CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Sahls - 22/9/17

MENTRAL ADMINISTRATIVE TRICUTAL GUWAFATI BENCH:

ZAUBNSHEUT.

1. Criginal Application	110 43	L/07
2. Mise retition No.		
3. Contempt Petition No		
4. Review Application N		/
Appent(S) P.P.C	-congression vs	Union of India & Ors
A wor to for the Applic	car.t(S) <u>Deb</u>	ofit Day
	<u>Lop</u> c	<u>regogoi</u>
Advocate for the Respon	nda n t(S)	M. Dess, GA Asserm.
Notes of the Registry	Date	Order of the Tribunal
The Sem	22.02.2007	Present: The Hon'ble Mr.K.V.Sachidanandan Vice-Chairman.
deithe deithe son for in the hours topen for incided along with servelys.		The Applicant who had earlier approached this Tribunal in O.A. 260/2002 and vide order dated 21.02.2003 this court has passed the following order:- "The respondents are accordingly directed to take up the matter with right earnest for appointing the applicant to the Indian Forest Service in terms of Regulation on the basis of recommendation made by the Selection Committee held on 5.11.2001 and pass appropriate orders forthwith in accordance with law keeping in mind the observations and directions made in the O.A."
		Thereafter, contempt petition No.35/2003 was filed and during its proceeding the Principal Secretary,
		Forests, Govt. of Assam had submitted

Contd. 22.02.2007

> that they are complying with the orders of this Tribunal. The grievance of the Applicant is that till date the aforesaid orders has not been complied with under the pretext that the Applicant is undersuspension since 2003.

Mr.D.K.Das, learned counsel for the Applicant submits that so far as the disputed period is concerned there is no cloud and the Applicant is eligible for appointment and entitled to the reliefs claimed in this O.A. Mr.G.Baishya, Sr.C.G.S.C. appeared learned Respondent No.1 and Mrs.M.Das, learned Advocate, -State of Assam appeared on behalf of Respondent Nos.2 & 4.

Considering the issue involved in this case, I am of the view that the CA. has to be admitted. Admit the CA. Copies of the O.A. shall be furnishe to counsel for the Respondents 1 & 2. Isue notice to the Respondent Nos. 3, 4 8:

Post the matter on 05.04.200

Vice-Chman

Counsels for the Respondts sought for time to file reply ateme-Let it be done within fo weeks post on 8.5.2007.

Vice-Arman

NOtice and order recined tesps, NOS 2, 4, and 5, onbehat of mins. M. Das Crove Advocate sfult of Assiam, - Shi Jeiman ch - Deva 27-2-07

Notice & orclass sent to D/ Section for issuing to R- I and 3 day by read A ID post 01-01-5/3/07

Notices duly served on R-2,4 and 5,1

/bb/ 5.4.2007

No bils hurs ben

Aug We

9-5.07

ine Respondent 10.3.

ye - 1 to 1.5. Service

y placed in file 10°

8.5.2007

Mr.G.Baishya, learned Sr.C.G.S.C. & Ms. U.Das, learned Addl.C.G.S.C. have filed reply statement on behalf of Respondent Nos.1 & 3 respectively. Four weeks' further time is granted to the other Respondents to file reply statement.

is Intomitted to nondust oro. 1. page to 72. Bruf in the evology rustración Post the case on 08.06.2007. In the meantime Applicant may file rejoinder, if any, to the reply statements already filed.

Vice-Chairman

/bb/

8.6.07.

written statement has not been filed by the Respondents No. 2,4 & 5. Pust the matter on 11./.07.

No regorinder hus

7.6.07.

ln

26.7.07

Vice-chairman

11.7.2007 (N) S & 1 & 3 feled: (NO W) Som R. 2, 425: (NO rejoinder Licoon

Further two weeks time, as sought is granted for filing of reply statement to Mrs.M.Das, learned Govt. Advocate, State of Assam.

Post the case on 26.7.2007.

Vice-Chairman

?. No-2, 425. /bb/

Rejoinder not billed.

14.7 (7.

s bicel by R.No-123,

25.707. Pg
Wis Ficul by Rina Q,

Counsel for the respondents i.e. State of Assam wanted to have some time to file written statement.

Post on 17.8.07 for order.

1_

Vice-Chairman

14.9.07. Post the matter before the next available Division Bench.

Vice-Chairman

Duk billed on behalf of RiNo. 18-3.

@ NO 1015 LILA 64. R.No. 2,445.

16.10.07.

11.10.0/ пі пів саос тароттать

already filed written statement. Mr G. Baishya, learned senior Central Govt. standing council for Respondent No.1 and Miss U.Das, learned Addl.Central Govt. standing counsel Respondent No.3 have given undertaking to their appearance memo in this case. Writ statement for State of Assam has already lifed. Mrs M.Das, learned counsel for the of Assam undertakes to file her appearance memo in this case.

No written statement has been filed by Respondents No.4 and 5. No rejoinder has been filed in this case, as yet.

Call this matter on 26.11.07, awaiting reply/written statement from Respondents No.4 and 5 and rejoinder from the applicant.

Sent copy of this order to the Applicant and the Respondents.

(Khushiram) Member(A)

(1)

(Manoranjan Mohany) Vice-Chairman

Please sent order Cotries to both the parties.

Order St. 11/10/07 sent to D/Setion dor issuing to R-,1 to 5 lyrege. A/D pg

Notes of the Rogist:

25.10.07

26.11.2007¹

Ms.U.Das, learned Advocate for the

Respondent No.3 is present.

Mr.M.U.Ahmed, C.G.S.C. , learned Addl.

Mr.G.Baishya, represented learned.

Sr.C.G.S.C. for the Respondents in this case.

It is reported that matter is ready for hearing. Call this matter for hearing on 117.12.2007.

WIS bikel on behalt 07 R.No-1,2 and 3.

T4.12.07.

/bb/

(Khushiram) Member (A)

17.12.2007 Mrs.R.S.Choudhury, learned counsel (on behalf of Mr.D.K.Das, learned counsels) for the Applicant) is present. Mr.G.Baishyu learned Sr. Standing counsel for the Union

of India is also present.

Rejoinder not bilout.

22:1:08.

Call this matter before the Division

Bench 23.01.2008.

(M.R.Mohanty) Vice-Chairman

/bb/

AXXXXXXXXXXXXXX

23.01.2008

Call this matter on 12.02.2008.

hushiram) Member(A)

(M.R. Morlanty) Vice-Chairman

lm

1 2

6

... 12.02.2008 None appears for the applicant nor for any of the Respondents. Call this matter on 27.03.2008 for hearing. Rejoinder nut bilect. (Khushiram) (M.R.Mohanty) Member(A) Vice-Chairman - RE. 3 081 рg 27.03.2008 Call this matter on 22.05.2008. Rejoinder not (M. R. Mohanty) Vice-Chairman nkm It is stiated that there is a man person I 80.5.5010 difficulty of the sale site for the Applicant A (1. sevol cupies it port of him to it and come which of the this order to the counsels of Loth Spallerar Secking an Aljonina art of hearing . so May I DE COM HONOR , Mr. C. Balling, be not Si, Standing control opposing the Rose and the west Mr. Mr. Dise, expresenting the Son of Assembly present. creter St. 22/5/08 C. II this matter of 2007,2008 for herring send to Disection: Send april to profice. counsel for the parties. $Memos_{*}(X)$ Vice-Chairman 23,4,08 sepuli ant a gair vid And in 195 1 i had to Marpoont Nos I ma.

The case is ready box heaveny.

29.07.2008

On behalf of Mr. D. K. Das, learned: counsel for the Applicant, prayer has been made seeking an adjournment on the ground that Mr.D.K.Das, learned counsel for the Applicant is ill. Mrs. M. Das, learned counsel appearing for the State of Assam also seeks an adjournment

Call this matter on 02.09.2008 for hearing.

(Khushiram) Member(A) (M.R.Mohabnty) Vice-Chairman

lm

319.081

02.09.2008

It has been prayed on behalf the Applicant seeking an adjournment. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, Mrs M. Das, learned Counsel for the Covernment of Assam, Ms U. Das, learned Counsel for Respondent No.3, are, however, present.

Call this matter on 30.09.2008 for hearing.

Khushiram) Member(A)

(M.R. Mohanty) Vice-Chairman

nkm

30.09.2008

On the prayer of Mr.D.K.Das, learned Counsel appearing for the Applicant (made in presence of Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Union of India and Mrs. M. Das, learned Counsel appearing for the State of Assam), call this matter on 27.11.2008 for hearing.

(S.N.Shukla) Member(A) (M.R.Mohanty) Vice-Chairman

the case is ready bor hearing.

The case is treaty

36.11.08.

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who is car in a car to the total the car. when with and another and an in the second O.A.47 of 07 between the second combiners agist me whom ಇಟ್ಟಿ ಸಾರ್ಟ್ಫ್ ಸಿಂಬಾಜ್ ಎಸ್27 ಟಿ.2008ರ. n=None-appears-for-the Applicant nor the Figure 1. and 1. and 12 state of all thereApplicant is present. Counsel, representing estable called accept to the accept to the Respondents are present. Call this matter on 13th January 2009, with the Mark and the entire way and the for hearing. 生物飲暖 (M.R. Mohanty) Vice-Chairman Production A.M. glim agains at Construction of the second of 1814年中華日本 26 13.01.2009 None appears for the Applicant. Mr.G.Baishya, learned Sr.Standing The case is reachy Counsel appearing for the Union of India by hearing is however, present. Mrs. M.Das, learned Counsel representing the State of Assam and Ms. Usha Das, Advocate, representing the U.P.S.C are also present. Call this matter on 24.2.2009 for hearing. lm(M.R.Mohanty) Vice-Chairman +24.02.2009 Call this matter on 16.03.2009 for 24-2-03 is prepared hearing. 4 sent to Asaction - issue to the parties Send copies of this order to the parties to come ready for hearing. (M.R. Mohanty) Vice-Chairman nkm

and prays for adjournment of the case.

