, attained the age of fifty-four years."

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

1 Inserted vide DP and AR Notification No. 11039/2/76-AIS (I)-C, dated 1-6-1978.

2 Inserted vide DP & AR Notification No. 11039/2/76-AIS (I)-B, dated 3-10-1977, effective from 20-4-1976.

3 Substituted by Notification No. GSR 734 (E), dated 31-12-1997.

4 Inserted vide DP & AR Notification No. 11039/2/76-AIS (I)-B, dated 3-10-1977, effective from 20-4-1976

5 Added vide Notification No. 16021/2/77-AIS (IV), dated 19-4-1978 effective from 1-7-1966.

6 Deleted vide Notification No. 28013/20/76-AIS (I)-C, dated 5-10-1979.

7 Substituted/added vide Notification No. GSR 734(E), dated 31-12-1997.

8 Substituted/added vide Notification No. GSR 734(E), dated 31-12-1997.

9 Substituted/added vide Notification No. 28013/20/76-AIS (I)-C, dated 5-10-1979.

I.P. (APP. BY PROMOTION) REGULATIONS, 1966

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

(3-A) The Committee shall not consider the case of such member of the State Forest Service who had been included in an earlier Select List and—

(a) had expressed his unwillingness for appointment to the service under Regulation 9;

Provided that he shall be considered for inclusion in the Select List, if before the commencement of the year, he applies in writing to the State Government expressing his willingness to be considered for appointment to the Service;

(b) was not appointed to the Service by the Central Government under Regulation 10.]

(3-AA) The Selection Committee shall classify the eligible officer as 'Outstanding', 'Very Good', 'Good' or 'Unfit' as the case may be, on all relative assessment of their service records.

(4) The list shall be prepared by including the required number of names, first from amongst the officers finally classified as 'Outstanding' than from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names *inter se* within each category shall be in the order of their seniority in the State Forest Service :

[Provided that the name of any officer so included in the list, shall be treated as provisional, if the State Government withholds the integrity certificate in respect of such officer or any proceedings are contemplated or pending against him or anything adverse against him has come to the notice of the State Government].

(5) [The list so prepared shall be reviewed and revised every year. Consultation with the Commission.—The list prepared in accordance with Regulation 5 shall then be forwarded to the Commission by the State Government along with—

(i) the records of all members of the State Forest Service included in the list;

(ii) the records of all members of the State Forest Service who are proposed to be superseded by the recommendations made in the list;

(iii) the observations of the State Government on the recommendations of the Committee.

[6-A] The State Government shall also forward copy of the list referred to in Regulation 6 to the Central Government and the Central Government shall send their observation on the recommendations of the Committee to the Commission].

~~6-B. Select List.~~ (1) The Commission shall consider the list prepared by the Committee along with—

(a) the documents received from the State Government under Regulation 6;

1. Inserted by Notification No. GSR 734 (E), dated 31-12-1997.

2. Substituted vide DP & AR Notification No. 11039/476-AIS (V), dated 3-6-1977 and Re-numbered as

3-AA vide Notification No. 734(E), dated 31-12-1997.

4. Inserted by Notification No. GSR 704 (E), dated 28-11-1991.

5. Omitted by Notification No. GSR 734 (E), dated 31-12-1997.

6. Deleted vide Notification No. 11039/379-AIS (I)-C, dated 2-6-1979 G.I. Notification No. 817, dated 2-6-1979.

7. Inserted by Notification No. 14015/16/91-AIS (I), dated 28-11-1991.

8. Substituted by *Ibid*.

(b) the observation of the Central Government and unless it considers any of them necessary, approve the list.]

(2) If the Commission considers it necessary to make any changes in the list received from the State Government, the Commission shall inform the State Government and the Central Government of the changes proposed and after taking into account the comments, if any, of the State Government and the Central Government may approve the list finally with such modification, if any, as may, in its opinion, be just and proper.

(3) The list as finally approved by the Commission shall form the list of the members of the State Forest Service.

²(4) The Select List shall remain in force till the 31st day of December of the year in which the meeting of the Selection Committee was held with a view to prepare the list under sub-regulation (1) of Regulation 5 or up to sixty days from the date of approval of the Select List by the Commission under sub-regulation (1) or, as the case may be, finally approved under sub-regulation (2), whichever is later.

Provided that where the State Government has forwarded the proposal to declare a provisionally included officer in the Select List as 'unconditional' to the Commission during the period when the Select List was in force, the Commission shall decide the matter within a period of ninety days or before the date of meeting of the next Selection Committee, whichever is earlier and if the Commission declares the inclusion of the provisionally included officer in the Select List as 'unconditional' and final, the appointment of the concerned officer shall be considered by the Central Government under Regulation 9 and such appointment shall not be invalid merely for the reason that it was made after the Select List ceased to be in force.

Provided further that in the event of any new service or services being formed by enlarging the existing State Forest Service or otherwise, being approved by the State Government as the State Forest Service under clause (1) of sub-rule (g) of Rule 2 of the Indian Forest Service (Recruitment) Rules, 1966, the Select List, in force at the time of such approval shall continue to be in force until a new list prepared under Regulation 5 in respect of the members of the new State Forest Service, is approved under sub-regulation (1), or, as the case may be, finally approved under sub-regulation (2).]

(5) [.]

8. [.]

1. Sub. by Notification No. GSR 734 (B), dated 31-12-1997.

2. Sub. by Notification No. GSR 734 (B), dated 31-12-1997.

3. Inserted vide Notification No. 16019/1/76-AIS-A, dated 8-11-1978 and omitted by GSR 734 (B), dated 31-12-1997 and omitted sub-regulation (5) was as follows:—

(5) Every person included in the Select List who has not attained the age of 52 years on the date on which Select List is finally approved by the Commission shall undergo such training at the Baba Bander Shastry National Academy of Administration, the Forest Research Institute and Colleges, the State Training Institutions and other established training institutions in the country and for such period as the Central Government may consider necessary.

4. Inserted vide DP & AR Notification No. 11039/6/75-AIS (1), dated 30-9-1976, effective from 16-10-1976. Now omitted by Notification No. GSR 734 (B), dated 31-12-1997, was as follows:—

(2) Appointments to cadre posts from the Select List. (1) Appointments of members of the State Forest Service from the Select List to post borne on the State Cadre or the joint cadre of a group of State as the case may be, shall be made in accordance with the provisions of Rule 9 of the Cadre Rules. In making such appointments, the State Government shall follow the order in which the names of such officers appears in the Select List.

FOR.400/B-2/83/Vol-I/17,702-a, Dtd. Ita. 6th June/2001

ANNEXURE :-

The Secretary
Union Public Service Commission,
Sholpur House, Shahjahan Road,
New Delhi - 110 011

Sub:- Preparation of select list for promotion to the Indian Forest Service against Arunachal segment IFS (AGMUT) Cadre for the year 2001- submission of materials thereof.

Sir,

I am to refer your letter DO No. 4/1/2001-AIS dated-
4/4/2001 on the above subject and to forward herewith
requisite information in respect of the following eligible
State Forest Service Officers for consideration of their
induction to IF Cadre -

1. Shri AK Sen
2. Shri K. Pertin
3. Shri Anand Krishna
4. Shri T. Sitang
5. Shri Hibu Dole
6. Shri CK Namsoom
7. Shri Chai Dai
8. Shri Dusu Shra
9. Shri B. Banerjee

Following documents in respect of the above officers
are enclosed herewith.

1. Seniority list giving particulars of all S.I. officers who are eligible for consideration for promotion to IFS along with a gradation list are enclosed as Annexure- I and II.
2. Eligibility list of officers showing particulars of date of appointment, confirmation, date of birth, information regarding SC/ST/Others and other required information is enclosed herewith as Annexure- III.
3. Vigilance Clearance certificate in respect of the following officers as recommended for consideration (Annexure-IV & V).

1. Shri AK Ben
2. Shri K. Pertin
3. Shri T. Sitang
4. Shri CK Narsoom
5. Shri D. Shra
6. Shri B. Banerjee

The Vigilance clearance in respect of remaining officers is not certified.

4. Integrity certificate in respect of the following officers as recommended for promotion (Annexure-VI and VII).

1. Shri AK Sen
2. Shri T. Sitang
3. Shri CK Namsoom
4. Shri J. Shra
5. Shri B. Banerjee

Though the Vigilance Clearance has been issued in respect of Shri K. Pertin by the Vigilance Department of Govt. of Arunachal Pradesh vide No. Vig.03/2001 dated- 18/4/2001 but his integrity has not been certified due to issuance of a charge sheet against Shri K. Pertin vide Memo. No. For. 88-I/34/98/1931-33 dated- 18/12/2000 for large scale illegal felling in Deomali for 11 days during his tenure from 16/8/91 to 19/10/96.

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11/4/11
The integrity in respect of the following
officers is also guaranteed.

1. Shri Anand Krishna
2. Shri Hiba Dole
3. Shri Oni Dai

5. Statement showing the number of existing and anticipated vacancies (Annexure- VIII).

However, the vacancies to be filled up against promotion quota of Arunachal Pradesh segment will be confirmed by the Govt. of India, Ministry of Environment & Forests, New Delhi.

6. Statement showing the officer who are over 54 years (Annexure- IX).

7. List of upto date confidential reports of all the eligible officers along with original ACRs (Annexure-X).

8. Certificate in respect of eligible officers against whom no adverse entries recorded in the ACRs (Annexure-XII).

9. Statement showing the stage/position of communication of adverse remarks/action thereof (Annexure- XII).

10. Certificate regarding representation against adverse entries and Govt. decision thereof (Annexure- XIII).

11. Certificate of adverse entries in the ACRs but no representation received (Annexure- XIV).

12. List of officers against whom disciplinary proceedings are pending/contemplated. (Annexure- XV).

Enclo : As above in triplicate along with ACRs in original.

Yours faithfully,

Mr. D. K. Kalita 5/6/01

(Mr. Kalita)
Principal CCP & Principal Secretary (E&F)
Arunachal Pradesh :: Itanagar.

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Copy to-

1. The Secretary to the Govt. of India, Ministry of Envt. & Forests, Parivaran Bhawan, CGO Complex, Lodi Road, New Delhi- 110 003 along with the copies of all the above statements for information please. The Ministry is requested to determine the number of vacancies to be filled up against the promotion quota of Ar. Pradesh segment and intimate to the Indian Public Service Commission for needful action. While determining the vacancy position, the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati's judgement dated 21/5/2001 on OA No. 345/1999 - Shri MC Baruah Vs. Union of India and others may also be taken into consideration.

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Contd. P/3.

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GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF ENVIRONMENT & FORESTS
ITANAGAR

ANNEXURE I

NO. ROR.400/E-2/83/Vol-I/ 636-38

Dtd: Itanagar the 10/7/2002

To

Secretary,
Union Public Service Commission,
Bholpur House, Shahjahan Road,
New Delhi - 110 011

Sub: Preparation of Select list for promotion to the Indian Forest Service against Arunachal Pradesh segment IFS (AGMUD) Cadre for the year 2002- Submission of documents thereof.

Sir

I am to refer your letter D.O. NO. 42/2002 A/S dtd 29/05/2002 in the above subject and to forward herewith requisite information in respect of the following eligible State Forest Service Officers for consideration of their promotion to IFS Cadre.

1. Shri A.K. Sen
2. Shri K. Pertin
3. Shri Anand Kason
4. Shri T. Silang
5. Shri Hibu Dole
6. Shri C.K. Namsoom
7. Shri Oni Dai
8. Shri Dusu Shra
9. Shri Bivash Banerjee

Following documents in respect of above mentioned officers are enclosed herewith.

1. Seniority list giving particulars of all SFS officers who are eligible for consideration for promotion to IFS along with a gradation list are enclosed as Annexure - I & II.
2. Eligibility list of officers showing particulars of date of appointment, confirmation, date of birth, information regarding SC/ST/ Others and other required information is enclosed herewith as Annexure - III.
3. Vigilance clearance certificate in respect of the following officers are enclosed as Annexure - IV.

1. Shri A.K. Sen
2. Shri T. Silang
3. Shri Hibu Dole
4. Shri C.K. Namsoom
5. Shri Dusu Shra
6. Shri Bivash Banerjee

-2-

As per the statement of the name of Shri K. Perin was included in the select list by the Vigilance Committee in its meeting held on 18.12.99 subject to grant of Integrity Certificate by the State Govt. as communicated vide Govt. of India, Ministry of Env. & Forests, Order No. 10/2000/Min/Env/Int/10/2000 dated 29.06.2000. Forests (Vigilance) Notification dated vide NO. 3/2012/193-IF3-1(PT) dt. 04.07.2002. However, the State Govt. could not issue vigilance clearance in respect of the officer and verify his integrity, since a departmental case was pending against him. Now, the integrity certificate is being obtained from the authorities concerned and he has been exonerated from departmental case against Shri K. Perin has been finalized and he has been exonerated from the charges framed against him vide order NO. FOR/CC/13198/P/527-30 dt. 04.07.2002 (copy enclosed as Annexure - V).

However, the vigilance clearance and integrity certificate in respect of Shri K. Perin are being obtained from the authorities concerned, and will follow.

The Vigilance Clearance in respect two remaining officers namely (1) Shri Vaani Prakash and (2) Shri M. D. have not yet been issued.

4. Integrity certificate in respect of the following officers is enclosed as Annexure - VI.

1. Shri A. K. Rao
2. Shri P. S. Mehta
3. Shri H. B. Patel
4. Shri C. J. Misraoom
5. Shri D. S. Bhattacharya
6. Shri B. Banerjee

As stated above, the integrity certificate in respect of Shri K. Perin will follow.

The integrity of the following two officers has also not been certified.

1. Shri Vaani Prakash
2. Shri M. D.

5. Statement showing the number of existing and anticipated vacancies under promotion quota is enclosed as Annexure - VII.

However, the vacancies to be filled up against promotion quota of Arunachal Pradesh segment shall be confirmed by the Govt. of India, Ministry of Env. & Forests, New Delhi.

6. Statement showing the officers who are over 54 year is enclosed as Annexure - VIII.

7. List of upto date confidential Reports of all the eligible officers alongwith original ACPs is annexed as Annexure - IX.

8. Certificate in respect of eligible officers against whom no adverse entries recorded in the ACPs is enclosed as Annexure - X.

9. Statement regarding the stage / position of communication of adverse remarks/ action taken on the record is enclosed as Annexure - XI.

10. Certificate regarding representation against adverse entries and Govt. decision thereof is enclosed as Annexure - XII.

-3-

11. Certificate of adverse entries in the ACRs but no representation received against which is enclosed as Annexure - XIII.
12. List of officers against whom disciplinary proceedings are pending/ contemplated is annexed as Annexure - XIV.

Enclosures: As above in triplicate
alongwith ACRs in original.

Yours faithfully,

S.R. Mehta
(S.R. Mehta)
Principal Secretary (E & E)
ITANAGAR

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Copy to:

Speed Post

The Secretary to the Govt. of India, Ministry of Env. & Forests, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi 110 003 along with the copies of all the above statements for information please. The Minister is requested to determine the number of vacancies to be filled up against the promotion quota of Arunachal Pradesh segment of the AGMUT Cadre and intiate the same to the Union Public Service Commission for needful action.

The Secretary, Personnel/ Administrative reforms and Training, Govt. of Arunachal Pradesh, Itanagar for favour of information.

S.R. Mehta
(S.R. Mehta)
Principal Secretary (E & E)
ITANAGAR

E-mail: upsc@vsnl.net
FAX :011-3385345 / 3782049

PRIORITY

FAX

No. 10/22/2002-AIS

UNION PUBLIC SERVICE COMMISSION
DHOLPUR HOUSE, SHAHJAHAN ROAD,
NEW DELHI-110011

05th December, 2002

To

The Chief Secretary
Govt. of Arunachal Pradesh
Itanagar

[Kind Attention: Shri S. R. Mehta, Principal Secretary(E&F)]

Subject:-IFS-Selection Committee Meeting for preparation of Select List of SFS officers of Arunachal Pradesh for promotion to IFS of Joint AGMUT Cadre during the years 2000, 2001 and 2002.

Sir,

I am directed to refer to your letter dated 16.11.2002 regarding preparation of the Select List of 2002 and to say that as per the amended Regulations the Select Lists for the previous years are also required to be prepared along with the current Select List. The Govt. of India, vide their letter dated 20th October, 2001, have determined vacancies in the promotion quota in respect of Arunachal Pradesh Segment for appointment to the IFS of Joint AGMUT Cadre for the years 2000 and 2001 as 02 and Nil respectively. The vacancies for the year 2002 have also been determined as 03 vide Govt. of India's letter dated 15th Nov. 2002 (copy enclosed).

2. A revised self contained proposal for preparation of year-wise Select Lists of 2000 and 2002 along with the following information/documents may also be furnished to the Commission immediately.

i) As per the amended Indian Forest Service Promotion Regulations, the Selection Committee would prepare year-wise Select Lists as per the following vacancy position.

Year	Vacancies	Zone of eligible officers
2000	2	6
2001	0	0 (no select list to be prepared)
2002	3	9

The State Govt. is therefore requested to forward separate eligibility lists for each of the years as per the zone indicated above, duly signed by the competent authority.

ii) The latest published Seniority List indicating the position as on 01.01.2002 duly authenticated may be furnished.

iii) The latest certificate regarding the Integrity, communication of adverse remarks, pending disciplinary proceedings (with date of issue of Charge-Sheet to the officer concerned) and the ACR dossiers (other than those available with the Commission) in respect of all the eligible officers may be furnished.

iv) It is observed that the State Govt. have not furnished the certificate regarding the Integrity in respect of S/Shri Anand Krishna, and Oni Dai. Apparently the State Govt. have withheld their Integrity. A Certificate withholding their Integrity duly signed by the Chief Secretary may kindly be furnished to the Commission.

v) Statement of Court cases having a bearing on the Select List.

vi) The statement of major/minor penalties imposed, if any, on the eligible officer during the last 10 years may be sent.

vii) A copy of Govt. of India's Notification appointing the officers from the Select List of 1999.

3. It is also observed that the State Govt. have included the name of Shri A. K. Sen (DOB-01.03.1945) at Sr. No. 1 in the eligibility list for the year 2002, whereas he is not eligible in terms of Regulation 5(3) of IFS (Appointment by Promotion) Regulations, 1966 as he has attained the age of 54 years of age as on 01.03.1999. This name may kindly be excluded from the eligibility list for the year 2002.

4. The above information/ documents may be furnished to the Commission urgently so as to enable them to convene the meeting of the Selection Committee before 31.12.2002.

Yours faithfully,

RSS
(R. S. Sinha)
Under Secretary(AIS)
Union Public Service Commission
Tele: 3381406

File No. 10/22/2002-AIS.

New Delhi

December 05, 2002

Copy to the Secretary to the Govt. of India Ministry of Environment and Forest, Paryavaran Bhawan, C. G. O. Complex Lodhi Road, New Delhi. (Kind Attn: Dr. M. Surya Prakash, Director)

RSS
(R. S. Sinha)
Under Secretary(AIS)
Tele: 3381406

Send through a/c
Ho/Officer, A/c
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GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF ENVIRONMENT & FORESTS
ITANAGAR

No. For 400-F-2 83/Vol-I/38/26

Dated Itanagar, the 18th Dec 2002

To

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

Sub:-

Preparation of select list for promotion to the Indian Forest Service against
Arunachal Pradesh segment IFS (AGMUT) cadre for the year 2000
submission of documents thereof.

Sir,

I am to refer to your letter No.10/22/2002-AIS dt'd 5-12-2002 on the above
subject & forward herewith requisite information in respect of the following eligible State Forest
Service officers for consideration of promotion to IFS cadre.

- 1) Sri K. Pertin
- 2) Sri Anand Krishna
- 3) Sri T. Sitang Eko
- 4) Sri Hibu Dole
- 5) Sri C.K. Namsoom
- 6) Sri Oni Dai

The name of Sri P.K.Sen, State Forest Service officer whose date of birth is
1-3-45 has not been included in the eligibility list for the year 2000 since he has attained age of
54 years as on 1-3-99 in accordance with your instruction communicated vide item no. 3 of the
above letter.

The following documents in respect of the above-mentioned officers are enclosed
herewith.

- 1) Seniority list giving particulars of all APFS officers who are eligible for consideration to
IFS alongwith gradation list (as on 1-1-2000) are enclosed as Annexure-I & II
- 2) Eligibility list of officer showing particulars of date of appointment, confirmation, date
of birth information regarding SC/ST/Others and others required information is enclosed
as Annexure-III
- 3) The vigilance clearance report in respect of the following officer is enclosed
1) Sri T. Sitang Eko - (Annexure-IV)

(2m)

-2-

During the period 1998-2000, the following officers were not cleared from vigilance angle due to legal proceedings were pending/contemplated against them as under.

Sl. No.	Name of officer	Position in 1998	Position in 2002
		Position in 1999	Position in 2002
1	Sri. J. J. Iibu DCI	As per clause 27 of the Hon'ble Supreme Court of India's order dt 15-1-98, he has been charged sheeted vide Memo No. FOR/1998/81931-35 dt 18-12-2000 for his failure to detect and prevent illegal felling of trees under Deomali Forest Division.	He has been exonerated from the charges framed against him vide order No.FOR/1998/81931-35 dt 30-12-2002. He is now cleared from vigilance angle as per Vigilance clearance report issued vide No.Vig-03/2001 dt 29-7-02. His integrity has also been certified by the Chief Secretary vide letter issued under No.PERS/AIS-39/99 dt 23-7-02(Copies enclosed as Annexure V(a), V(b), & V(c))
2	Sri. Chand Kuchhra ACI	As per clause 27 of the Hon'ble Supreme Court of India's order at 15-1-98, he has been charged sheeted vide CF, EAC, No.FAC/DS/86/2000/6154 dt 8-3-2001 for significant illegal felling in Dibang Forest Division during his tenure from 14-5-96 to 17-5-97.	The charges framed against him has been dropped vide CF, EAC, Tezu's order No.FAC/DSC/86/2000/180-201 dt 23-10-2002. He is now cleared from Vigilance Angle as per Vigilance clearance report issued vide No.VIG-06/2002/27-11-2002. His integrity has also been certified by the Chief Secretary vide letter issued under No.PERS/AIS-39/99 dt 11-12-2002(Copies enclosed as Annexure VI(a), VI(b) & VI(c))
3	Sri. J. J. Iibu DAs ACI	As per clause 27 of the Hon'ble Supreme Court of India's order No. dt. 15-1-98, he has been charged sheeted vide CF, SAC CON/120/2000/235-38 dt. 23-1-2001 for significant illegal felling detected in Ichora Forest Division during his tenure from 16-3-95 to 13-4-98.	He has been exonerated from the charges framed against him vide order No.SAC CON/120/2K/6364-70 dt 12-2-02. He is now cleared from Vigilance angle vide Vigilance clearance report issued vide No.VIG-29/2000 dt 5-3-2002. His integrity has also been certified by the Chief Secretary vide letter issued under No.PERS/AIS-39/99 dt 20-3-2002(Copies enclosed as Annexure VII(a), VII(b) & VII(c))

-3-

	Sri C.K.Namsoom	As per clause 27 of the Hon'ble Supreme Court of India's order No. dt 15-1-98 show cause notice was issued against him on 8-5-98 for illegal felling of Timbers.	As the quantity of illegal timber was below the norms fixed by APFPA, the case closed on 26-3-2001 without issuing chargesheet. He is <u>not</u> cleared from Vigilance angle vide Vigilance clearance report issued under No.Vig-29/2000 dt 5-3-2002 & his integrity has also been certified by the Chief Secretary vide letter issued under No.PERS/AIS-39/99/400 dt 13-5-2002(copies of vigilance clearance & integrity certificate are enclosed as Annexure VII(b) & VII(c) as mentioned above)
5	Sri Oni Dai ACF	In a departmental case of issuing excess tree permit than the quota allotted by the Govt. & for mis using of official power, he has been awarded penalties of reduction of lower stage from Rs 9500/- to 8900/- in the time scale of pay Rs. 6500-200-10,500/- p.m for a period of 3(three) years w.e.f. from 1-5-2000 vide order No.For.CC-1/12/97/613-616 dtd 20-4-2000	Penalty imposed on 20-4-2000. The officer is not yet cleared from vigilance angle as per Vigilance clearance report dated 5-3-2002 enclosed as Annexure VII(b)

4) The integrity certificate in respect of the following officers are enclosed:

- 1) Sri K.Pertin (Annexure-V (c))
- 2) Sri Anand Krishna (Annexure-VI(c))
- 3) Sri T.Sitang Eko (Annexure-VIII)
- 4) Sri Hibu Dole (Annexure-VII(c))
- 5) Sri C.K.Namsoom (Annexure-VII(c))

The certificate of withholding the integrity in respect of Shri Oni Dai, ACF, will follow.