Prayer is accepted. List on 06.04.2009.

the case is heady

3.4.00 . 1bb/

(A.K.Gaur) Member (J)

O.A.47/07

06.04.2009 Call this matter on 25.05.2009 for hearing.

(M.R.Mohanty) Vice-Chairman

рg

25.05.2009

Mr.G.Baishya, learned Sr. Standing counsel for the Respondents is present. At the request made on behalf of Mr.D.K.Das, learned counsel for the Applicant the case is adjourned to be fixed on 08.06.2009 for hearing.

The case is ready boo hearing.

7.8.09

(N.D.Dayal) Member (A) (M.R.Mohanty)
Vice-Chairman

/bb/

17.06.2009

Call this matter on 10.08.2009 for hearing.

(M.R.Mohanty) Vice-Chairman

/bb/

10.08.2009 On the prayer of learned 'n counsel for the Applicant, call this

matter for hearing on 17.09.2009.

No.1

representation of the case

Send copies of this order to

for

Khaiterd. Sevel Upis estusion. to the lapd. No. 1

(M.K.Chaturvedi) Member(A)

Respondent

17.09.2009.

(M.R.Mohanty) Vice-Chairman

Call this Division Bench matter on

proper

13-8-2009

/lm/ Copy of The order Dated. 10-8.2009 preparos and send to D. section too issuing of The Same to The RINO-1. Vi'de D.NO-9440 17.09.2009

Date: - 13.8.09 19.11.2009 for hearing.

The case is bearly. too heaving.

/bb/

(M.K.Chaturvedi) Member (A)

19.11.2009

Proxy counsel for respondents seeks adjournment stating that Mrs M.Das has some personal difficulty.

List on 7.12.2009.

The case is near boo haciring

(Madan Member (A) Member (J)

/pg/

The case is ready for hearing,

07.12.2009

List the matter on 06.01.2010.

(Mukesh Kumar Gupta) Member (J)

/lm/

- O.A.47 of 07

On the request of proxy counsel for the 6.1.2010. Applicant, case is adjourned to 11.1.2010.

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The ocasseous Ready moranimum.

पान विकास प्रभविकात (Madan Kumar Chaturvedi) Member (A)

Standard Salation

(Mukesh Kumar Gupta) Member (J)

Proposition of the equip wi

ob at ormbooring transfer with 11.1.2010 se will resel on a dise hed you are

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19-1-20 10 MIT II करा असमान होता है। जिल्ला के मिन्न हैं। इस किस सामान

On the request of Mrs. M.Das, learned counsel for Respondent Nos.2,5 and 6, case is adjourned to 28.1.2010.

List the matter on 28.1.2010.

(Madan Kumar Chaturvedi) Member (A)

(Mukesh Kumar Gupta) Member (J)

20.1.2010

Mentioned has been made by proxy ध्यावारी केंद्राप्तते वेशकोत्तांत (the round) कतामान ए counsel of Mrs. M.Das, learned counsel appearing for the Respondents to adjourn

this matter.

List the matter on 1.2.2010.

The case is ready

flowber (!)

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta) Member (A)

Member (J)

Service Management 1

01.02:2010

المعياض أبرا حارات أنيا

Learned counsel for the State of Assam seeks some time to take up the matter with the Central Govt. in order to settle the grievance of the applicant.

List on 18.2.2010.

(Madan Kr. Chaturvedi) Member (A)

(Mukesh Kr. Gupta) Member (J)

18.2.2010

Mrs. M.Das, learned counsel for the Respondents has placed on record communication dated 16.2.2010 is reproduced as follows-

> "I am directed to inform you that the proposal to move Govt. of India in respect of Shri P.P.Chankakati for promotion to IFS is in process.

The official procedure to do so will need more time and you are therefore, request to move Hon ble Central Administrative Tribunal to allow at least 15 days time for necessary action at our end."

In the above circumstances, we adjourn the matter to 04.3.2010. The aforesaid communication is taken on record.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)

Member (Λ) Member (Ι)

/lm/

04.03.2010

A communication has been produced by Respondent Nos.2, 4 & 5 dated 03.03.2010 addressed to the Secretary, Government of India, Ministry of Environment and Forest, New Delhi by the Commissioner and Secretary, Govt. of Assam, Environment and Forest Department, Dispur, which reads as under:

3 t 2 t 2 t

"Sub: SHRI P.P.CHANGKAKOTI -NOMINATION TO IFS - REGARDING.

Ref: 1)OA No.260/2002, 2)Contempt Petition No.35/2003 and 3) OA No.47/2007 filed before the Hon'ble CAT, Gauhati Bench.

Sir,

I have the honour to state that in compliance of the judgment dtd. 21-2-2003 passed by the Hon'ble CAT on OA No.260/2002, the State Govt. has already issued Integrity Certificate relevant to the period of Selection Committee meeting held on 05.11.2001 in respect of Shri P.P. Changkakoti on 16-06-2004. In our earlier letters to the Govt. of India, it has been communicated that, in view of the pendency of the Departmental proceedings, the State Government is not

Utlan (8.2 2010).

settle the prievance of the applicant.

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(Izasan Fr. Choturvedi) - Nemcer (A)

(Možeth (1, Gupto Member 3

Received ordin copy and 18.02.10 for Mrs. M. Das, Sa Casc

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Contd. 04.03.2010

in a position to issue fresh integrity certificate.

You are also requested to kindly to refer observation and orders dtd. to the 10.3.2005 on Contempt Petition No.35/2003 passed by the Hon'ble CAT, Guwahati. The copy of the order was communicated to the UPSC (as desired by the Hon'ble CAT) vide letter No.PS/P&D/1/2003, dtd.24-03-2005 with a request to take necessary action in the matter. Now, the State counsel desires to know what steps have been taken by the State and the Govt. of India. It may be mentioned that, the UPSC, as observed from their affidavit in Case no.OA 47/2007, had complied with the orders of the Hon'ble CAT and has requested the Govt. of India Ministry of Environment & Forests to take further necessary action in the matter.

You are requested kindly to take appropriate action in the matter."

We may note that on earlier date of hearing, namely 18.02.2010, a communication dated 16.02.2010 has been produced before us, which also reads as under:-

"I am directed to inform you that the proposal to move Govt. of India in respect of Shri P.P. Changkakati for promotion to IFS is in process.

The Official procedure to do so will need more time and you are therefore, request to move Hon'ble Central Administrative Tribunal to allow at least 15 days time for necessary action at our end."

Mrs.M.Das, learned counsel for Respondent nos.2, 4 & 5 contends that no further action is desired at their end as they have already taken action in compliance of the directions passed by this Tribunal in O.A.260/2002 as well as C.P.35/2003, which stand has been seriously contested by Mr.D.K.Das, learned counsel for the Applicant, who contends that in terms of communication dated 16.02.2010, as noticed hereinabove, no proposal has been forwarded which would satisfy the relief in the present O.A.



*O.A.47/2007

Contd. 04.03.2010

On consideration of the matter, we find justification in the contention raised by learned counsel for Applicant so long as undertaking given to this Tribunal vide communication dated 16.02.2010 to send a proposal to the Govt. of India for promotion/induction in IFS, which has not been carried out. Therefore, Respondent Nos.2, 4 & 5 are directed to move a specific self contained proposal to Respondent No.1 on the said aspect highlighting all aspects of the case including the latest development. This shall be done within a period of two weeks from today and Respondents should report compliance.

List on 29.03.2010 for compliance of the aforesaid directions. It is made clear that no further extension of time will be allowed. Copy of this order be given to said Respondents for necessary compliance.

(Madan Kumar Chaturvedi) Member (A)

(Mukesh Kumar Gupta) Member (J)

/bb/

·29.03.2010

No compliance report has been filed by the respondents in terms of order dated 04.03.2010. Mrs Mr Das, learned Sr. C.G.S.C. appearing for respondent Nos.2, 4 produced before 5 communication contending that they are the complete details of the issue raised in the present case. On examination of the same, we are unable to accede with the said prayer. Mere communication is not a self-contained proposal" "specific directed by the respondent No.1 88 aforesaid order. In the circumstance,

Contd/- ---

The case is really book heaving

16.4.2010

though we have vide the aforesaid order stated that no further extension of time will be granted, in the interest of justice, we grant two weeks time for report of compliance.

List on 19.04.2010.

(Madan Kumar Chaturvedi) Member (A) (Mukesh Kuma Gupta) Member (J)

nkm

19.04.2010

An affidavit has been filed in terms of orders dated 4th March 2010 and 29th March 2010, whereby the State of Assam (Respondent No.2.4 & 5) have moved a specific self contained proposal to the Respondent No.1 highlighting all aspects case including the latest of the of vide development the case communication dated 5th April, 2010. Copy of said affidavit has been served upon the learned counsel Mr.D.K.Das, for Applicant. Learned counsel for the Applicant, after perusal of said affidavit states that he is satisfied by the steps taken by the Respondents and in view thereof present O.A. be closed with liberty to take up appropriate steps, if he has any grievance on said subject. Noticing the aforesaid aspects, O.A. is disposed of.

Ms. Usha Das, learned Addl.Standing Counsel appearing for Respondent No.3 and Mrs. M.Das, learned Sr.Standing Counsel for Respondent Nos. 2,4,& 5 are present.

(Madan Kumar Chaturvedi) Member (A) (Mukesh Kumar Gupta) Member (J)

28-4-2010

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19-4-2010 Bufarer

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Section for issuing to

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and issued to 2/Advocate

for the Parties 1

Vide No - 1063 to 2067

Peccived Copy Jon Mrs. M. Das Sr. CGSC Weka 23.4.10

paid - 03-5-2010

THE GAUHATI HIGH COURT AT GUWAHATI

(The Migh Court Of Assem Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

ASE No	O : Crl.Pet. 161/2007	District : Kamru	p
1	SRI PRASANTA PRAN CHANGKAKATI DEPUTY CONSERVATOR OF FORESTS RESIDENT OF REHABARI , GHY8		
	DIST KAMRUP , ASSAM	Petitioner/appellant/applicant	
	Varrano		
ľ	Versus THE STATE OF ASSAM AND ORS REPRESENTED BY COMMISSIONER AND SE , HOME , GOVERNMENT OF ASSAM	CRETARY	
2	OFFICERINCHARGE PALTAN BAZAR POLICE STATION PALTAN BAZAR , ĜUWAHATI DIST- KAMRUP , ASSAM		
3	COMMISSIONER AND SECRETARY ENVIRONMENT AND FOREST DEPTT. DISPUR, GHY06, ASSAM		
4	PARAN JYOTI SAIKIA KAHILIPARA , GHY19 DIST KAMRUP , ASSAM	Respondent/Opp. Party	
	n-titionar/annellant		
,	Advocates for Petitioner/appellant	-	٠, ٠
. 1	O M CHOUDHURY		
2	S K GOSWAMI		
3	D K DAS		
4	P K SARMA		
5	U GOGOI		
6	L G'AHMED		
	,		
	Advocates for Respondents		
1	PP, ASSAM		
	Summary Of Case And Prayer In Br	ief	•
	CERTIFIED C	OPY OF JUDGEMENT / ORDER	

BEFORE HON'BLE MR JUSTICE B D AGARWAL

DATE OF ORDER: 31/10/2009

The petitioner herein, is a Senior Forest Officer in the rank of Divisional Forest Officer. He was due for elevation in the rank of Indian Forest Services in the year 2003. However, due to registration of a criminal case his promotion has been withheld.

- This application under Section 482 of the Code of Criminal 2. Procedure, 1974, has been filed by the accused Sri Prasanta Pran Changkakati, praying for quashing of Paltan Bazar P S Case No. 349 of 2003, under Section 384 of the IPC read with Section 7 of the Prevention of Corruption Act, 1988.
- I have heard Sri J M Choudhury, learned senior counsel, assisted 3. by Sri S K Goswami, learned counsel for the petitioner. Also heard Sri K Munir, learned Additional Public Prosecutor for the State of Assam.
- The Officer-in-charge of Paltan Bazar Police Station was also summoned to appear in person to produce the Case Diary and apprise this Court about the status of the investigation. The direction to produce the Case Diary was given on 1.9.2009 and the case was adjourned repeatedly for non-production of the Case Diary. Today, the Officer-in-Charge of the Paltan Bazar Police Station, Inspector Sri Sujit Kumar Saikia appeared in person and informed the Court that the relevant Case Diary is untraceable. However, one copy of the duplicate Case Diary was brought to the Court, wherefrom the learned Additional Public Prosecutor apprised this Court that the investigation is virtually not in progress since 2004. In other words, the last note of the Investigating Officer was recorded on 25.8.2004. The learned Additional Public Prosecutor also apprised the Court that the Investigating Officer had written to the competent authority to accord Sanction for filing chargesheet vide letter dated 27.10.2003. However, the competent authority is yet to accord Sanction for the prosecution.

Sri Choudhury, learned senior counsel for the petitioner 5. submitted that the petitioner was trapped at the instance of respondent No. 4 since the petitioner had taken initiative to seize one truck of illegal timber belonging to the said respondent on 30.6.2002, and as such, the initiation of criminal proceeding at the behest of respondent No. 4 is malafide. Sri Choudhury, further submitted that prior to that the same Officer, that is, the petitioner had also detained 4 (four) trucks found to be carrying prohibited timber i.e.

'Sandalwood' on 26.5.2003. According to the learned counsel, having realized that the petitioner is the barrier for the smugglers of timbers they prevailed upon the Government to get him transferred. Accordingly, vide order dated 11.8.2003, the petitioner was transferred to Guwahati Social Forestry Division from Kamrup East Division (Territorial). According to the learned counsel, the aforesaid orders of transfer was challenged before this Court in WP(C) No. 5590/2003. The writ petition was disposed of on 25.7.2003, directing the State respondents not to allow export of the seized logs out of Guwahati. However, direction of transfer was not interfered with. Being aggrieved with the aforesaid order the petitioner filed Writ Appeal No. 345 of 2003, which was allowed on 8.8.2003.

6. In my considered opinion, certain observations made by the Division Bench in the Writ Appeal are of relevance in this writ petition and as such, the observations are reproduced below:

"On evaluation of the entire factual scenario, we prima facie feel that the order of transfer of the appellant is not issued simply on the basis of public interest. The sudden and hasty action has been taken of transferring the appellant so as to keep him away from the enquiry and the investigation, which he intends to make. We prima facie feel that the order of transfer has been issued to keep the appellant away from any enquiry or investigation in regard to conduct of the RangeOfficer, Guwahati Range for issuing "Lieu Transit Pass" for transportation of logs from State of Tamilnadu to Moreh in Manipur State."

D DduHa 7. After the aforesaid disposal of the Writ Appeal, the private respondent No 4 submitted a complaint to the Deputy Commissioner, Kamrup, Guwahati on 30.9.2003 alleging that the DFO (the petitioner) was demanding bribe of Rs. 1,00, 000/- and asking the complainant to pay Rs. 20, 000/- as the first installment in the early morning of 1.10.2003. Accordingly, the complaint was forwarded to the Police Department who made an enquiry through the Additional Superintendent of Policy (City), Guwahati, and accordingly, a trap was laid on 2.10.2003 and a sum of Rs. 20, 000/- was allegedly seized from the table inside the house of the petitioner. Subsequently, the

aforesaid Police case was registered. The petitioner was also arrested on 14.6.2004 and after 2 (two) months of judicial custody, the petitioner was released on bail. Since the petitioner was trapped and harassed at the behest of respondent No. 4, who was also facing several criminal cases, and since the investigation was not completed expeditiously, it hampered the promotion of the petitioner this criminal petition was filed on 19.6.2007. It may be mentioned here that the private respondent No. 4, that is the complainant was duly notified but he has chosen not to appear before this Court to object the quashing of the FIR.

- 8. Certain categories of cases by way of illustrations were formulated by the Apex Court, in the case of State of Haryana -Vs Bhajan Lal, reported in 1992 Supp (1) SCC 335, wherein, quashing of complaints in exercise of powers conferred under Section 482 Cr PC and under Article 226 of the Constitution of India have been laid down. The illustrations are quoted as below:
- "1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do no prima facie constitute any offence or make out a case against the accused.
- 2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.
- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- 4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.
- 5. Where the allegations made in the FIR or complaint are so absurd

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- 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/ or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- 7. Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. "
 - 9. Sri J M Choudhury, learned senior counsel for the petitioner also cited the Judgment of the Apex Court rendered in the case of Anjani Kumar -Vs- State of Bihar, reported in (2008) 5 SCC 248. In this case, the Hon'ble Supreme Court has held that a complaint against a Government Official can be quashed if it is found that he is being prosecuted on the basis of an FIR lodged as a counterblast to the actions taken by the Government Official in his official capacity.
 - at the instance of the present petitioner in the month of June 2003 and thereafter, an attempt was made to transfer the petitioner from territorial jurisdiction to Social Forestry Department to keep him away from the investigations of seizures he made. Besides this, the FIR for demand of bribe has been made after the order was set aside in Writ Appeal No. 345 of 2003. Hence, in my considered opinion, the case is squarely covered by Category No. 7 as formulated by the Apex Court in the case of Bhajan Lal (supra). In other words, I am of the view that the possibility of the petitioner being framed in the criminal proceeding with malafide intention by the respondent No. 4, who was seriously aggrieved due to seizure of illegal timbers belonging to him, cannot be totally ruled out.

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- 11. Sri Choudhury, learned senior counsel for the petitioner submitted that FIR should also be quashed because of inordinate delay in completing the investigation and in support of this submission the learned counsel has relied upon the Judgment of the Supreme Court rendered in the case of Mahendra Lal Das -Vs- State of Bihar, reported in (2002) 1 SCC 149. This case had also arisen out of corruption law and the case was quashed since there was inordinate delay in completing the investigation.
- 12. In the case at hand, the investigation has not been completed after more than 6 (six) years of lodging of the FIR. I have already noted at the outset of the Judgment that the Investigation Agency was not serious to complete the investigation expeditiously and it appears to me that after official formalities it became a no man's case. Not only this, the investigation has been stopped from the later part of 2004 and the authority competent to accord Sanction also did not supervise or showed any interest to accord Sanction to prosecute the petitioner in the last 6 (six) years. Accordingly, I hold that the FIR should be quashed on this ground also.
- Although it was not necessary for me to look at the variety of 13. the investigation. However, since the allegation has been made that the petitioner has been falsely framed and trapped in the case at the behest of respondent No. 4, I have perused the seizure list and statements of few witnesses to ascertain under what circumstances the seizure was made. The learned Additional Public Prosecutor also fairly admitted that Rs. 20,000/- was found on the table and not from the conscious and direct possession of the petitioner nor from any safe custody of the petitioner. Besides this, at the relevant time the petitioner was living in a locality known as Rehabari, Guwahati city, whereas, the only independent seizure witness namely, Sri Anil Kakati hailed from a place known as Kahilipara, nearly 8 to10 kilometres away from the place of seizure. From his statement, it is covered that the said seizure witness was not a reputed person even in his own locality. Section 100 (4) Cr PC mandates that if seizure and search is to be made from inside the house such search should be carried out in presence of 2 (two) or more respectable inhabitants of the locality.

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However, in the present case, the Police Officers procured a witness from a distant place and this fact also goes to show that the petitioner was trapped with tainted allegations and fabricated evidence.