5) Statement showing number of existing and anticipated vacancies under promotion quota is enclosed as Annexure-IX

6) List of upto-date confidential report of all the eligible officers alongwith original ACR is enclosed as Annexure-X

7) Certificate in respect of eligible officers against whom no adverse entries recorded in the ACRs is enclosed as Annexure-XI

8) Statement showing the stage/position of communication of adverse remarks/action taken there of is enclosed as Annexure-XII

9) Certificate regarding representation against adverse entries and Govt's decision thereof is enclosed as Annexure-XIII

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10) Certificate of adverse entries in the ACKs but no representation received against which is enclosed as Annexure-XIV

11) List of officers against whom disciplinary Proceedings are pending/contemplated as Annexure-XV & XVI

12) As regards statement of Court case having bearing on the select list

In this connection, it is certified that there is no stay order of any Court prohibiting the appointment by promotion in the AGMUT cadre of the Indian Forest Service concerning the Govt. of Arunachal Pradesh. However, it may be stated that Sri A.K.Sen, ACF who is senior to Sri B.C.Das and Sri K.Pertin in the post of ACF (SFS) but was not confirmed in the post of ACF and whose name has not been recommended for promotion/induction to IFS cadre has filed a writ petition No.WP(c) No.2112/2000 in the Guwahati High Court, Itanagar Permanent Bench, Naharlagun for his Seniority, Promotion to the post of DCF(SFS), confirmation to the post of DCF, fixation of the inter-se-seniority in the post of DCF(SFS) above Sri B.C.Das and Sri K.Pertin, DCFs and his nomination to Indian Forest Service. The counter affidavit filed and judgement is awaited.

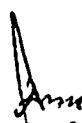
Further, there is another case W.A.No.36/2000 on Civil Rule No.455/93 No.15/93 filed by Sri R.K.Deori, IFS, DCF in the Hon'ble Gauhati High Court wherein a interim order dt 26-9-2000 (copy enclosed as Annexure-XVII) though Hon'ble Court has not given any stay and has stated that the promotion of the respondent No.3, Sri B.C.Das, DCF if made during pendency of the writ appeal the same would be subject to the result of the writ appeal

13) The statement of major/minors penalties imposed on the eligible officer during last ten years is enclosed as Annexure-XVIII

14) A copy of the Govt. of India, Ministry of Environment & Forests, New Delhi's Notification No.A.32012/1/93/IFS-I dt. 23-11-2000 is enclosed as Annexure-XIX

Enclo: A/A

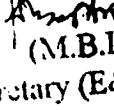
Yours faithfully,


(M.B.I.A.)
Special Secretary (E&F)

Confidential

Copy to:-

1) The Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O Complex, Lodi Road, New Delhi-110-003 alongwith the copies of the above statement for information please. (Attention Dr. M.Surya Prakash, Director)


(M.B.I.A.)
Special Secretary (E&F)

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sent through on 5.11.2002

SPRT

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GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF EMPLOYMENT & FOREST
ITANAGAR

No.FOR.40041-2/83/Vol-1/387-88

Dated Itanagar, the 18th Dec 2002

To

The Secretary, Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi-110 011

Sub:- Preparation of select List for promotion to the Indian Forest Service against Arunachal Pradesh segment IRS (AGM/19) cadre for the year 2002- submission of documents thereof

Sir,

I am to refer to your letter No.10/22/2002-AIS dt 5-12-2002 on the above subject and to forward herewith requisite information in respect of the following eligible State Forest Service officers for consideration of promotion to IFS cadre.

- 1) Sri K.Pertin
- 2) Sri Anand Krishna
- 3) Sri T.Sitang Eko
- 4) Sri Hibu Dole
- 5) Sri C.K.Namsoom
- 6) Sri Oni Dai
- 7) Sri Dusu Shra
- 8) Sri Bivash Banerjee

The name of Sri A.K.Sen, State Forest Service Officer, whose date of birth is 1-3-45 has not been included in the eligibility list for year 2002, as per the attained age of 54 years as on 1-3-99 in accordance with your instruction communicated in item No.3 of the above letter.

The following document in respect of the above-mentioned officers are enclosed herewith.

- 1) Seniority list giving particulars of all APFS officers who are eligible for consideration to IFS alongwith gradation list as on 1-1-2001 (Annexure-I)
- 2) Eligibility list of officers showing particulars of date of birth, confirmation date of birth, information regarding SC/ST/other and other relevant information is enclosed as Annexure-II.
- 3) Vigilance clearance certificate in respect of the following officers are enclosed as Annexure-IV (a); IV (b) & IV(c).

- 1) Sri K.Pertin
- 2) Sri Anand Krishna
- 3) Sri T.Sitang Eko
- 4) Sri Hibu Dole
- 5) Sri C.K.Namsoom
- 6) Sri Oni Dai (not cleared)
- 7) Sri Dusu Shra
- 8) Sri Bivash Banerjee.

Vigilance clearance in respect of Sri Oni Dai has not been issued.

4) Integrity certificate in respect of the following officer are enclosed as Annexure - V(a), V(b) & V(c)

1) Sri K. Pertin (Va)
 2) Sri Anand Krishna (Vb)
 3) Sri T. Sitang Eko
 4) Sri Hibu Dole } (Vc)
 5) Sri C.K. Namsoom
 6) Sri Dusu Shra
 7) Sri Bivash Banerjee

The integrity of Sri Oni Dai has not been certified. A certificate withholding the integrity in respect of Sri Oni Dai duly signed by the Chief Secretary will follow.

It may be mentioned that although the Vigilance Clearance & integrity certificate in respect of following officers have been obtained, the Departmental cases initiated against them have been finalised in the years 2002 as mentioned below.

Sl. No	Name of officer	No. & date of issuing Charge sheet	No. & date of Finalisation of Departmental cases	Remarks
1	Sri K. Pertin, DCF	No.FOR/CC-I/34/98/ 1931-35 dt 18-12-2000	No.FOR/CCI/34/98/P/1/527- 30 dt 4-7-02	Exonerated from the charges.
2	Sri Anand Krishna, ACF	CF, EAC's No.EAC/DSC/86/2000/61 dt 8-3-2001	No.EAC/DSC/86/2000/180- 201 dt 23-10-2002	Exonerated from the charges.
3	Sri Hibu Dole, ACF	CF, SAC's No.SAC/CON/120/2K/23 5-38 dt 23-1-2001	No.SAC/CON/120/2K/6364- 70 dt 12-2-02	Exonerated from the charges.

5) Statement showing number of existing and anticipated vacancies under promotion quota is enclosed as Annexure- VI

As regards vacancy position, it may be stated that in total there are 3 (three) vacancies against promotion quota in respect of this State as on 1-1-2002 out of 3 (three), if 2 (two) vacancies filled up against the vacancies of 2000 then only 1 (one) vacancy will remain for 2002.

6) List of upto date confidential report of all the eligible officer alongwith original ACR is enclosed as Annexure- VII (ACRs upto 2000-2001 already sent to UPSC vide letter dt 6-6-2001 & 10-7-2002, ACRs for the year 2001-2002 enclosed herewith)

7) Certificate in respect of eligible officers against whom no adverse entries recorded in the ACRs is enclosed as Annexure- VIII

8) Statement showing the stage/position of communication of adverse remarks/action taken thereof is enclosed as Annexure-IX

9) Certificate regarding representation against adverse entries and Govt's decision thereof is enclosed as Annexure-X

10) Certificate of adverse entries in the ACRs but no representation received is enclosed as Annexure-XI

-3-

11) List of officers against whom disciplinary Proceedings are pending/contemplated is enclosed as Annexure-XII

12) As regards statement of Court case having bearing on the select list.

In this connection, it is certified that there is no stay order of any Court prohibiting the appointment by promotion in the AGMUT cadre of the Indian Forest Service concerning the Govt. of Arunachal Pradesh. However, it may be stated that Sri A.K.Sen, ACF who is senior to Sri B.C.Das and Sri K.Pertin in the post of ACF (SFS) but was not confirmed in the post of ACF and whose name has not been recommended for promotion/induction to IFS cadre has filed a writ petition No. WP(c) No.2112/2000 in the Guwahati High Court, Itanagar Permanent Bench, Naharlagun for his Seniority, Promotion to the post of DCF(SFS), confirmation to the post of ACF, fixation of the inter-se-seniority in the post of DCF(SFS) above Sri B.C.Das and Sri K.Pertin, ACFs and his nomination to Indian Forest Service. The counter Affidavit filed and judgement is awaited

Further, there is another case WA No.36/2000 in Civil Rule No.455/93 filed by Sri R.K.Deori, IFS, DCF in the Hon'ble Guwahati High Court wherein vide interim order dt.26.9.2000 (copy enclosed as Annexure-XII) though Hon'ble Court has not given any stay and has stated that the promotion of the respondent No.3, Sri B.C.Das, DCF if made during pendency of the writ appeal the same would be subject to the result of the writ appeal.

13) The statement of major/minors penalties imposed on the eligible officers during last ten years is enclosed as Annexure-XIV

14) A copy of Govt of India, Ministry of Environment & Forests, New Delhi's Notification No.A-32012/1/93-IFS-I dt 23-11-2000 is enclosed as Annexure-XV

Enclo: - A/A alongwith
ACRs in original for the
Year 2001-2002

Yours faithfully

M.B.Lal
(M.B.Lal)
Special Secretary (E&F)

~~CONFIDENTIAL~~

Copy to: -

The Secretary to the Govt. of India, Ministry of Environment & Forests, Parayavaran Bhawan, CGO Complex, Lodi Road, New Delhi-110003 alongwith the copies of all above statements for information please. (Attention: Dr. M.Surya Prakash, Director)

M.B.Lal
(M.B.Lal)
Special Secretary (E&F)

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ANNEXURE - A

ANNEXURE - A

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE SECRETARY(FORESTS)
ITANAGAR.

NO:FOR.233/72/Pt:-

Dated Itanagar,
The 15th Oct '80.

ORDER

The Lt. Governor, Arunachal Pradesh is pleased
Forest Department to the posts of Asstt. Conservator of Forests
(Group-B Gazetted) temporarily in the Pay scale of Rs. 650-30-740/-
35-310-E7-35-800-40-1207/- P.M. plus other allowances as admissible
under rules from time to time w.e.f. the date they take over charge
of Asstt. Conservator of Forests.

Name of Officer.

- ✓ 1. Shri A. K. Sen
- 2. Shri B.C. Das
(now on deputation to
A.P.Forest Corporation
Ltd.).
- 3. Shri B.K. Dhar
- 4. Shri B.C.Deb
(now on deputation to
A.P.Forest Corporation
Ltd.).

Chain of vacancies.

- .. Against the post created vide
order No.FOR.141/77/Pt/7465-82
dated 24-4-80.
- .. Against the post created vide
order No.FOR.170/77/782-807
dated 14-1-80.
- .. Against the post created vide
order No.FOR.174/77/1281-330
dated 17-1-80.
- .. Against the post created vide
order No.FOR.168/77/727-811
dated 14-1-80.

Sd/- E.S. Thangam
Secretary(Forests),
Govt. of Arunachal Pradesh,
Itanagar.

MEMO NO.FOR.233/72/Pt/25,453-505; /Dated Itanagar the 15th Oct '80.