- Having regard to all the aspects of the matter and more 14. particularly, keeping in mind the inordinate delay in completing the investigation, due to which, the petitioner has been harassed and subjected to mental torture and also affecting his service career, I hold that this Court should exercise its powers conferred under Section 482 Cr PC. Consequently, Paltanbazar PS Case No. 349 of 2003 registered under Section 384 of the IPC read with Section 7 of the Prevention of Corruption Act, 1986, is hereby quashed.
- In the result, the Criminal Petition stands allowed. 15.

soll- B. D. Agarwal Judge

9L'NO 127820 Obt. 05-11-09

CERTIFIED TO BE TRUE COPY

Superintendent (Copying Section) Gauhati High Court

Authorised U/S 76, Act 1, 1872

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THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUYAHATI BENCH

GUWAHATI

O.A. No. 47 of 2007

BETWEEN

Shri Prasanta Pran Changkakati

..... Applicant.

AND -

Union of India & Ors.

....Respondents

SYNOPSIS

That the applicant has by way of this application assailed the inaction on the part of the Respondent authorities in not issuing orders towards effecting his promotion to the cadre of IFS in terms of his selection for such promotion in the year 2001. The name of the applicant was provisionally included in the select list of 2001 in view of the pendency of a departmental proceeding initiated against him in the year 1994. The proceeding as initiated against the applicant was dropped on 16.07.02, exonerating the applicant from the charges levelled against him therein. The select list in question was valid till 29.07.02 and accordingly the applicant was required to be promoted immediately after 16.07.02 to the IFS cadre. The applicant was deprived of his such promotion on the plea that there was a subsequent proceeding contemplated against him.

The applicant approached this Hon'ble Tribunal by way of filing OA No. 260/02 praying for his promotion to the IFS cadre in terms of his selection by the selection committee on 05.11.01. The respondent authorities justified the non promotion of the applicant on the ground of contemplation of further departmental proceedings against him. This Hon'ble Tribunal vide order dated 21.02.03 by negating the contentions raised by the respondent authorities therein, held the action of withholding the promotion of the applicant to the cadre of IFS on the plea of

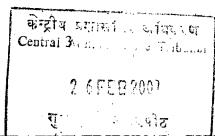
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pendency of subsequent proceedings to be unlawful. The said decision of the Hon'ble Tribunal was carried up on in appeal before the Hon'ble Gauhati High Court, however the writ application so filed came to be dismissed. The decision of the Hon'ble Tribunal attained its finality with the dismissal of the said writ application.

The Government of Assam after protracted communications and initiation of contempt proceeding before this Hon'ble Tribunal, finally made the inclusion of the applicant unconditional. However, the respondent authorities including the Union Public Service Commission has been delaying the issuance of necessary clearance towards promoting the applicant to the cadre of IFS with reference to the subsequent proceeding initiated against the applicant. The applicant was placed under suspension w.e.f. October, 2003 and he continues to remain under suspension. The plea as advanced by the respondent authorities for denying to the applicant his due promotion to the cadre of IFS having already been negated by this Hon'ble Tribunal, the said plea is plea of pendency of proceedings is clearly unsustainable and it demonstrates the vindictive attitude adopted by the respondent authorities towards the applicant. It is under such circumstances that the applicant has come under the protective hands of your lordships paying for redressal of his grievances.

Filed By

Advocate



THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

GUWAHATI

O.A. No. 47 of 2007

BETWEEN

Shri Prasanta Pran Changkakati

..... Applicant.

- AND -

• Union of India & Ors.

....Respondents -

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Filed By

Advocate

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THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH GUWAHATI

O.A. No. 47 of 2007

BETWEEN

Shri Prasanta Pran Changkakati, Deputy Conservator (under suspension), resident of Rehabari, Gauhati, District-Kamrup, Assam

..... Applicant.

AND -

1. Union of India, represented by the Secretary to the Government of India, Ministry of Environment & Forest, New Delhi.

2. The State of Assam, represented by the Secretary to the Government of Assam, Environment & Forrest Department, Dispur, Guwahati.

3 The Union Public Service Commission, represented by its Chairman, Dholpur House, Shahjahan Road, New Delhi.

- 4. The Principal Chief Conservator of Forest, Assam, Rehabari, Guwahati.
- 5. The Joint Cadre Controlling Authority, IFS Assam- Meghalaya Joint Cadre.

..... Respondents

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

This application is not preferred against any particular order, but has been preferred raising a grievance against the action/ inaction on the part of the respondents authorities in not appointing the applicant to the Assam Segment of the IFS Assam Meghalaya Joint Cadre in terms of his selection for such appointment by the selection committee on 05.11.01. The right of the applicant for such appointment was already crystallised vide the Order dated 21.02.03 passed by this Hon'ble Tribunal in O.A. No. 260/ 02, which has already been affirmed by the Hon'ble Gauhati High Court.

2. <u>JURISDICTION OF THE TRIBUNAL</u>:

The applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Court.

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. <u>FACTS OF THE CASE</u>:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights protections and privileges guaranteed under the constitution of India.
- Assistant Conservator of Forests in the year 1981 and basing on the meritorious services rendered by him he came to be promoted to the rank of Deputy Conservator of Forests. The applicant during his service career has held various assignments, which in the service is considered to be prestigious assignments. The





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applicant had a blemish less service career and was in the contention for promotion to the Assam segment of the IFS Assam- Meghalaya Joint Cadre.

- That as the applicant was in the contention for promotion to the IFS cadre, a departmental proceeding came to be hoisted on him basing on false and frivolous grounds in the year 1994. He was also placed under suspension on 29.03.95 and after about 7 months the order of suspension of the applicant came to be revoked on 20.10.95 and he was reinstated in his service. In spite of bringing on record the fallacy of the charges levelled against him in the said departmental proceedings, the same were for reasons best known to the authorities continued.
- That your applicant states that he participated in the Departmental proceedings initiated against him and fully co-operated in the conduct of the same. The enquiry officer as appointed for conduct of the said proceedings on conclusion of the same submitted his report exonerating the applicant form the charges as levelled against him. However the Government of Assam in the Environment & Forest Department did not accept the findings of the enquiry Officer and a fresh enquiry was directed to be held into the same charges vide order dated 14.10.99. However, no progress was made and the departmental enquiry was allowed to drag on.



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- That your applicant states that being aggrieved by the prolonging of the said Departmental enquiry and no conclusion of the same being in sight, he approached the Hon'ble Gauhati High Court assailing the same and in terms of the directives as passed by the said Hon'ble court, the proceedings were concluded on 16.07.02 and the applicant was exonerated from the charges as levelled against him. It may be mentioned here that the applicant was selected by the selection committee on 05.11.01 for promotion against the vacancies as available in the Assam segment of the IFS Assam- Meghalaya Joint cadre, but his such selection was made conditional to his exoneration in the said departmental proceedings as pending against him at that relevant point of time.
- That your applicant states that with his exoneration in the said proceedings he was entitled for being promoted to the IFS cadre in terms of his selection for the same, but with a view to deprive him of his such promotion, a

further departmental proceeding came to be contemplated against the applicant vide issuance of a communication bearing No. A-22/ Misc/ 2001 dated 09.07.02. Taking refuge under the fresh proceedings as contemplated against the applicant, his integrity certificate came to be withheld by the Government of Assam, resulting in the non-promotion of the applicant to the cadre of IFS against the vacancies as assessed in the Assam segment of the IFS Assam-Meghalaya Joint cadre, for the year 2001.

Hon'ble Tribunal by way of filing O.A No. 260/02, inter-alia, praying for his promotion to the Assam Segment of the IFS Assam-Meghalaya Joint cadre in terms of his selection on 05.11.01 against the vacancies as assessed on 01.01.2001. The applicant had contended before this Hon'ble Tribunal in the said Original application that with the dropping of the proceedings as pending against him at the time of his consideration for promotion to the IFS cadre, his case for promotion to the cadre of IFS was required to be considered immediately w.e.f the date his junior was so promoted and the subsequent proceedings as contemplated cannot be reckoned for denying to him, his said promotion. The Respondent authorities on the other hand raised a plea of pendency of a fresh proceeding towards non granting of the necessary integrity certificate and also towards declaring the name of the applicant as unconditional in the select list of 2001.

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That this Hon'ble Tribunal upon consideration of the rival contentions raised before it in O.A No. 260/02, proceeded vide its order dated 21.02.03 to dispose of the said Original Application, inter-alia, holding that the subsequent charge sheet was contemplated and was issued much after the period under consideration i.e. 1999-2000 for the purpose of inclusion of select list of 2001 and that the same cannot have any relevance for effecting appointment of the applicant in terms of his selection for the year 2001. It was further held that the conditions as indicated in the select list 2001 i.e. the provisional inclusion of the applicant therein subject to finalisation of his departmental proceedings was cleared on 16.07.02 with the dropping of the said departmental proceeding and accordingly it was concluded that the promotion of the applicant due on 05.11.01 could not be inhibited by a departmental proceeding contemplated on 16.08.02 under different circumstances. Accordingly, this Hon'ble Tribunal held the action of the respondent authorities in

withholding the promotion of the applicant as unlawful and directed for his appointment to the IFS in terms of his selection against the vacancies of 2001.

A copy of the said order dated 21.02.03 is annexed as Annexure – 1.

- That your applicant states that the Government of Assam in the Environment and Forest Department proceeded to file an appeal against the order dated 21.02.03 before the Hon'ble Gauhati High Court on 10.02.04 which was registered and numbered as W.P. (C) No. 1077/ 04. The said writ application however was subsequently dismissed and thereby the order dated 21.02.03 as passed by this Hon'ble Tribunal in OA No. 260/ 02 stood affirmed. The order dated 21.02.03 having attained its finality with the dismissal of the said writ application, the respondent authorities are duty bound to act in accordance with the same. It may be mentioned here that the applicant came to be placed under suspension w.e.f. October, 2003 and he continues to be under suspension. However, the subsequent allegations as levelled against the petitioner has got no relevance for the purpose of his promotion to the IFS cadre in terms of his selection for the year 2001. The proceedings as currently pending against the applicant cannot be reckoned for the purpose of denying to the applicant his due promotion to the cadre of IFS.
- That your applicant states that as the directives passed by this Hon'ble Tribunal vide order dated 21.02.03 (Annexure 1) was not implemented, the applicant proceeded to prefer contempt petition no. 35/03 alleging violation of the same. In the said contempt proceeding a communication dated 17.11.04 issued by the Union Public Service Commission was brought on record wherein it was stated that in absence of a proposal from the State Government, the commission was not in a position to consider a case of the applicant for his unconditional inclusion in the select list of 2001.

A copy of the said communication dated 17.11.04 is annexed as **Annexure – 2.**

4.11 That your applicant states that the condition as prescribed by the UPSC vide its communication dated 17.11.04 (Annexure -2) i.e. requirement of a

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integrity certificate covering the period upto 17.11.04 is clearly without any authority and in terms of the Regulations holding the field and also the order dated 21.02.03 as passed by this Hon'ble Tribunal the only requirement is for production of integrity certificate for the period which is under consideration till the date of publication of the select list. The Government of Assam having already made the inclusion of the applicant in the select of 2001 unconditional, no further conditions can be now imposed towards denying to the applicant his promotion to the IFS in terms of his selection for such promotion in the year 2001. It is pertinent to mention here that the provisions of Regulation 7 (4) of the Indian Forest Service (Appointment by promotion) Regulations 1966 also limits the withholding of integrity certificate to the proceeding as pending against the officer on the date of the selection.

That your applicant states that the action on the part of the respondent authorities in not declaring the inclusion of the name of the applicant in the select list of 2001 to be unconditional and the non issuance of the necessary integrity having already been held to be unlawful by the Hon'ble Tribunal in its order dated 21.02.03, the respondent authorities with a view to deprive the applicant of his due promotion to the cadre of IFS cannot continue to reiterate the said objections which on consideration was negated by this Hon'ble Tribunal. The conclusions & the directives passed by this Hon'ble Tribunal, as contained in the order dated 21.02.03 having attained its finality, the respondent authorities are estopped from reiterating the same very contentions time and again. In this connection the applicant begs to rely upon the Affidavit as filed by the Principal Secretary, to the Government of Assam, Department of Environment & Forest on 03.01.05 in Contempt Petition No.35/03.

A copy of the said Affidavit is annexed as **Annexure-3**.

4.13 That your applicant states that in view of the settled position in the matter there cannot be any justification with regard to the delay occasioning in the issuance of necessary orders towards promotion of the applicant to the cadre of IFS and the objections as being raised by the various authorities having been already negated by this Hon'ble Tribunal, the action/inaction on the part of the respondent

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authorities in taking the matter to its logical conclusion is contemptuous and requires to be viewed seriously by this Hon'ble tribunal.

- 4.14 That there exists no justification in continuing to deprive the applicant of his due promotion to the cadre of IFS and the applicant is required to be so promoted with reference to his selection against the vacancies of 2001 with all consequential benefits including seniority, arrears of pay etc.
- That your applicant states that inspite of the development as made in the case and also the repeated prayers made by him for effecting his promotion to the cadre of IFS in terms of his selection in the year 2001, the respondent authorities are yet to respond to the same and no final orders redressing the grievance of the applicant has been issued till this very date. As such left with no other alternative, the applicant has again come under the protective hands of this Hon'ble Tribunal praying for a positive direction towards his promotion to the cadre of IFS and thereby for redressing his long pending grievance.
- That your applicant states that he was prevented from approaching this Hon'ble Tribunal earlier in view of the continued processing of the matter, pendency of proceedings in this connection before the Hon'ble Gauhati High Court and also the sustained pressure as maintained on him by the respondent authorities in the proceedings pending against him. The respondent authorities having now indicated that they would be taking no further steps for appointing the applicant to the cadre of IFS in terms of his selection in the year 2001 inspite of the fact that his right for such promotion had already crystallised in terms of the directives passed by this Hon'ble Tribunal and affirmed by the Hon'ble Gauhati High Court.
- 4.17 That this application has been made bonafide for securing the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

For that the applicant on 16.07.02, having been fully exonerated of the charge pending against him, his case for promotion ought to have been considered on that day itself. The select list in question was also valid till 29.07.02 and as such



there exists no justification with regard to the action on the part of the respondent authorities in not declaring the inclusion of the name of the applicant in the select list of 2001 as unconditional. The said action/ inaction is in clear violation of the proviso to Regulation 7 of the IFS (Appointment by Promotion) Regulation, 1966.

- For that with the dropping of the proceeding pending against the petitioner on 16.07.02, exonerating him of the charges the applicant as on 01.01.2001 was free from any cloud. The second show cause having been issued only in the month of October 2003 and the other proceedings currently pending against the applicant cannot under any circumstances have any bearing on the right accruing to the applicant for his promotion to the IFS cadre as on 01.01.2001. Accordingly, the inaction on the part of the respondent authorities in promoting the applicant to the cadre of IFS in terms of his selection in the year 2001 is clearly illegal, arbitrary and discriminatory.
- For that this Hon'ble Tribunal having already held the action on the part of the respondent authorities in denying to the applicant his due promotion to the cadre of IFS with reference to the subsequent proceeding initiated against the applicant after 16.07.02 to be unlawful and the said decision having attained its finality with the dismissal of the writ application filed against the order dated 21.02.03 in OA No. 260/02, the respondent authorities cannot be permitted to continue to put forward the same very plea for denying to the applicant his due promotion to the cadre of IFS with reference to his selection for such promotion in the year 2001.
- For that the delay occasioning in issuance of necessary orders towards promoting the applicant to the cadre of IFS in terms of his selection in the year 2001 is clearly attributable to the delay tactics adopted by the respondent authorities solely with the view to prevent the promotion of the applicant to the cadre of IFS. Such action on the part of the respondent authorities is clear violation of the principles of fairness and equality as guaranteed under the provisions of Article 14 & 16 of the Constitution of India.

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For that in any view of the matter the action/inaction on the part of the respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

The applicant craves leave of this 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**:

The applicant declares that he has no other alternative and efficacious remedy except by way of filing this application. He is seeking urgent and immediate relief.

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

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

8. RELIEFS SOUGHT FOR:

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

8.1 To direct the respondent authorities to appoint the applicant w.e.f. 16.07.02 to the Assam Segment of the IFS Assam-Meghalaya Joint cadre, by way of promotion in terms of his selection for such promotion in the year 2001.

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- To direct the respondent authorities to fix the seniority of the applicant in the IFS cadre by reckoning his promotion to be effective as of 2001 and to allot to him his Year of Allotment accordingly.
- 8.3 To direct the respondents authorities to fix the pay and allowances of the applicant in the IFS cadre on the relevant date of the year 2001 and to pay to the applicant the arrears thereof along with interest at current bank norms.
- 8.4 Cost of the application.
- 8.5 Any other relief/ reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may deemed fit and proper by this Hon'ble Tribunal upon consideration of the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

The applicant in view of the facts and circumstances of the case does not pray for any interim direction at this stage and only prays that this Hon'ble Tribunal be pleased to dispose of this application expeditiously.

10.

The application is filed through advocate.

11. **PARTICULARS OF THE L.P.O.:**

:2867980711 i) I.P.O. No.

ii) Date

: 9-1-2007 : Guwahati. Cr-P.0 iii) Payable at

12. **LIST OF ENCLOSURES:**

As stated in the Index.

Verification...

<u>VERIFICATION</u>

I, Sri Prasanta Pran Changkakati, son of Late Bishnu Pran Changkakati, aged
about 48 years, resident of Rehabari, Guwahati - 8, in the district of Kamrup,
Assam, do hereby solemnly affirm and verify that I am the applicant in this instant
application and conversant with the facts and circumstances of the case, the
statements made in paragraph . 4.1 To 4.7, 4.8, 4.10, 4.11, 4.13 To 4.14
are true to my knowledge; those made in
paragraphs 48, 49, 4.12, are true to
my information derived from the records and the rests are my humble submissions
before this Hon'ble Tribunal.

And I sign this verification on this the $\frac{19}{19}$ day of February, 2007, at Guwahati.

Presalt hen Changhabos

DEPONENT

Original Application No. 260 of 2002.

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...Applicant

Date of Order: This the 21st Day of February, 2003.

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

THE HON'BLE MR S.BISWAS, ADMIISTRATIVE MEMBER.

Sri Prasanta Pran Changkakati, Divisional Forest Officer, Kamrup East Division, Department of Forests, Assam Guwahati-1.

By Advocate Sri D.K.Das.

- Versus -

- l. Union of India represented by the Secretary to the Govt. of India, Ministry of Environment & Forests, New Delhi.
- The State of Assam, represented by the Secretary to the Government of Assam, 'Forasts Department, Guwahati-6.
- 3. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
 4. Union Public Service Commission, its Chairman.
- represented by its Chairman, Dholpur House, Shahjahan Road, New Delhi.
- 5. Assam Meghalaya Joint Cadre Authority, Shillong, Meghalaya.

.Respondents

APPENDIC

By Sri A.K. Choudhury, Addl.C.G.S.C for respondents No.1 & 4 and Mrs M.Das, Govt. Advocate for respondents No.2 & 3.

ORDER

S.BISWAS, MEMBER (A):

Reliéfs direct the respondents to promote forthwith the applicant to the I.F.S of Assam Medhalaya Joint Cadre (Assam Segment) in terms of selection dated [5.11.2001.

Heard both sides and have gone through the records and legal points involved in the case.

Original Application No.260 of 2002.

Date of Order: This the 21st Day of February, 2003.

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

THE HON'BLE MR S. BISWAS, ADMINISTRATIVE MEMBER.

Sri Prakash Pran Changkakati Divisional Forest Officer Kamrup East Division Department of Forests, Assam Guwahati-1.

. . Applicant.

By Advocate Mr.D.K.Das.