Copy to:-

- 1. The Addl.Accountant General,(Central & A.P.) Shillong.
- 2. The D.I.P.R., Arunachal Pradesh, Shillong for publication
of the order in the next issue of the Gazette.
- 3. The Chief Wildlife Warden for information & necessary
action.
- 4. The Conservator of Forests, Eastern Circle for information
& necessary action.
- 5. The Conservator of Forests, (P&D) & Western Circle for
their information.
- 6. The Managing Director, Arunachal Pradesh Forest Corporation
Ltd. He will please obtain the CTC of the Officers
concerned and forward early. S/Chri B.C.Das & B.C.Deb
will continue in the Arunachal Pradesh Forest Corporation
till their deputation period is over.
- 7. All Divisional Forest Officers, Arunachal Pradesh.
- 8. The Officers Concerned.
- 9. All DCs & ADCs of Arunachal Pradesh.
- 10. 10 Spare copies.

Secretary (Forests)
(S. E. Thangam)
Secretary(Forests),
Govt. of Arunachal Pradesh,
Itanagar.

14/10/80

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF ENVIRONMENT & FORESTS
ITANAGAR

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ANNEXURE
Annexure-I

NOTIFICATION

In pursuance of training programme prescribed under this Memorandum issued No. for 191/75/8103-24 dated- 30/6/1976, read with Memorandum No. for 191/75/24025-66 dated -30/7/1980, the Departmental examination were held on 13/3/99 and 14/3/99 at Itanagar in respect of Deputy Conservator of Forests(IFS)/Asstt Conservator of Forests(SFS) to which the following officers have passed/cleared all the subjects.

1. Shri Nittem Barran, LCF(SFS)
2. Shri Santosh Kumar, LCF(IFS)
3. Shri P. Thanva, CF(SFS)
4. Shri Kamal Dutta, LCF(IFS)
5. Shri A.K. Sen, LCF(SFS)
6. Shri C. Loungchhat, CF(SFS)
7. Shri C. Simai, LCF(SFS)
8. Shri Arup Kumar Seka, CF(SFS)
9. Shri Umesh Kumar, CF(SFS)

Sd/- B.A. Mathews,
Principal Chief Conservator of Forests &
Principal Secretary(Envt. & Forests)
Arunachal Pradesh :: Itanagar.

Memo. No. for 10/E(1)/91/10414-95 Dtd. Ita. 13/3/99
116/

Cop to :-

1. The Secretary, Arunachal Pradesh Public Service Commission, Itanagar for information
2. The Chief Conservator of Forests(Wildlife), Arunachal Pradesh, Itanagar
3. All Conservator of Forests, Arunachal Pradesh
4. The Director, State Forest Research Institute, Van-Vihar, Itanagar.
5. The Field Director, Project Tiger, Miao.
6. All Divisional Forest Officer's including Deputy Chief Wildlife Warden, Arunachal Pradesh, Noharlaun
7. All officers concerned
8. Notice board of this office
9. Personal file of officers concerned
10. 10(Ten) Nos. spare copies
11. Master copy file.

U/6/99

(A.K. Shukla)LCF(HC)&Spl. Asstt.
for Principal Chief Conservator of Forests
Principal Secretary(Envt. & Forests)
Arunachal Pradesh :: Itanagar.

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
& SECRETARY (ENVIRONMENT & FORESTS)
ITAPACAR.

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ANNEXURE-J

ANNEXURE-J

REVISED GRADUATION LIST OF ASSTT. CONSERVATOR OF FORESTS AS OF 1.1.63

NAME OF OFFICIALS	DESIGNATION	EDUCATIONAL QUALIFICATION	DATE OF BIRTH	DATE OF 1ST APPOINTMENT TO GOVT. SERVICE	DATE OF APPOINTMENT TO THE PRESENT POST	REMARKS
S/Shri B.K. Baruah	ACF +	B.Sc	1.5.1940	31.3.1966	31.3.1966	Resigned w.e.f. 5.11.84
" S.B. Choudhary	ACF +	I.Sc. BA	1.2. 1934	1.4. 1956	6.4. 1970	Inducted into I&S cadre w.e.f. 20.7.63
" F.K. Sur	ACF +	ISC passed	1.2. 1930	4.5. 1954	15.4. 1970	Inducted into I&S cadre w.e.f. 20.7.83
" M.K. Sharma	ACF +	ISC passed	2.4. 1931	30.9.1951	28.3. 1973	Inducted into I&S cadre w.e.f. 20.7.83 retired on 30.4. 1989
" B.S. Bentalwal	ACF +	B.Sc	10.6. 1948	3.3. 1974	3.3. 1974	Inducted into I&S cadre w.e.f. 20.7. 1983
" F.K. Sen	ACF +	ISC	1.7. 1942	4.7. 1964	27.2. 1975	Inducted into I&S cadre w.e.f. 20.7. 1983
" A.K. Chatterjee	ACF +	M.Sc	26.5. 1949	27.2. 1975	27.2. 1975	Inducted into I&S cadre w.e.f. 20.7. 1983
" K.C. Malaker	ACF +	Matriculatus	28.2. 1931	6.12. 1951	17.3. 1976	Inducted into I&S cadre w.e.f. 19.6. 1984
" R. Modi	ACF +	B.Sc	1.3. 1947	31.3. 1973	1.5. 1978	Expired on 5.10.84
" T. Millang	ACF +	B.Sc	14.3. 1950	3.3. 1974	1.5. 1978	Inducted into I&S cadre w.e.f. 29.6. 1986
" G.C. Deka	ACF +	I.Sc passed	1.4. 1929	1.4. 1980	15.12. 1977	Retired w.e.f. 31.3. 87
" N. Samaddom	ACF +	B.Sc	26.5. 1951	1.5. 1979	1.5. 1979	Inducted into I&S cadre w.e.f. 12.6. 87
" K. East	ACF +	B.Sc (Agri)	22.8. 1953	1.6. 1979	1.5. 1979	Inducted into I&S cadre w.e.f. 12.6.1987.

Contd. 2/-

1.	2.	3.	4.	5.	6.	7.	8.
14. Shri F.C. Goswami	ACF	+	ISC (BA)	1.6. 1931	1.4. 1956	15.12.1977	Retired w.e.f. 31.5.
15. Shri K.D. Chowdhury	ACF	+	ISC passed	1.11. 1935	1.4. 1957	15.12. 1977	Promoted as DCF (SFS) 1.5. 1987.
16. Shri B.C. Sinha,	ACF	+	Matriculate	28.2. 1930, 15.9.1948		15.12. 1977	Retired on 31.7. 1988.
17. Shri R.K. Sengupta	ACF	+	ISC passed	12.8. 1936	21.12.1954	15.12.1977	Expired on 18.5. 1990.
18. Shri S.C. Sarma	ACF	+	Matriculate	1.3. 1929	15.19.1948	15.12.1977	Retired on 28.2. 1987
19. Shri T. Chakraborty	ACF	+	Matriculate	29.2. 1934	22.11. 1953	15.12. 1977	
20. Shri S.J. Jongsom (D)	ACF	+	B.Sc . .	3.1. 1955	1.4. 1981	1.4. 1981	1978-1980 SFS course promoted to DCF (SFS) w.e.f. 1.3.87.
21. Shri R.K. Deori (D)	ACF	+	B.Sc	1.3. 1959	1.4. 1981	1.4. 1981	1973-80 SFS course.
22. Shri A.K. Bhattacharjee, (F)	ACF	+	Matriculate	1.1. 1935	7.10.1953	10.1.1979	
23. Shri M.K. Falit (D)	ACF		M.Sc	28.1. 1955	6.11.1981	6.11.1981	1979-81 SFS course.
24. Shri J.R. Dey (F)	ACF	+	I.Sc passed	1.2. 1939	1.9.1960	5.3. 1979	
25. Shri S. Thirunavukarasu (D)	ACF	+	B.Sc	4.2. 1954	6.11.1981	6.11.1981	1979-81 SFS course.
26. Shri S.K. Faul (F)	ACF	+	Matriculate	1.10.1931	3.6.1955	11.1. 1979	(retired) w.e.f. 30.9.89.
27. Shri N. Bhattacharjee (F)	ACF		- do -	1.2. 1930	8.10.1953	1.3. 1979	Promotee (retired) w.e.f. 29.9. 1984
28. Shri B.N. Chakraborty (F)	ACF	+	- do -	1.2. 1930	16.7. 1953	8.1. 1979	Promotee (retired w.e.f. 31.1. 1988
29. Shri P.R. Deb (F)	ACF	+	- do -	1.5. 1929	1.10.1953	9.1. 1979	Promotee (retired) w.e.f. 30.4. 1987.
30. Shri S.R. Panikar (F)	ACF	+	Passed SSLC	7.3. 1935	23.9. 1954	9.2. 1979	
31. Shri S. Chowdhury (F)	ACF	+	B.Sc	1.4. 1940	10.7. 1957	4.6. 1979	
32. Shri L.K. Bhukan (F)	ACF	+	Matriculate	1.7. 1930	12.12. 1951	25.6. 1979	Promotee (retired) w.e.f. 30.5. 1988.
33. Shri M.C. Baruah (F)	ACF	+	I.Sc passed	31.10. 1941	14.10. 1961	2.5. 1979	

1.	2.	3.	4.	5.	6.	7.	8.
15.	S/Shri K.D. Chowdhury	ACF	ISC passed	1.11.1935	1.4.1957	15.12.1977	Promoted as DCF (SFS) w.e. from 1.8.1987.
16.	" B.C. Sinha,	ACF	Matriculate	28.2.1930	15.9.1948	15.12.1977	Retired on 31.7.1988.
17.	" R.K. Sengupta,	ACF	ISC passed	12.8.1936	15.11.1953	15.12.1977	Expired on 18.5.1991
18.	" S.C. Sarma	ACF	Matriculate	1.3.1929	15.9.1948	15.12.1977	Retired on 28.2.1988
19.	" F. Chakraborty	ACF	Matriculate	29.2.1934	22.11.1953	15.12.1977	
20.	" S.J. Jonason. (D)	ACF	B.Sc	3.1.1955	1.4.1981	1.4.1981	1978-1980 SFS course promoted to DCF (SFS) w.e. from 1.8.1987. (-)
21.	" R.K. Deori, (D)	ACF	B.Sc	1.3.1959	1.4.1981	1.4.1981	1978-80 SFS Course.
22.	" A.K. Bhattacharjee	ACF	Matriculate	1.1.1935	7.10.1953	10.1.1979	
23.	" M.K. Falit (D)	ACF	M.Sc	28.2.1955	6.11.1981	6.11.1981	1979-81 (SFS course)
24.	" J.R. Dey (P)	ACF	I.Sc passed	1.2.1939	1.9.1960	5.3.1979	
25.	" S. Thirunaavukarasu (D)	ACF	B. Sc	4.2.1954	6.11.1981	6.11.1981	1979-81 (SFS Course)
26.	" S.K. Faul (P)	ACF	Matriculate	1.10.1931	3.6.1955	11.1.1979	
27.	" N. Bhattacharjee (P)	ACF	-do-	1.2.1930	8.10.1953	1.3.1979	(Retired) w.e.f. 30.9.1989
28.	" A.N. Chakraborty (P)	ACF	-do-	1.2.1930	16.7.1953	8.1.1979	(Retired) w.e.f. 29.9.1984.
29.	" P.R. Deb, (P)	ACF	-do-	1.5.1929	1.10.1953	9.1.1979	(Retired) w.e.f. 31.1.1988
30.	" S.R. Panikar (P)	ACI	Passed SSLC	7.3.1935	23.9.1954	9.2.1979	(Retired) w.e.f. 30.4.1987.
31.	" S. Chowdhury, (P)	ACF	I.Sc	1.4.1940	10.7.1957	4.6.1979	

Contd.....

- 4 -

1.	2.	3.	4.	5.	6.	7.	8.
6. Shri Oni Dai (D)	ACF	B.Sc	7.11. 1959	26.10.1983	26.10.1983	1981-83 SF'S course.	
7. Shri Dasu Shra (D)	ACF	B.Sc	1.9. 1959	26.10.1983	26.10.1983	" do "	
8. Shri B. Banerjee (D)	ACF	B.Sc	8.2. 1955	26.4. 1980	3.11. 1984	1982-84 SF'S course	

Recd. on

(G.P. SHUKLA) 30/7/93
Principal Chief Conservator of Forests
& Secretary (Environment & Forests)
Arunachal Pradesh :: Itanagar.

S.B :- S Denotes Promotee.

D Denotes Direct.