- Versus -

- 1. Union of India Represented by the Secretary to the Govt. of India Ministry of Environment & Forests New Delhi.
- 2. The State of Assam Represented by the Secretary to the Government of Assam Forests Department Dispur, Guwahati-6.
- 3. The Principal Chief Conservator of Forests Rehabari, Guwahati-8.
- 4. Union Public Service Commission Represented by its Chairman Dholpur House, Shahjahan Road New Delhi.
- 5. Assam Meghalaya Joint Cadre Authority Shillong, Meghalaya.

. Respondents.

By Sti A.K. Chaudhury, Addl. C.G.S.C. for respondent Nos.1 & 4 and Mrs M.Das, Govt Advocate for respondents No.2 & 3.

ORDER

S.BISWAS, MEMBER (A):

Reliefs: "Promotion to Indian Forest Service." Heard both sides and have gone through the records

and legal points involved in the case.

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- 1. The applicant has made allegations of grave inaction and delay on the part of the respondents authority which has prejudiced his career prospects and has further caused civil consequences leading to denial of promotion at appropriate time.
- 2. Going into the allegations we find that the disciplinary case which was initiated against the applicant on 3.10.94 under the provision of Rule 9 of the Assam Services (Discipline & Appeal) Rules 1964 concluded as late as on 16.7.2002 that is to say after clear 8 years.
- The undisputed facts in this case is that the department had also placed him under suspension belatedly thereafter from 29.3.95 for about 7 months and reinstated him again on 20.10.95.
- One Sri L.D.Adhikary was appointed as an Enquiry Officer in the case but for reasons not disclosed the Government of Assam did not act on his findings exonerating the papilicant, which were statedly submitted in 1997 itself. Suddenly one Sri V.K.Vishnoi, IFS, Chief Conservator of Forests was asked to make fresh enquiry by an order datged 14.10.99. This aptly gives rise to a presumption that the respondents authority made this arrangement to bypass the outcome of the first and favourable enquiry report submitted by the Enquiry Officer Sri Adhikary in 1997. In other words it took the department another 2 years to only make up its mind for engaging another Enquiry Officer who submitted his report as late as on 14.10 99 on the same set of charges which were initiated

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against the charged officer in 1994 i.e. about five years back. Favourable or unfavourable, the first Enquiry Officer had submitted the report in 1997 but still a second Enquiry Officer was engaged without stating why the Disciplinary Authority had to disagree with the first enquiry report. This impliedly amounted to a covert action to upgrade the punishment but without formally disagreeing with the first report.

The applicant had to knock the door of the Hon'ble High Court so that a decision is expedited in the case and it is only following an order dated 12.9.2001 passed by the Hon'ble High Court that the department took about another 10 months to conclude the case on 16.7.2002 and the applicant was found finally innocent and the charges dropped. By this inordinate delay caused at two stages of enquiry, and two years for administrative pondering a presumption regarding prejudice against the applicant has become inescapble. Had the first enquiry report submitted by Sri Adhikary been accepted, the same outcome in the case would have probably emerged exonerating the applicant as early as in 1997-98 and then his promotion in 2001 or earlier would have been smooth. The applicant has therefore tried to make out his case on the ground that because of this unconscionable delay on the part of the respondents authority his career prospect has severely suffered and this delay has been used for cooking up further allegations so that the need for further vigilance clearance which had automatically ended after the order dated 16.7.2002 could

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be revived by issue of a fresh charge and deny the overdue promotion. There is very little lacunae in this allegation which we can brush aside now.

- We therefore, find that there is lot of force in this argument in as much as it has taken the department maleficiently near about 8 years to decide the case and no record was kept by the disciplinary authority why the first enquiry report was not acted upon. Clean five years has taken after the first enquiry report was submitted but illegally overlooked.
- We have also gone through the plea of respondents authority that the applicant could not be promoted after exoneration on 16.7.2002 as because in the meantime another disciplinary proceeding was blotched up against him vide letter No.A-22/Misc/2001 dated 9.7.2002. On scrutiny of this letter it shows that this is a mere probing communication of the Principal Chief Conservator of Forests to the Principal Secretary, Government of Assam forwarding a draft charge sheet against the applicant in response to a letter dated 21.1.2001 as it was so desired by the latter. The File produced in this behalf by the learned counsel for the respondents bearing FRE.109/94 Pt.I does not contain the course of hearing of this case we wanted the learned counsel for the respondents to produce and show the records from where the proposed integrity certificate was processed or withheld. This file is different. We are not able to understand why the relevant vigilance file could not be produced before us if it is there.

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Having gone through this file we further find that 8. no such vigilance matter is dealt from this file by the Government of Assam. In the draft note prepared for the Select Committee Meeting, it was merely noted, integrity certificate in respect of P.P.Changkakati has been withhled due to pendency of the departmental proceeding which is in final stage". Obviously this relates to the past case which was dropped on 16.7, 2002. As no more vigilance report or integrity certificate was warranted to be issued from this file, the applicant had become automatically eligible from 16.7.2002 itself or even retrospectively if any of his juniors were promoted from the panel meanwhile now that the pending case was withdrawn and the DPC findings for posts/vacancy arising from 1.1.2001 was available. In page 159 of the file note sheet the Deputy Secretary to the Govt. of Assam followed it up by a letter date 1.8.2001 and it had been stated that no funther vigilance case was pending or contemplated against

It is evident in this case that the respondent authorities had for all practical purposes observed a "Seal Cover" procedure and therefore though the applicant was "found fit in all respects", by the Selection Committee on

P.R.Changkakati, DFO.

disciplinary case. The said disciplinary case was dropped, fully exonerating the applicant on 16.7.2002. As held in both Union of India vs. K.V.Janakiraman, 1991(2) Scale S.C 423 and Union of India & Ors. vs. Dr.(Smt.) Sudha Salhan, 1998(2) SLJ 265 it is obvious that if the officer against

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whom departmental proceedings were initiated is ultimately exonerated, the seal cover containing the recommendation of the DPC would be opened and recommendation be given effect to. The case of the applicant should have been opened or taken up on 16.7.2002 itself when he was exonerated and given promotion immediately or with effect from the date when his junior, from the panel were promoted. No further formality is required to be observed by way of calling for another vigilance report and so on. In our considered view it was not necessary from 16.7.2002 to till 16.8.2002, when the second charge sheet was not served. Prior to serving of the charge sheet, no further disciplinary case can be presumed to be pending, as per judicial pronouncement, ruling the field.

However, we have also considered the submission of the respondents authorities that fresh charges against the applicant had statedly been received from the PCCF on 9.7.2002 regarding certain irregular appointments. The correspondence, which we have perused shows that in reply to a letter dated 21.1.2002 from the Principal Secretary, Government of Assam the said draft charge was made out. In other words the Principal Secretary desired that the PCCF send the draft charge sheet. We get the impression that if it was done some time in July 2002 correspondence that the disciplinary proceeding was pending at the drafting stage, we cannot accept that the decision was taken to

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i.e. long after exoneration of the applicant on 16.7.2002.

The applicant should have been promoted during this time.

In other words in our view no charge sheet was contemplated

between the PCCF and the concerned Principal Secretary and the material decision could not be taken prior to 16.8.2002. In Janakiraman's case Hon'ble Supreme Court already held that nothing short of issue of charge sheet would be construed as the crucial date when disciplinary action may be said to have started.

11. We also find that in para 4 of the Minutes certain observations are recorded by the Selection Committee that met on 5th November, 2001 which are reproduced below:

"The committee examined the records of the eligible officers upto the fyear 1999-2000 (as the crucial date of eligibility is 01-01-2001) and on an overall assessment of their service records, assessed them as indicated against their names in the Annexure."

and the applicant was found suitable by the Committee in all respects for promotion to the Indian Forest Service during the year. The inclusion of the name of the applicant in Select List was made against one clear vacancy in the promotion quota of the State Cadre as was determined by the Central Government in terms of Rule 4(3) (b) of the IFS (Recruitment) Rules 1966 read with regulation 5(1) of the IFS (Appointment by Promotion) Regulations, 1966 as amended

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from time to time. The Committee also observed that the inclusion of the name of the applicant was provisional one subject to his clearance in the disciplinary proceeding pending against him and subject to the State Government the integrity. The Union Public Service Commission in the instant case approved Select list on 30.5.2002 vide its letter No.10/2/2001-AIS dated 30.5.2002. On the own showing of the respondent No.2 the Select List was valid upto 29.7.2002 in terms of sub-rule 4 of Rule 7 of the Regulations. No valid reasons were ascribed by the respondent No.2 and did not act as per the proviso of sub-rule of Rule 7 of the Regulation and forwarded the proposal to the concerned authorities to declare the name of the applicant in the Select List of 2001 unconditional, Though the applicant was expnerated from the

In our considered view therefore the subsequent charge sheet was contemplated or have been issued much after the period for which the applicant was eligible for promotion i.e. 1999-2000 and naturally the crucial date is 1. 1000 to take cognisance of the vigilance report. Except the first disciplinary case no other vigilance case was pending or contemplated against the applicant 16.8.2002. In fact admittedly the disciplinary case which was pending against charged officer on 1.1.2001 was dropped where the mass with an about the mass were only

charges and proceedings stood dropped vide order dated

16.7.2002.

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and the charged officer was fully exonerated. Therefore the so called vigilange certificate which merged with the disciplinary action pending stood completely dropped or annulled by virtue of the eventual dropping of the case. Soon thereafter when the panel was ready the applicant was fit to be promoted. We are convinced in this case that on 1.1.2001 there was no case against him after the dropping of the pending disciplinary case and also on 5.11.2001 there was nothing. The second case was only under correspondence and a material decision was taken only on 16.8.2002 when the second charge sheet was issued. This development was intimated to UPSC on 23.8.2002 by the Government of Assam but failed to clarify why no action to promote the applicant was taken before 29.7.2002.

The respondents authority has only delayed certain action which acted as impediment to timely promotion of the applicant. We are unable to take cognizance of the searching correspondence as a good evidence to accept that the material decision to proceed against the applicant was taken before 16.8.2002 when only the charge sheet was issued. In the situation no further vigilance clearance was required to promote the applicant as he became fit for promotion in all respects with effect from 5.11.2001 and the so called second and belated charge sheet was formalised on 16.8.2002. Long before that he was cleared by the DPC for promotion. The vigilance clearance in such case could be held back only after effective issue of the charge

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sheet. The noting on the Select Committee's minutes, is palbably misleading. Factually we are not convinced that a second case was effectively contemplated before 16.8.2002 or taken on record in the minutes. The minutes became if provisionally, clear, when the first case was dropped on 16.7.2002 and the applicant became entitled to be promoted soon thereafter. We canot agree that his promotion which became due on 5.11.2001 could be inhibited thereafter by a charge sheet dated 16.8.2002 in a different case.

Article 16 embodies basic guarantee that there shall be equality in the matter of employment of the State. Article 14 and 16 strike at arbitrariness in the said action and ensure fairness and equality. What is unjust and unreasonable is also arbitrary and violative of equality clause. Arbitrary exercise of discretionary power is incorporated with the rule of law or power has its legal limitations. Arbitrary exercise of discretionary power which is not countenanced by law. Statutory powers are meant to be exercised fairly, reasonably and in good faith for proper purposes only in conformity with the law. Statutory powers for public purposes is reposed on trust to exercise in right perspective.

We have already indicated the manner in which the disciplinary proceeding was initiated as far back 23.10.92 was unreasonably dragged on until the High Court came into the inipicture and finally the proceeding was formally

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in The applicant was 16.7.2002. closed on disciplinary for procastination the of. responsible proceeding. In the light of the maxim "nullus commodum capere potest de injuria sua propria" (no one should be The purported allowed to profit from his own wrong), disciplinary proceeding was stressed out unreasonably to only to defeat the right of an individual. Discretionary power cannot be extended to invade upon individual right in the context of justice and fairness. Fair procedure also contemplate reasonable measure within reasonable time.

Public interest does not countenance indolence and torpidity in the disciplinary matters. Disciplinary powers are not be meant to be used as a vehicle for victimisation.

No reasons are ascribed as to why the State respondent was limping with a lame proceeding since October 1094, though the Enquiry Officers successively exonerated the Government officer in 1997 and 1999. The State Government finally by voider dated 16th July 2002 acted upon the Enquiry report submitted by the two successive Enquiry Officers as far back as 29.11.1997 and 14.10.99 respectively. There is no estensible logic for lingering over the matter for about 33

Enquiry Officer. The incomprehensive delay in keeping alive the purported disciplinary proceeding which concluded in exoneration of the applicant cannot be a ground for causing grave injustice to him. A primary aim of legal policy is to do justice - it is assumed that the rule making authority

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did not intend to injustice. "Parliament is presumed to act justly and reasonably" (IRC V Hinchy (1919 ALLER 512). It is also a principle of legal policy that law should be just and that the Court's decision should further the ends of justice. It is too trite to restate that Courts are always concerned to see that there is no failure of justice and the "well of Justice remains clear". It is also fundamental principle of Jurisprudence that a person should not be penalised except under clear law.

For all the reasons stated above we are of the respondents unlawfully acted opinion that the withholding the promotion of the applicant in terms of the Regulation on the mere pretence of purported disciplinary formally ended 16.7.2002. proceeding which on respondents are accordingly directed to take up the matter with right earnest for appointing the applicant to the Indian Forests Service in terms of Regulation on the basis of recommendation made by the Selection Committee held on 5:11:2001 and pass appropriate orders forthwith in actordance with law keeping in mind the observations and directions made in the O.A.

> application is thus allowed. The There shall.

nowever, be no order as to costs.

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Cadrion Civien (d) बारायात्र वेद्योग्हारी । ज्यावित्रं सीकी र George Administrative Trescaint.

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Sd/VICE CHAIRMAN Sd/ MEMBER (Adm)

GOVERNMENT OF ASSAM

OFFICE OF THE MIVISIONAL FOREST OFFICER: K.E. MIVN. GUWAHATI:::

Memo No.B/

can 44 cosa / 13/0-2

Dt. 35/2/03

To.

The Principal Secretary to the Gevts of Assam, Forest Department, Dispur.

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O.A.No. 260 of 2002 Sri Prasanta Fran Changkakati--Vs- The Union of India and others.

Rofs-

Hon'ble Central Administrative Tribunal, Guwahati Benda's Order dt 21.2.2003 .

sir.

with reference to the above, I have the honour to submit herewith a Photostate Copy of the Certified copy of the order dt. 21.2.2003 passed by the Honoble Central Administrative Tribunal in O.A.No. 260 of 2002, for favour of your kind information and taking necessary enward action.

Encle:- As above.

Yours faithfully,

(P.P. Grangkakati)
BI VISICNAL FOREST OFFICER:
KAMPUP EAST BI VN. GUWAHATI:

Copy alongwith Copy of the order forwarded to i-

- (4) The Secretary to the Govthof India, M.O.E.F., New Belhi,
- (2) The Chairman, U.P.S.C. Enelpur House, Sahjahan Read, New Bolhi
- (3) The Assam Meghalaya Joint Cadre Authority, Shilleng, Meghalaya,

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for their kind information and necessary action.

(P.P.Changkakati) ELVISIONAL POREST OFFICER: KAMRJE EAST ELVN. QUWAHATI

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Comment of the same of the sam

(1) The Principal Chief Conservator of Forests, Assam, Rohabari, Guwahati-8 for favour of his kind information

Ar ford.

(P.P.Changkakati) ELVISIONAL FOREST OFFICER: KAMPUP EAST DIVN. GUWAHATI:

Most Immediate
Court Case

Gram UNISERCOM

Telex: 031-62677
FAX: 011-23782049
Email: upsc@vsnl.net

File No.10/2/2004-AIS UNION PUBLIC SERVICE COMMISSION

(SANGH LOK SEVA AYOG)

DHOLPUR HOUSE, SHAHJAHAN

New Delhi – 110 069

the 17th November, 2004

To

The Chief Secretary, Govt. of Assam, Dispur, Guwahati – 781 006.

[Kind Attn.:: Shri PP Varma, Principal Secretary (Forests)]

Subject: Inclusion of the name of Shri P P Changkakati in the Select List of 2001 for promotion to the IFS in compliance with the Orders dated 21.02.2003 of the Hon'ble CAT, Guwahati Bench in OA No.260/2002 – Regarding....

Sir,

I am directed to refer to your FAX message dated 25.08.2004 (the original letter has not been received so far) on the subject.

It may kindly be recalled that vide the State Govt's letter No. FRE 135/2002/Pt-III/26 dated 03.03.2004 (copy enclosed), it was informed that the State Govt have preferred an appeal against the Order dated 21.02.2003 of the Hon ble CAT, Guwahati Bench in OA No.260/2002 filed by Shri P P Changkakati. The State Govt further informed, vide letter No. FRE. 109/94/Pt-III/174 dated 24.06.2004, that stay orders have not yet been obtained. The Commission, in its letter dated 29.09.2004, had requested the State Govt to furnish a copy of this Writ Petition which may kindly be forwarded to this office urgently by special messenger. The present status of the Writ Petition and on the stay orders, if any, may also kindly be furnished to this office.

Regarding implementation of the orders of the Hon'ble CAT dated 21.02.2003, the State Government have stated in their two letter Nos. FRE 135/2002/Pt-II dated 18.06.2004 and 22.07.2004 that on the basis of the conduct of the officer and the departmental proceedings against the officer, subsequent to the recommendations, they are of the considered opinion that Shri Changkakati is not at all suitable for appointment to the IFS.

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- 3.2 The State Government would be aware of the provisions of the Promotion Regulations for making an officer unconditional under Regulation 7(4) and this was made clear in the Commission's letter dated 12.07.2004. With reference to the instant case in hand, the following documents are required to be furnished to the Commission:
 - The recent Integrity Certificate in respect of the officer proposed to be made as unconditional, duly signed by the Chief Secretary of the concerned State Govt.
 - (ii) A proposal from the State Government under Regulation 7(4) of the Promotion Regulations with a positive recommendation to make the officer's inclusion in the Select List as unconditional so that the Govt. of India can take steps to appoint the officer to the IFS.
 - In the aforementioned letters of the State Govt dated 18.06.2004 and 22.07.2004, the State Government have only forwarded an Integrity Certificate relevant to the period for the Selection Committee held on 05.11.2001 and not as on date. The State Government have also not forwarded a proposal with a positive recommendation to include the officer unconditionally in the Select List of 2001.
 - 3.4 It is thus evident that neither have the State Govt complied with the orders of the Hon'ble Tribunal by sending appropriate proposals in accordance with the provisions of the Promotion Regulations nor have they obtained stay orders in the Hon'ble High Court.
 - 3.5 It is further observed from the letter of the Govt. of Assam, dated 27.08.2004. addressed to Smt. Manjula Das, Junior Govt. Advocate that the State Government have taken the following stand:

"It is clear that the State Government has done its part under the provisions of the Regulations in order to comply with the Hon'ble CAT's Order dated 21.02.2003. The remaining part to comply with the Order is to be undertaken by the UPSC and the Central Government; both of which are not under any control of the State Government. The Regulations also do not provide any authority to the State Government to take any step beyond the scope of Regulation 6."

- As such, the above stand of the State Government is not in congruity with either the orders of the Hon. CAT in O.A. No. 260/2002 (P.P. Changkakati's case) or with the scheme of the Promotion Regulations. Regulation 6 which is mentioned by the State Govt in their letter dated 25.08.2004 is not relevant to the case at this stage.
- 3.7 As already stated these orders of the Hon'ble CAT are to be complied with unless appealed against and stay orders obtained.