Memu No. F.C.R. 180/E-2/84/21, 316-364

Dtd. Itanagar, the 31 July/93.

Copy to :-

1. The Chief Conservator of Forests, W.L, Wasteland & Vigilance. for information & guidance.
2. All Conservator of Forests, A.F. Forest Deptt. The above gradation list may
3. ~~ME~~ Managing Director, A.F.F.C. Ltd. please be brought to notice of
4. All Divisional Forest Officer's including all concerned individuals
5. Chief Wildlife Warden, A.F.
6. The D.F.R, Govt. of A.F with the request to publish

Recd. on

(G.P. SHUKLA) 30/7/93
Principal Chief Conservator of Forests
& Secretary (Environment & Forests)
Arunachal Pradesh :: Itanagar.

16/10/96. 11-12/10/96
104
ANEXURE I
(TO BE PUBLISHED IN PART I SECTION II OF THE GAZETTE OF INDIA)

F.NO.32012/93-IFS-I
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan,
CGO Complex, Lohri Rd.,
New Delhi - 110001

Dated the 26th September, 1996

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Indian Forest Service (Recruitment) Rules, 1960 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 undermentioned twenty officers of the State Forest Service of Arunachal Pradesh, Mizoram and Andaman & Nicobar Administration, constituent units of the Arunachal Pradesh-Goa-Mizoram and Union Territories (AGMUT) cadre, to the Indian Forest Service against the existing vacancies and to allocate them to the AGMUT cadre of the Indian Forest Service under sub-rule (1) of rule 5 of the Indian Forest Service (Cadre) Rules, 1960:-

16/10/96
S.No. Name of the officer

Date of birth

Arunachal Pradesh:

8/10
S/ Shri
01 R. Modi
02 S.J. Jongsom
03 R.K. Deori
04 S. Thirunavukarasu

26/2
01.03.1947
03.01.1955
01.03.1959
04.02.1954

Mizoram:

S/ Shri
01 R. Rozika
02 B. Suanzalang
03 P. Liankhama
04 Lalthangliana Murray
05 Liankima Laitlunga
06 Vanlalsawma
07 Hmingdailova Colney

01.04.1954
31.03.1955
01.03.1944
10.04.1954
10.11.1961
01.03.1959
01.05.1954

Chamrul

:- 2 :-

Andaman & Nicobar Administration:

S/Shri

01	J.P. Misra	05.07.1954
02	Randhir Singh	17.11.1938
03	M.P. Singh	08.12.1945
04	B.P. Singh	01.04.1947
05	S.C. Mukhopadhyay	26.10.1950
06	Anutosh Guha	30.01.1949
07	George Jacob	14.12.1952
08	V. Chandrapandian	25.03.1953
09	Jitendra Kumar	27.10.1960

To

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

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

Distribution:

1. The Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.
2. The Chief Secretary, Govt. of Mizoram, Aizawl.
3. The Chief Secretary, Govt. of Andaman & Nicobar Islands, Port Blair.
4. The Principal Chief Conservator of Forests, Arunachal Pradesh, Itanagar with spare copies for the officers concerned.
5. The Principal Chief Conservator of Forests, Mizoram, Aizawl with the spare copies for the officers concerned.
6. The Principal Chief Conservator of Forests, Andaman & Nicobar Islands, Port Blair with the spare copies for the officers concerned.
7. The Accountant General, Arunachal Pradesh, Itanagar.
8. The Accountant General, Mizoram, Aizawl
9. The Accountant General, Andaman Nicobar Islands, Port Blair.
10. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan, Road, New Delhi.
11. Guard File.

BY SPEED POST

NO. 32012/1/93-IPS.I
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

ANNEXURE I

PARYAVARAN BHAVAN, CGO COMPLEX,
LODI ROAD, NEW DELHI - 110 003

NEW DELHI, THE 23rd JULY, 1996

To

The Chief Secretary,
Govt. of Arunachal Pradesh,
Ita Nagar.

SUBJECT: Selection Committee Meeting for promotion of SFS officers of Arunachal Pradesh to IFS Cadre of AGMUT during 1996-97 - reg.

Sir,

I am directed to refer to the correspondence resting with your letter No. FOR400/A-2/83.Vol.II/160, dated the 14th June, 1996 on the subject mentioned above and to say that the Union Public Service Commission have vide their letter No. 10/22/96-AIS, dated the 19th July, 1996 approved the Select List of officers of the State Forest Service of Arunachal Pradesh cadre for promotion to Indian Forest Service prepared by the Selection Committee in its meeting held on 26th March, 1996 consisting of the following six names: -

S.No.	Name of the Officer	Date of Birth
1.	S/Shri R. Modi (ST)	01.03.1947
2.	S.J. Jongsom (ST)	03.01.1955
3.	R.K. Deori (ST)	01.03.1959
4.	S.Thirunavukarasu	04.02.1954
5.	S.Choudhury	01.04.1940
6.	M.C. Baruah	31.10.1941

2. If and when the State Government proposes to appoint one or more of the officers by promotion to the AGMUT cadre of the Indian Forest Service, proposals in this behalf may kindly be sent to this Ministry alongwith following documents viz.

1) information in respect of the officers proposed for promotion in proforma I & II (Pages 41-43 of the AIS Manual Part I, Fifth Edition;

Env/Forests &

PCCF

Cst (RS)

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Env
8.8.96

Ref (M)

28th July

TSF

8.1.96

12/1/96

: 2 : -

107

- ii) a declaration as to singular marital status;
- iii) written consent for termination of lien in the State Forest Service on confirmation in the Indian Forest Service;
- iv) a certificate that no deterioration in the work of the officer has taken place since inclusion of his name in the Select List;
- v) a certificate that there is no stay order of any Court prohibiting the appointment by promotion in the AGMUT cadre of the Indian Forest Service;
- vi) detailed information in respect of promotion of all the eligible direct recruit Indian Forest Service Officers to the senior scale as envisaged in this Ministry's circular No. 17013/22/94-IFPS.II, dated the 7th March, 1994 (copy enclosed). 1/186

3. Proposal for fixation of seniority of the officers should be forwarded in the prescribed format and while forwarding the proposals it may also be noted that in terms of judgement dated 29th November, 1992, of the Supreme Court in Civil Appeal No. 823 of 1989 (Syed Kalid Rizvi & Others Vs. Union of India & Others), unapproved officiations are not to be counted for the purposes of determination of seniority.

Yours faithfully,

R. Saneshwala

(R. SANESHWAL)
UNDER SECRETARY TO THE GOVT. OF INDIA.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GWALIOR BENCH

- 45 - (284)
108

Annexure 2

ANNEXURE 2 M

Original Application No.345 of 1999

Date of decision: This the 21st day of May 2001

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

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

Shri Manmohan Chandra Baruah,
Working as General Manager,
APP Corporation Ltd.,
Deomali, District-Tirap.

.....Application

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

1. The Union of India, through the
Secretary to the Government of India,
Ministry of Environment and Forests,
CGO Complex, New Delhi

2. The Inspector General of Forests,
Ministry of Environment and Forests,
Government of India,
CGO Complex, New Delhi

3. The Secretary,
Environment and Forests,
Government of Arunachal Pradesh,
Itanagar.

4. The Principal Chief Conservator of Forests,
Department of Environment and Forests,
Government of Arunachal Pradesh,
Itanagar.

5. The Union Public Service Commission,
Through its Secretary,
New Delhi

.....Respondents

Advocates Mr B.C. Pathak, Addl. C.G.S.C.,
B. Sinha, Government Advocate, Arunachal Pradesh.

.....

ORDER (ORAL)

CHOWDHURY J. (V.C.)

The subject matter of this proceeding pertains to appointment
of members of the State Forest Service to the Indian Forest Service
under the Indian Forest Service (Recruitment) Rules, 1966 (hereinafter

referred to as the Kulon 1966) with the aid of the Indian Forest Service (Appointment by Promotion) Regulations, 1966 (hereinafter referred to as the Regulations 1966), in the following circumstances:

2. The applicant, at the relevant time, belonged to the State Forest Service of the State of Arunachal Pradesh. He was promoted as Assistant Conservator of Forests on 25.1979. He was subsequently promoted as Deputy Conservator of Forests. It was averred in the application that in course of time as per his service seniority he became eligible for consideration for promotion to the Indian Forest Service (hereinafter referred to as IFS) under the Rules 1966 read with the Regulations 1966. His name was recommended by the State Government in order of seniority as per the revised gradation list of Assistant Conservator of Forests (ACF for short) as on 1.1.1983 along with other eligible officers to the Government of India in November 1993. After 1993 also his name was recommended from time to time by the State Government till 1995. There was no meeting of the Selection Committee for preparing the Select List for selection to the IFS FROM 1993 to 1995. The meeting of the Selection Committee constituted under Regulation 5 of the Regulations 1966 was held only on 26.3.1996. The Selection Committee prepared the Select List and sent the same for approval to the Union Public Service Commission (UPSC for short). The UPSC vide communication dated 19.7.1996 approved the Select List of officers of the State Forest Service of Arunachal Pradesh cadre for promotion to the IFS prepared by the Selection Committee on 26.3.1996. The Select List consisted of six names and the name of the applicant figured at serial No.6 in respect of the State of Arunachal Pradesh. Above the applicant the name of one Shri S. Choudhury, a State Forest Service Officer, appeared at serial No.5. By order dated 26.9.1996, the first four officers of the said list, namely, Shri S.J. Jongsam (1978-80 batch), Shri R.K. Deori (1978-80 batch), Shri M.K. Palit (1979-81 batch) and Shri S. Thirunavukarasu (1979-81 batch) were appointed to

the IFS against the existing vacancies of the State of Arunachal Pradesh.

Shri S.C. Choudhury as well as the applicant, being aggrieved by their non-promotion to the IFS submitted representation which was forwarded to the Government of India, Ministry of Environment vide letter dated 19.6.1997 by the State of Arunachal Pradesh for consideration of their case for promotion to the IFS cadre. In the said communication the State of Arunachal Pradesh communicated to the Government of India that the allotted cadre strength of IFS in respect of State of Arunachal Pradesh was thirtyfour as per communication dated 26.10.1995 of the Government of India and the State of Arunachal Pradesh was having fourteen posts against promotion quota against which there were only twelve incumbents, leaving two clear vacancies against promotion quota available in the State of Arunachal Pradesh. The communication indicated that the aforesaid two vacancies were caused due to death of following two promotee officials while in service - (1) Late R.P. Neog, with effect from 13.5.1996 and (2) Late B.S. Beniwal, with effect from 7.4.1997. By the aforesaid communication the Government of Arunachal Pradesh requested the Government of India to consider the case of Shri S.C. Choudhury as well as the applicant, State Forest Service Officers, from the Select List of IFS for appointment/promotion to the cadre of IFS against the promotional quota available in the State. The case of Shri Choudhury was considered and he was promoted to the IFS cadre with effect from 10.2.1998 vide Government of India's order dated 17.12.1997. In the application the applicant also stated that Shri S. Thirunavukarasu who was appointed to the IFS from the State Service was junior to him in service, but overlooking the case of the applicant Shri S. Thirunavukarasu was promoted. The applicant moved the authority from time to time and finally submitted a lawyer's notice on 24.3.1999 on the respondents. The Principal Secretary, Environment and Forests, Government of Arunachal Pradesh by communication dated 23.4.1999 intimated the applicant that fresh proposals were submitted to the UPSC during December 1998, wherein the name of the applicant was also recommended.....

recommended by the Government of Arunachal Pradesh alongwith other eligible candidates for induction in the IFS cadre. The communication inter alia, mentioned that the proposal was under consideration by the Government of India and the results were awaited. The applicant thereafter sent an application to the Inspector General of Forests and the Special Secretary, Ministry of Environment and Forests, Government of India, for inducting the applicant in the IFS cadre in the AGMUT cadre with retrospective effect, more so, in view of the fact that he was going to superannuate on 31.10.1999. Failing to get appropriate remedy the applicant moved the Tribunal by way of an application which was numbered and registered as O.A.No.255 of 1999. By order dated 25.8.1999 the Tribunal ordered the respondents to dispose of the representation already filed by the applicant by a reasoned order within the period prescribed. The applicant thereafter moved the competent authority for remedial measure by a representation dated 31.8.1999. On the failure to get remedy from the Administration, the applicant moved the Tribunal by way of this application, assailing the action of the respondents in not appointing him in the All India Service as per law.

3. The respondents submitted their written statement. The respondent Nos.1 and 2 in their written statement stated that meetings of the Selection Committee for promotion to the erstwhile Union Territory cadre, which was subsequently re-organised as Arunachal Pradesh - Goa - Mizoram - Union Territories (AGMUT) Joint Cadre of IFS could not be held in 1988 and subsequent years as the issues relating to the constitution of a Joint Cadre in place of the erstwhile Union Territory cadre consequent on the conferment of statehood to Arunachal Pradesh, Goa and Mizoram, constitution of a Joint Cadre Authority to function as the State in relation to the service distribution of powers of the Joint Cadre Authority amongst the constituent States and the Union Ministry.....

Ministry of Environment and Forests, constitution of the Joint Cadre Authority exclusively for the IFS in the AGMUT Joint Cadre were being addressed and sorted out by the respondents in consultation with the Department of Personnel and Training and the Ministry of Law and Justice and the constituent State Governments of the Joint Cadre. It was further stated in the written statement that with the conferment of Statehood on the Union Territories of Arunachal Pradesh, Goa and Mizoram, participating in the then Union Territories cadre of the IFS, the Joint Cadre for Arunachal Pradesh - Goa - Mizoram - Union Territories (AGMUT) was notified by the Department of Personnel and Training vide Notification dated 3.4.1989. With the attainment of statehood by the aforesaid Union Territories the Joint AGMUT cadre came into existence. It took some time for the Joint Cadre Authority to make notional allocation of the promotion quota vacancies in the Joint Cadre among the four constituent units decided by the Joint Cadre Authority and accordingly the Selection Committee Meeting could be held only in the year 1996. It was also asserted that the Selection Committee Meeting was held on 26.3.1996 and not 23.6.1996 as mentioned by the applicant. Shri S.C. Choudhury was promoted and appointed to the IFS with effect from 17.12.1997 on the vacancies caused due to the death of two promotee IFS Officers. The case of Shri S.C. Choudhury who figured at serial No.5 alongwith the applicant, who figured at serial No.6 on the list was considered. Shri Choudhury was chosen for promotion to the IFS against the vacancy caused due to the death of Shri R.P. Naog on 13.5.1996. The applicant could not be promoted to the IFS against the vacancy caused by the death of Shri B.S. Beniwal on 7.4.1997 which happened more than 12 months after the date of preparation of the Select List i.e. on 26.3.1996. According to the respondents the scheme and structure of the rules as indicated in the clarification by the Department of Personnel and Training letter dated 12.1.1996 did not envisage operation of the Select List to fill up vacancies occurring beyond the period for which it was designed. The respondents also stated that.....

that pursuant to the direction of the Tribunal dated 25.8.1999 in O.A. No.299 of 1999 the competent authority disposed of the representation on 8.10.1999 by a speaking order and annexed the same alongwith their written statement. The respondents stated and asserted that there was a justifiable reason for not holding the Selection Committee Meeting from 1988 to 1995. Cadre review of the Joint AGMUT Cadre was done in 1995 and adequate number of posts were allotted to the Arunachal Pradesh Unit of the Joint Cadre as a result of the Cadre review. The respondents in support of their stand, at para 5.4 of the written statement, stated that the reason for non-promotion of the applicant to the IFS was already explained, "the vacancy against which the Applicant claims promotion to IFS, unfortunately for him, occurred a few days too late i.e. on 7th April, 1997 instead of before 26th March, 1997."

4. Mr B.K. Sharma, learned Sr. Counsel appearing on behalf of the applicant, submitted that the respondent authority in a most illegal fashion superseded the applicant ignoring his seniority. Mr Sharma referring to the records stated that the applicant was selected for the post of ACF on 30.4.1979 and he joined the post on 2.5.1979, whereas Shri S. Thirunavakarasu was sent to the training long after the applicant joined as ACF on 2.5.1979. Mr B.C. Pathak, learned Addl. C.G.S.C. as well as Mr B. Sinha, learned Government Advocate, Arunachal Pradesh stated that the service of the applicant on and from 2.5.1979 was only a stop gap arrangement and for that he was not entitled for seniority. Mr Sharma, on the other hand, referred to a decision of the High Court as well as the Tribunal finally declaring the inter se seniority among the officers of the State. We are not inclined to go into the controversy since the present application can be decided without going into the said issues. On the face of the materials on record, the vacancy arose on 7.4.1997. According to the respondents the Select List expired on 26.3.1997 after expiry of one year from the date of the meeting of

the.....

the Selection Committee, which was actually held on 26.3.1996. The respondents stated that unforeseen/fortuitous vacancies that may occur during the period of next twelve months from the commencing of the list were to be filled up from the 'waiting list' part of the Select List, which was subject to a minimum of two and maximum of 20% of the substantive vacancies. The scheme and structure of the rules did not envisage operation of the Select List to fill up vacancies beyond the period for which it was designed which was twelve months commencing from the date of meeting. The sole ground for not considering the case of the applicant for appointment to the All India Service was the late emergence of the vacancy by twelve days.

5. Mr B.C. Pathak referred to Clause (g) of para 2 of the Regulations 1966 and para 5, more particularly, sub-para 4 of para 7. The IFS (Appointment by Promotion) Regulations, 1966, enclosed to the written statement by the respondents, was the Regulations those were brought in by the IFS (Appointment by Promotion) Second Amendment Regulations, 1997. By the said amendment Clause (g) was added to the definition by inserting the expression "Year" means the period commencing on the first day of January and ending on the 31st day of December of the same year." The amendment came into force on 1.1.1998 and was notified by Notification No.G.S.R.734(E) dated 31.12.1997, published in the Gazette of India, Extraordinary Part II, Section 3(i) dated 31.12.1997. Prior to it Clause (g) was not there in the Regulations. As per the unamended Sub-regulation (4) of Regulation 7 of the Regulations 1966, the Select List was ordinarily to be in force until its review and revision, effected under sub-regulation (4) of Regulation 5, is approved under sub-regulation (1) or, as the case may be, finally approved under sub-regulation (2).

6. In the instant case the Selection Committee met on 26.3.1996 for the post of AGMUT Cadre. The amended rules came into force on 1st day of January 1998. Therefore, the amended rules could not stand in the way of the applicant for consideration of his case against the.....

the other vacancy, which arose on the death of B.S. Beniwal on 7.4.1997, Sub-regulation (1) of Regulation 5, prior to the second amendment, reads as follows:

"(1) Each Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Forest Service as are held by them to be suitable for promotion to the Service. The number of members of the State Forest Service included in the list shall not be more than twice the number of substantive vacancies anticipated in the course of the period of twelve months, commencing from the date of preparation of the list, in the posts available for them under rule 9 of the Recruitment Rules, or 5 per cent of the senior posts shown against items 1 and 2 of the cadre schedule of each State or group of States, whichever is greater."

As per Sub-regulation (1) of Regulation 5, the number of members of the State Forest Service to be included in the list was to be calculated as the number of substantive vacancies anticipated in the course of the period of twelve months commencing from the date of preparation of the list, in the posts available for them under Rule 9 of the Recruitment Rules or 5% of the senior posts shown against items 1 and 2 of the cadre schedule of each State or Group of States, whichever is greater. The Regulation enjoins that each Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Forest Service as are held by them to be suitable for promotion to the Service. The expression 'ordinarily' means the anticipated vacancies to be considered, i.e. only those vacancies which may occur in twelve months from the date of meeting of the Selection Committee. It did not prevent inclusion of the anticipated vacancies that occur after twelve months from the date of preparation of the Select List and before meeting of the next Selection Committee. The expression 'ordinarily' mentioned in Sub-regulation (1) of Regulation 5 is to be given a meaningful interpretation, keeping in mind the candidates kept in the waiting list to be promoted and to enable the department to fill up the vacancies which are essential for its administration. Any other interpretation would be counter to the scheme of the Regulations. The view we have taken is in conformity with the view expressed

by.....

by the Hyderabad Bench of the Central Administrative Tribunal in O.A.No.558 of 1997 disposed of on 26.2.1998, reported in 1999(3) SLJ (CAT) 86. In the aforesaid decision, the Hyderabad Bench took aid of the decision rendered by the Supreme Court in Nepal Singh Tanwar vs. Union of India, reported in 1998(1) Scale (SP) 7. In Nepal Singh's case the Supreme Court quashed the order of the Tribunal and upheld the appointment of Shri Nepal Singh to the All India Service. In the above case the Selection Committee for the year 1991-92 for promotion to the Indian Administrative Service Cadre met on 26.3.1992 and selected eight candidates for appointment to the All India Service against six vacancies. The first six persons were appointed against the six vacancies. Shri N. Singh was appointed on 12.8.1992 against the vacancy which became available by then. The Selection Committee for the next year 1992-93 did not meet till 12.8.1992. The appointment of Shri N. Singh was challenged before the Tribunal on the ground that he could not have been appointed as by then the list had exhausted. The Tribunal quashed the appointment holding that it was mandatory under the rules to prepare the list within one year and with the expiry of one year the previous Select List lapsed. The Supreme Court quashed the order of the Tribunal as erroneous and upheld the appointment of Shri N. Singh on 12.8.1992 even after a lapse of twelve months from the date of the meeting of the Selection Committee. In the instant case also no Select List was prepared till 7.4.1997. In the circumstances it was not justified on the part of the respondents to refuse to consider the case of the applicant for being appointed in the All India Services. For the foregoing reasons the rejection of the claim of the applicant for being appointed to the vacancy that surfaced on 7.4.1997 was not justified and accordingly the order No.22012/81/IFS.II dated 8.10.1999 of the Government of India, Ministry of Environment and Forests, New Delhi could not be sustained.

7. In the result the application is allowed. The respondents are directed to consider the case of the applicant for appointment to the Indian Forest Service Cadre against the vacancy that arose on the death of B.S. Beniwal on 7.4.1997 and pass necessary orders thereof. The respondents are directed to complete the aforesaid exercise within two months from the date of receipt of the order.

No order as to costs.

SD/ VICE CHAIRMAN

SD/ MEMBER (ADM)

TRUE COPY

प्रविदिपि

Section Officer (S)
23/5/2021
Central Administration Department
Bhupinder Singh
प्रभुपदी बुधवार, 23 मई 2021
कामकाजी विभाग, प्रभुपदी

55
ANNEXURE
Annexure N

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

No. A.18011/6/99-IFS-I
Government of India
Ministry of Environment and Forests

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

Dated the 8th August, 2001

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 and in compliance with the orders of C.A.T. Guwahati Bench in O.A. No.345/99 (M.C. Baruah Vs. UoI), the President is pleased to appoint Shri M.C. Baruah (DOB : 31.10.1941) of the State Forest Service of Arunachal Pradesh to the Indian Forest Service with effect from 10.02.98 against existing vacancies and to allocate him to the Arunachal Pradesh segment of AGMUT joint cadre under Sub-Rule (1) of Rule 5 of the Indian Forest Service (Cadre) Rules, 1966.

G.P. Halder

(G.P. Halder)

Under Secretary to the Govt. of India

To
The General Manager,
Government of India Press,
Faridabad (Haryana) (with Hindi version)

2/-

8/20/01
BCCF & Pr. Secy (E & P)
C C F (A & B)
C C F (R & V)
DCC (E & P) 21/8/01
S 22/8/01
622 22/8/01

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03781-2236/1

Gazette of India, Part II, Section 3(1)

No. 16016/4/95-AIS(II)-A

Government of India

Ministry of Personnel, P.G. & Pensions

(Department of Personnel & Training)

ANNEXURE 0

New Delhi, the 26/10/95

NOTIFICATION

... 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 sub-rule (2) of Rule 4 of the Indian Forest Service (Cadre) Rules, 1966, the Central Government, in consultation with the Government of Arunachal Pradesh, Goa and Mizoram, hereby makes the following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, namely:-

1. (1) These regulations may be called Indian Forest Service (Fixation of Cadre Strength), Sixth Amendment Regulations, 1995.

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

3. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, for the heading "Arunachal Pradesh-Goa-Mizoram-Union Territories" and entries occurring thereunder, the following shall be substituted namely:-

ARUNACHAL PRADESH-GOA-MIZORAM-UNION TERRITORIES

1. Senior Forests under the Governments of Arunachal Pradesh-Goa-Mizoram-Union Territories	95
2. Principal Chief Conservator of Forests	1
3. Chief Conservator of Forests (Development)	1
4. Chief Conservator of Forests (Wildlife, Wastelands & Vigilance)	1
5. Conservator of Forests (Territorial) [Central, Western, Eastern & Southern]	324 4
6. Conservator of Forests (Planning & Development)	1
7. Conservator of Forests (Conservation-Nodal Officer)	1
8. Deputy Conservator of Forests (Territorial) [Tibang, Lohit, Along, Namsai, Pasighat, Hailakandi, Dibrugarh, Dhemaji, Haapoli, Bomdila]	10
9. Deputy Conservator of Forests (Headquarters)	1
10. Deputy Conservator of Forests (Wildlife)	1
11. Deputy Conservator of Forests (Industries)	1

(NA) - 2 -

Deputy Conservator of Forests (Working Plan) 12

Deputy Conservator of Forests (Forest Utilisation)

Deputy Conservator of Forests (Research), Resources Survey)

Deputy Conservator of Forests (Silviculture)

Deputy Conservator of Forests (Forest Statistics, & Planning)

Deputy Conservator of Forests & Field Director, Project Tiger, Namdapha

Deputy Conservator of Forests (Social Forestry)

34

Posts under the Government of Goa

Conservator of Forests 1

Deputy Conservator of Forests (Territorial) 2

Deputy Conservator of Forests (Cashew) 1

Deputy Conservator of Forests (Working Plan) 1

Deputy Conservator of Forests (Forest Utilisation) 1

Deputy Conservator of Forests (Wildlife) 1

Deputy Conservator of Forests (Social Forestry) 1

8

Posts under the Government of Mizoram

Principal Chief Conservator of Forests 1

Chief Conservator of Forest (Development & Planning) 1

Chief Conservator of Forests (Territorial) [Northern, Southern & Central Circles] 3

Conservator of Forests (Research & Development) 1

Conservator of Forests & Chief Wildlife Warden 1

Deputy Conservator of Forests (Territorial) [Aizawl, Kolasib, Sunglei, Champhai, Kawntham, Danlawn] 6

Deputy Conservator of Forests (Planning) 1

Deputy Conservator of Forests (Training) 1

Deputy Conservator of Forests (Working Plan) 2

Deputy Conservator of Forests (Wildlife) 1

Deputy Conservator of Forests (Resources Survey)

1

Posts under the Andaman & Nicobar Administration

Conservator of Forests & Wildlife

Deputy Conservator of Forests & Wildlife

Conservator of Forests (Territorial)

(Northern & Southern Circles)

Conservator of Forests (Research & Development)

Conservator of Forests (Development & Utilization)

Conservator of Forests (Wildlife)

Deputy Conservator of Forests (Territorial)
[Dadra, Mayabunder, Madda Andaman, Baratang,
Dadra & Nagar Haveli]

Deputy Conservator of Forests (Dapat)

Deputy Conservator of Forests (Ozonephere Reserve)

Deputy Conservator of Forests (Mill)

Deputy Conservator of Forests (Silviculture)

Deputy Conservator of Forests (Working Plan)

Deputy Conservator of Forests (Forest Utilisation)

Deputy Conservator of Forests (Headquarters)

Deputy Conservator of Forests (Wildlife)

Deputy Conservator of Forests (Wildlife)

23

Forest under Daman & Diu and Daman & Diu
Administration

Conservator of Forests & Chief Wildlife Warden

Deputy Conservator of Forests (Territorial)

[Dadra & Nagar Haveli]

Deputy Conservator of Forests (Wildlife),
[Dadra & Nagar Haveli]

Deputy Conservator of Forests, Daman & Diu

4

Posts under the Bohri Government

Conservator of Forests & Chief Wildlife Warden

Deputy Conservator of Forests (Rural)

Conservator of Prosts (Hibaldus) by Conservator of Prosts (Reserve Prosts)

Police under the Punjabistry Government

Deputy Conservator of forests & Chief Wildlife Warden

Roots under the lakebeds

Deputy Conservator of Forests & Chief of Wildlife Warden

Posts under the Ghoshal Government

Deputy Conservator of Forests & Chief Wildlife Warden

TOTAL:

Central Deputation Reserve @ 20% of Item 11 above

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Posts to be filled by promotion in accordance with Rule 8 of the Indian Forest Service (Recruitment) Rules, 1966. (See 1/32 of 1966, 1 and 2 above).

382

Posts to be filled by direct recruitment (1+2+3)

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Deputation Reserve @ 25% of Item 1 above

23

Leave Reserve, Training Reserve & Junior Posts
@ 20% of Item 1 above

1

Office Reunion Promotion party

156

(Maidhumi, in 1944)
 Desk Officer

2. The Principal Regulations were notified vide Multicircular
6/1/44 - AIO (IV), dated 31.10.1943.

ESHED IN PART II SECT. 10(2)(B) IN THE GAZETTE OF INDIA DATED

No. 15011/3/2002-AIS(H) (A)
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training,

New Delhi,

17 April, 2002

ANNEXURE 1-P

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ANNEXURE 1-P

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NOTIFICATION

G.S.R. No., dated, in exercise of the powers conferred by sub-section (1) of Section 3 of the All India Service Act, 1951 (61 of 1951) read with Rule 4 of the Indian Forest Service (Cadre) Rules, 1966, the Central Government in consultation with the Government of AGMUT, hereby makes the following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, namely :

(i) These regulations may be called the Indian Forests Service (Fixation of Cadre Strength) Amendment Regulations, 2002.

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

2. In the Schedule to the Indian Forests Service (Fixation of Cadre Strength) Regulations, 1966, for the heading "AGMUT" and the entries occurring thereunder, the following shall be substituted namely :-

"ARUNACHAL PARDESH-GOA-MIZORAM-UNION TERRITORIES"

1. Senior Posts under the Government of Arunachal Pardesh-Goa-Mizoram-Union Territories	95
Posts under the Government of Arunachal Pardesh	
Principal Chief Conservator of Forests	1
Adjl. Principal Chief Conservator of Forests (Wildlife & Bio-diversity)	1
Chief Conservator of Forests (Planning & Development)	1
Chief Conservator of Forests (Administration & Vigilance)	1
Chief Conservator of Forests (Working Plans)	1
Chief Conservator of Forests (Research & Evaluation)	1
Conservator of Forests (territorial circles namely, Central, Eastern, Western & Southern)	4
Conservator of Forests (Conservation)	1
Conservator of Forests & Field Director (Project Tiger)	1
Conservator of Forests & Director, State Forest Research Institute	1
Deputy Conservator of Forests (territorial, namely, Namsai, Reing, Jatinga, Deomali, Khandadeva Lera, Pasighat, Bomdila, Along, Mopoli, Lawapati)	11

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Deputy Conservator of Forests (Headquarters)	1
Deputy Conservator of Forests (Statistics & Plg.)	1
Deputy Conservator of Forests (Industries)	1
Deputy Conservator of Forests (Utilisation)	1
Deputy Conservator of Forests (Silviculture)	1
Deputy Conservator of Forests (Working Plans)	2
Deputy Conservator of Forests (Wildlife - Naharlagun, Sejusa, Jengging)	3
Posts under the Government of Goa	
Chief Conservator of Forests	1
Conservator of Forests	1
Deputy Conservator of Forests (Territorial, Viz., North and South)	2
Deputy Conservator of Forests (Wildlife & Ecotourism)	1
Deputy Conservator of Forests (Working Plan, Research & Training)	1
Deputy Conservator of Forests & Director (Parks, Garden and Social Forestry)	1
Deputy Conservator of Forests (Forest Utilisation)	1
Posts under the Government of Mizoram	
Principal Chief Conservator of Forests	1
Chief Conservator of Forests (General Administration, Planning, Conservation, Development etc.)	1
Chief Conservator of Forests (Wildlife and Bio-diversity)	1
Conservator of Forests (Territorial viz., Northern, Southern and Central Circles)	3
Conservator of Forests (Research and Development)	1
Conservator of Forests (Wildlife) & Director, Dampa Tiger Reserve	1
Deputy Conservator of Forests (Territorial, Aizawl, Kolasib, Lunglei, Champhai, Kwarthah and Darlow)	6
Deputy Conservator of Forests (Planning)	1
Deputy Conservator of Forests (Working Plan)	1
Deputy Conservator of Forests (Resource Survey and Silviculture)	1
Deputy Conservator of Forests (Training)	1
Deputy Conservator of Forests (Wildlife)	1

Posts under the Andaman & Nicobar Islands Administration

Chief Conservator of Forests	1
Principal Chief Conservator of Forests (Wildlife & Biodiversity)	1
Chief Conservator of Forests (Administration, Establishment, Planning, Protection, Vigilance)	1
Chief Conservator of Forests (Research, Development, Resource Survey, Working Plans, Remote Sensing GIS)	1
Conservator of Forests (Territorial viz., North and South)	2
Conservator of Forests (Research and Development)	1
Conservator of Forests (Development and Utilisation)	1
Conservator of Forests (Wildlife)	1
Deputy Conservator of Forests (Territorial (Diglipur, Mayabunder, Middle Andaman, Baratang, South Andaman & Nicobar))	6
Deputy Conservator of Forests (Dept. Kolkatta)	1
Deputy Conservator of Forests (Biosphere Reserve)	1
Deputy Conservator of Forests (Milk)	1
Deputy Conservator of Forests (Silviculture)	1
Deputy Conservator of Forests (Working Plan)	2
Deputy Conservator of Forests (Headquarters)	1
Deputy Conservator of Forests (Wildlife)	1

Posts under the Government of Dadra & Nagar Haveli, Daman & Diu

Conservator of Forests and Chief Wildlife Warden	1
Deputy Conservator of Forests (Territorial), Dadra & Nagar Haveli	1
Deputy Conservator of Forests (Wildlife), Dadra & Nagar Haveli	1
Deputy Conservator of Forests, Daman & Diu	1

Posts under the Government of National Capital Territory of Delhi

Conservator of Forests and Chief Wildlife Warden	1
Deputy Conservator of Forests (Territorial), Central	1
Deputy Conservator of Forests (Territorial), South and Wildlife	1
Deputy Conservator of Forests (West)	1

Posts under the Pondicherry Administration	
Deputy Conservator of Forests and Chief Wildlife Warden	1
Posts under the Lakshadweep Administration	
Deputy Conservator of Forests and Chief Wildlife Warden	1
Posts under the Chandigarh Administration	
Deputy Conservator of Forests and Chief Wildlife Warden	1
TOTAL	95
2. Central Deputation Reserve (@ 20% of item 1 above)	19
3. State Deputation Reserve (@ 25% of Item 1 above)	23
4. Training Reserve (@ 3.5% of item 1 above)	03
5. Leave Reserve and Junior Posts reserved (@ 16.5% of Item 1 above)	16
6. Posts to be filled by promotion under Rule 9 of the Indian Forest Service (Recruitment) Rules, 1966 (not exceeding 33.3% of Item 1,2,3 & 4 above)	46
7. Posts to be filled up by Direct Recruitment (Items 1+2+3+4+5- 6)	110
Direct Recruitment Posts	110
Promotion Posts	46
Total Authorised Strength	156

G.C. Pandey
(G.C. Pandey)

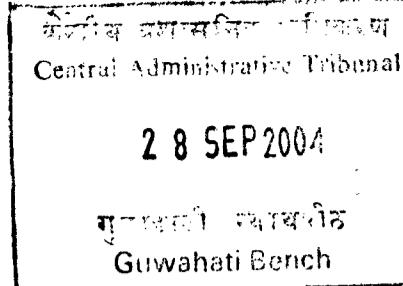
Under Secretary to the Govt. of India

Note 1 : Prior to the issue of this notification, the total authorised strength was 156.

Note 2 : The Principal regulations were notified vide notification No. 6/1/66-AJS(IV), dated 31.10.1966 as GSR No. 1072 in the Indian Forest Service (Fixation of cadre strength) Regulations, 1966 has been amended, vide notifications given below:-

S. No.	GSR No.	Date of Publication
1	1673	30.10.66
2	17	7.1.67
3.	653	6.5.67
4.	654	6.5.67
5	689	13.5.67
6	1083	8.6.68
7	1587	9.8.69
8	180	17.1.70
9	485	21.3.70
10	545	4.4.70
11	1802	24.10.70
12	135	24.1.75

13	136	24.1.71
14	665	8.5.71
15	45(E)	20.1.72
16	47(E)	20.1.72
17.	48(E)	20.1.72
18.	478(E)	4.12.72
19.	192(E)	2.4.73
20.	321(E)	27.6.73
21	391(E)	10.8.73
22	143	24.1.71
23.	280(E)	8.5.71
24.	273(E)	11.1.72
25.	306(E)	20.1.72
26.	812	29.4.72



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

OA No. 148/03

Sri Ajit Kumar Sen

-VS-

Union of India & Ors.

REJOINDER TO THE WRITTEN STATEMENT SUBMITTED BY

RESPONDENT NO.3 & 4.

1. That the applicant has been served with a copy of the written statement filed on behalf of the Respondent Nos. 3 and 4. The applicant has gone through the same and have understood the contents of the same. Save and except the statements which are specifically admitted herein below, other statements made in the written statement may be treated as total denial. The statements which are not borne on record are also treated as total denial and the respondents No.3 & 4 are put to the strictest proof thereof.

2. That with regard to the statement made in paragraph 1, 2 & 3 of the written statement, the deponent offers no comment on it.

3. That with regard to the statement made in paragraph 4 of the written statement, the deponent while denying the contention made therein begs to state that his service stood confirmed w.e.f. 16.9.86 in the post of Assistant Conservator of Forest by operation of the recruitment rule wherein there has been a specific mention regarding

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Filed by
The applicant
Advocate
Dinesh Das
24/9/04
Advocate
Dinesh Das
24/9/04

completion of such probationary period after 2 years. The law is well settled that, in absence of any blemish the authority is duty bound to confirm the service of its officer immediately after the expiry of probationary period failing which applying the due provision the service of the incumbent got confirmed by operation of law. The respondents while dragging the matter of confirmation of the applicant to an indefinite long period without any reason and finally after repeated persuasion of the matter his service was confirmed vide notification dated 20.10.2000 in the post of Assistant Conservator of Forest in State Forest Service w.e.f. 1.6.99 without there being any explanation to that effect. Admittedly the applicant had an unblemished service career and at no point of time during his such probationary period, he was not communicated with any adverse remark. It is noteworthy to mention here that according to the recruitment rule 20(b), the service of the applicant should have been confirmed w.e.f. 16.9.86 in the post of Assistant Conservator of Forest instead of 1.6.99. The respondents neither confirmed the service of the applicant nor his period of probation was extended after 16.9.86 and as such by operation of law his service automatically stood confirmed w.e.f. 16.9.86. Since the applicant successfully completed the probationary period and thereafter he was regularised to the post of Assistant Conservator of Forest on 16.9.86, his service stood confirmed in the post of Assistant Conservator of Forest w.e.f. 16.9.86. As per the service rules an employee who got his confirmation in the lower post, got his confirmation automatically in the next higher post from the date of regularisation. The applicant whose service was confirmed as Forest Ranger got automatic

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confirmation in the next higher post of Assistant Conservator of Forest on the date of his regularisation i.e. 16.9.86. That the respondents illegally didn't recommend the case of the applicant during the time of preparation of the select list of 1996-97 and thereby he was deprived of his legitimate claim of inclusion in the cadre of IFS for the said period. The respondents intentionally delayed the matter and sent his proposal for inclusion to IFS vide order dated 6.6.81 and 10.7.82. However by that time he was overaged.

4. That with regard to the statement made in paragraph 5, 6, 7, 8, 9 of the written statement, the deponent does not admit anything contrary to and inconsistent with the records of the case.

5. That with regard to the statement made in paragraph 10 of the written statement the deponent while denying the contentions made therein begs to state that during the year 1979 the applicant underwent training in Central Crocodile Breeding and Sanctury management and awarded diploma by the Institute. In the year 1980 the applicant applied for the post of Assistant Inspector, Central Crocodile Breeding Institute but applicant was not spared as because at the relevant point of time there was no other efficient officer available in the Deptt. and the said fact was communicated to him vide letter dated 2.5.80. Similarly the applicant got another opportunity while he just completed 8 years of service as Assistant Conservator of Forest. The applicant at that relevant point of time i.e. in the year 1988 he applied for the post of Assistant

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Director (wildlife and preservation) in the wildlife Regional Office under the Deptt. of Environment of Forest and wildlife but the applicant was not spared on the same ground as prevailed in the year 1980 and the said fact was communicated to the applicant vide letter dated 3.6.88. It is therefore the Respondent No.3 and 4 can not deny the fact that the applicant had an outstanding service career.

6. That with regard to the statement made in paragraph 11 of the Written Statement, the deponent while reiterating and reaffirming the statement made above as well as in the OA, begs to state that during his service career he got number of opportunities having wide exposure but due to non releasing him the services under the respondents, he had to forgo those opportunities.

7. That with regard to the statement made in paragraph 12 of the written statement, the deponent while reiterating and reaffirming the statements made above as well as in the OA begs to state that by operation of the recruitment rule more particularly the Rule 20(b), the service of the applicant got regularised on 16.9.86. As per the said rule the probationary period is 2 years and said rule also prescribed the criteria regarding performance and satisfactory service during the period of probation. Admittedly during the probationary period the respondents never found any sort of unsatisfaction during the course of holding the responsibility by the deponent, nor the said probationary period of the deponent was extended meaning thereby the deponent had an unblemished service career and the respondents has no cause to deny him the benefit of

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✓ confirmation on 16.9.86 or soon thereafter. However, the respondents dragged the matter of confirmation of service of the applicant for about 12 years and by an order dated 26.10.2000 the service of the applicant was confirmed in the post of Assistant Conservator of Forest in the State Forest Service w.e.f. 1.6.99. The allegation of the respondents regarding non fulfillment of service conditions for being confirmed in the post of Assistant Conservator of Forest till 1.6.99 is baseless and same is not tenable only on the ground that persons similarly situated like that of the applicant have been confirmed even with less meritorious service than that of the present applicant. Surprisingly enough the applicant who attained the eligibility for being promoted in the rank of IFS w.e.f 29.10.88, the respondents did not convene DPC year wise since 1988 till 1996 and same has caused serious prejudice both in the matter of his confirmation as well as consideration of his case for promotion to the rank of IFS.

8. That with regard to the statement made in paragraph 13 of the written statement, the deponent while reiterating and reaffirming the statement made above as well as in the OA, begs to state that the respondents have admitted the fact that from 1988 to 1996 they could not convene DPC violating the mandatory provisions contained in the rules holding the field. The respondents convened DPC on 26.3.96 and promoted persons even without insisting passing of such departmental examination and as such the contention raised by the respondents regarding passing of the departmental examination is baseless and self contradictory.

9. That with regard to the statement made in paragraph 14, 15, 16, 17 of the written statement, the deponent while reiterating and reaffirming statement made above begs to state that raising the similar issue one Sri M.C.Barua preferred OA 345/99 before this Hon'ble Tribunal and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA granting him all the consequential benefits and pursuant to which the present respondents themselves have implemented the same providing the consequential service benefits. It is therefore a fit case wherein Your Lordships would graciously be pleased to grant similar relief to the present applicant providing him all the consequential service benefits. This is pertinent to mention here that Sri M.C.Barua in his OA, likewise the present applicant, raised the issue of non convening of year wise DPC by the respondents and the present applicant also reiterating the same issue and claiming similar relief has come under the protective hands of this Hon'ble Court seeking similar relief arising out of identical cause of action. It is also worth mentioning that during the year 1988-1996 and also thereafter there were vacancies available for promotion in the cadre of IFS due to retirement etc. But the respondents without there being any (cogent) ground did not consider the case of the applicant. Had there being year wise DPC since 1988, the case of the present applicant would have been come under the purview of consideration for promotion to the rank of IFS in those years but due to inaction on the part of the respondents he has to suffer irreparable loss and injury. The respondents at a belated stage took a decision to consider the case of the present applicant i.e. in the year 1999 when he became overaged for

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such consideration. The respondents without there being any sanction carried forward the vacancies occurred prior to 1999 and clubbing up of those vacancies they withhold the DPC violating the settled proposition of law as laid down by the Hon'ble Apex Court. As such the action/inaction on the part of the respondents is not at all sustainable in the eye of law and liable to be set aside and quashed.

10. That with regard to the statement made in paragraph 18 of the written statement, the deponent while denying the contention made therein begs to state that admittedly during the years 1988-2002 the respondents have exercised the mandatory provision of the rule regarding Financial Cadre Review only in the years 1995 and 2002. As per the rules the respondents are duty bound to hold Financial Cadre Review after every 3 years but admittedly in the instant case where there should have been 3 Financial Cadre Review the respondents could done only 2 and in the instant written statement there is no explanation as to why such Cadre Review was done. In absence of such explanation the respondents have virtually admitted their inaction and on this score alone the impugned action/inaction on the part of the respondents in denying legitimate promotion of the applicant is liable to be set aside and quashed.

11. That with regard to the statement made in paragraph 19 & 20 of the written statement, the deponent while reiterating and reaffixing the statement made above begs to state the respondents themselves have admitted that right from the year 1988 - 2003 there were continuous accumulation/existence of sufficient vacancies to

accommodate the applicant in the cadre of IFS but as stated above the respondents have failed to explain the reason as to why those vacancies were allowed to remain unfilled for years together. Had there been timely Triennial Cadre Review and year wise DPC as contemplated under the rules, the applicant who became due for his such promotion in the 1988 itself got the benefit of such promotion. By now he would have continued to enjoy the benefit of an IAS Officer. Taking into consideration those admitted facts, the Hon'ble Tribunal may be pleased to direct the respondents to convene Review DPC, for promotion to the cadre of IFS right from the year 1988 onwards and thereafter they consider the case of the applicant using the same yard stick and to promote him to the cadre of IFS with retrospective effect providing all consequential service benefits.

12. That with regard to the statement made in paragraph 21 of the written statement the deponent while reiterating and reaffirming the statements made above begs to state that admittedly the respondents have without there being any cogent ground adopted the policy of clubbing up of vacancies which is impermissible in terms of the various Apex Court decision. Apart from that the respondents now in their written statement have tried to justify their action showing a subsequent clarification dated 5.12.02 which has only prospective effect and same can not be treated as a tool to justify their inaction committed during the years 1988 onwards. The law laid down by the Apex Court is very clear in this aspect and the Hon'ble Apex Court in number of cases have laid down the law that the vacancies occurred at a particular point of time will have to be filled up by the

rules prevailing at that point of time not by the subsequent clarification issued in this regard.

13. That with regard to the statement made in paragraph 22 and 23 of the written statement, the deponent while reiterating and reaffirming the statements made above as well as in the OA begs to state that the respondents have acted contrary to the settled proposition of law and as such their entire action/inaction are liable to be set aside and quashed.

14. That with regard to the statement made in paragraph 24 of the written statement deponent while reiterating and reaffirming the statement made above as well as in the OA begs to state that the respondents being the competent authority can not seek their responsibility by showing the guiding principles which has got no force when the matter requires due consideration.

15. That with regard to the statement made in paragraph 25, 26, 27, 28, 29, 30 & 31 of the written statement, the deponent while reiterating and reaffirming the statements made above begs to state that entire action/inaction on the part of the respondents is not at all sustainable and same are liable to be set aside and quashed issuing appropriate directions towards consideration of his case for promotion to the cadre of IFS by convening Review DPC at least as of 1996-97 and to promote him accordingly providing all consequential service benefits.

In view of the facts and circumstances stated above the OA deserves to be allowed with cost.

VERIFICATION

I, Ajit Kumar Sen, son of Late Hem Ch. Sen, aged about 59 years, at resident of 7 Ashutosh Road, Kolkata-31, do hereby solemnly affirm and verify that the statements made in paragraphs 1,2,4, 13,14,15 are true to my knowledge and those made in paragraphs 3 to 12 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 on this the Verification on this the 20th day of September, 2004.

^

Signature.

Ajit Kumar Sen