- 4. In view of the above, and in absence of the required proposal from the State Govt, the Commission is not in a position to consider the case of Shri Changkakati for his unconditional inclusion in the Select List of 2001 in accordance with the provisions of the IFS (Appointment by Promotion) Regulations, 1966.
- In this context, it may also be recalled that the SCM for 2004 has not been held so far as the orders of the Hon. CAT in O.A. No. 260/2002 has not yet been complied with. The State Govt's attention is also drawn to the order dated 26.08.2004 of the Hon. CAT Guwahati Bench in Contempt Petition No. 14/2004 in O.A. No. 337/2002 filed by Shri M. Kalita regarding the delay in preparing the Select Lists of 2002 onwards. The Tribunal in these orders have stated as follows:

"The facts given above and some more facts given in the reply of Respondent No. 4 shows that the Selection Committee could not proceed in the matter due to various reasons for which the UPSC cannot be held responsible... the main delay is caused because of the delayed action of the State Government."

- 6. Thus in view of what has been stated above, it is evident that the orders in O.A. No. 337/2002 (M Kalita's case) to convene the SCM for the IFS Assam Cadre cannot be implemented unless the orders in O.A. No. 260/2002 (P.P. Changkakati's case) are implemented or stayed. This assumes importance since the State Government have also included Shri Changkakati's name in the eligibility list for 2002 and onwards and this may lead to further legal complications.
- In view of the two orders of the Hon. CAT in OA Nos. 337/2002 and 260/2002, it would be necessary for the State Government to obtain stay orders in P.P. Changkakati's case from the Hon'ble High Court urgently, in the first instance. This may kindly be accorded Priority as the next date of hearing in the Contempt Case C.P. No. 35/2003 is understood to be on 14.12.2004
- 8. The State Government may kindly keep the Commission apprised of the developments in the Contempt Case as also the Writ Petition.

Yours faithfully,

(Molly Tiwari)
Under Secretary (AIS)
Union Public Service Commission
Tel.23382724

New Delhi

Dt.17.11.2004

Copy for information and necessary action to:

1) The Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Raod, New Delhi. (Attention: Shri Ashok Kumar, Under Secretary)

Shri Arunesh Deb Roy, Senior Central Government Standing Counsel, Hengrabari Housing Colony, LIC - 3 (Top Floor), Guwahati - 781 006 - alongwith a copy of the State Govt's letters referred to above and with a request to keep the Hon'ble Tribunal suitably apprised.

(Molly Tiwari)
Under Secretary (AIS)
Union Public Service Commission
Tel.23382724

Copy for information and necessary action to:

Shri Pranav Pathak, Advoc ate General, Govt. of Mizoram, Bungalow No.4. South, Lachit Nagar, District Kamrup, Guwahati – 781 007, Assam.

No. FRE. 135/2002/Pt-III/26

Dated Dispur, the 3rd March 04.

Shri S.K. Chouhan, ACS, Deputy Secretary to the Gdyt. of Assam, Environment & Forest Department. From

Tra

4 5 0 Melley Tiwari, Under Secretary (AIS), Union public Service Comm saion, Bhalpur House, Shahjahan had, New Delhi - 110 069.

D.A. ND. 260/2002 FILED B SRI P.P. CHANGKAKARI
-VS- UDI AND OTHERS BEFUR THE HUN'BLE CAT
GNWAHATI BENCH - REGARDIN IFS. Sub .

F.NU. 11/269/2002-AIS dtr 24.2.04. Ref

Sir.

With reference to the col espandence quoted abave, I am directed to say that this Department has preferred an appeal before the Hon'ble Gauhati High Court, Guwahati against the CAT's orders ment oned above.

This is for favour of information and nacessary action.

Yours faithfully,

Govt. of Assam. Deputy Secretary to the Department of Environment & Forest.

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Annexune-3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH: GUWAHATI

Contempt Petition No. 35/2003
In Original Application No. 260/2002

In the matter of;

Sri Prasanta Pran Changkakati

------ Petitioner

-VersusSri R.S. Prasad and anr.

------ Contemners

-AND

In the matter of:

A compliance report in respect of the order dated 21.2.03 in OA no.260/2002, in the form of an affidavit on behalf of contemner No.2

(The affidavit on behalf of Contemner No.2)

I, Prem Prasad Varma, aged about 51 years, son of (Late) S.P. Varma, by profession service holder, resident of Khanapara, Guwahati P.S. Basistha, in the district of Kamrup, Assam, do hereby solemnly affirm and state as follows:

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1. That this deponent joined in the Department of Environment and Forest as Principal Secretary on 10.11.2003 when the contempt case C.P. 35/03 in O.A. 260/02 had already been filed .As such this Humble deponent was not in authority at the relevant time to comply with the orders of this Hon'ble Tribunal and he was impleaded in the Contempt Case at a later stage in pursuance of the order of this Hon'ble Tribunal dated 26.2.04. However, the matter relating to this case was brought to the notice of this humble deponent by his office on 28.11.2003 and soon thereafter, this deponent took steps for compliance of the said order dated 21.2.03 of the Hon'ble Central Administrative Tribunal.

2. That this deponent has narrated all relevant points in his affidavit-in-opposition filed on 10.5.2004, and also filed an affidavit regarding compliance on 9th September, 2004. This affidavit is complementary to these affidavits and has become necessary in view of the communication of UPSC dated 17th November, 2004 received recently by this deponent.

A copy of the communication dated 17.11.04 is annexed hereto and marked as Annexure'A'.

- 3. That the deponent begs to quote the following portions from the order of the Hon'ble Central Administrative Tribunal dated 21.2. 2003 in OA No.260 / 2002:-
- "8. 'the integrity certificate in respect of P. P. Changkakati has been withheld due to pendency of the departmental proceeding which is in final stage. Obviously this relates to the

past case which was dropped on 16.7.2002. As no more vigilance report or integrity certificate was warranted to be issued from this file, the applicant had become automatically eligible from 16.7.2002 itself or even retrospectively if any of his juniors were promoted from the panel meanwhile now that the pending case was withdrawn and the DPC findings for posts/vacancy arising from 1.1.2001 was available.

- 17.The respondents are accordingly directed to take up the matter with right earnest for appointing the applicant to the Indian Forest Service in terms of regulation on the basis of recommendation made by the selection committee held on 5.11.2001 and pass appropriate orders forthwith in accordance with law keeping in mind the observations and directions made in O.A.
- 4. The deponent begs to state that the Hon'ble Tribunal held that the Integrity Certificate in question could not be held up after 16.7.2000. Accordingly, this deponent, after his joining in the department, placed the matter relating to issue of Integrity Certificate in proper perspective before the Chief Secretary, who is the competent authority to issue such certificates, and the same was issued in respect of the relevant period.
- Tribunal further directed the matter of promotion to be taken up in right earnest in terms of regulation and pass orders in accordance with law. The deponent, with the Integrity

Certificate so issued, submitted a proposal on 22.7.04, to the UPSC in accordance with the provisions of the Regulation 6 and in particular, the sub regulation 6(iv) of relevant Regulations. May it be mentioned that this deponent has no authority under the regulations to pass any orders in the matter

- 6. This deponent begs permission to quote the relevant provisions of the Regulation 6 regarding submission of proposal which are as follows--
- "6. Consultation with the Commission- The list prepared in accordance with Regulation 5 shall then be forwarded to the Commission by the State Government alongwith—
 - (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) 1[***];
 - (iv) 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.]"

- 7. That this deponent begs to submit that the proposal referred to above was submitted in accordance with the above said provisions of the Regulations, as directed by the Hon'ble Tribunal. It was necessary and unavoidable to furnish the observation of the state government as required under Regulation 6(iv) for consideration of UPSC.
- 8. That it is respectfully stated that the State Government has done its part within the scope of the provisions of the Regulations to comply with the order of Hon'ble Tribunal dt.21.2.2003. Further, this humble deponent understands that the order of the Hon'ble CAT has not put any restrictions in regard to the submission of the observations of the State Government based on facts and as are required to be submitted under the Regulations 6(4).
- the Chief Secretary to the Govt. of Assam wherein it was stated that it is proposed to treat the State Government's letter dated 22.7.2004 and integrity certificate dated 16.6.04 as a request of the State Government made under Regulation 7(4) to make Sri Changkakati's inclusion in the select list of 2001 as unconditional. This letter further pointed out that the State Government may forward its comments on this proposal immediately and within 28.8.2004 failing which the Commission will presume that the State Government agrees with its proposal.

"If the Commission consider 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 modifications, if any, as may, in its opinion, be just and proper."

- That this humble deponent begs to submit that the above quoted provision gives exclusive powers to the Commission to consider the views of the State and the Central Governments, modify the list if need be and finally approve the list as deemed just and proper.
- insisting on submission of an unconditional proposal to declare the name of the applicant in the select list of 2001. In this context the humble petitioner begs to submit that he has not attached any condition to the proposal though he has conveyed the observation of the State Government as permissible under regulation 6(iv). The suggestion of UPSC is against the spirit of the provision 6(iv) of the regulation and

overlooks the fact that the order of this Hon'ble Tribunal has

in a conducte with the Said by visiting not put any restriction on this deponent to make use of the said provision. Moreover the observation of the State government are significantly relevant to the issue of promotion and it would not be proper to suppress the information contained in these observations.

This humble deponent begs to submit that an 13. unconditional proposal could have been submitted earlier adverse circumstances, as contained in the before the observations of the State Government, arose As of now and since the joining of this deponent as Principal Secretary in the Forest Department on 10.11.2003, the circumstances have changed and several adverse events have taken place which are relevant to the conduct of the petitioner and this deponent has a bounden duty to report such events to the UPSC and the Central Government, in accordance with the provisions of the regulation 6(4) for appropriate decision in the matter. Accordingly, the proposal submitted by this deponent has included observation relating to these events along with views of the State Government to which this deponent is entitled and which ought to be informed to UPSC and the Central Government for arriving at a just decision. Needless to mention that the regulations provide power to UPSC to accept or reject these views as they may consider just and proper.

UPSC, in their letter of 17.11.2004, has also asked for a recent Integrity Certificate from the State Government. This

deponent begs to submit that in view of the contents of the observations of the State Government, no Integrity Certificate can be issued covering the present period, unless the adverse circumstances contained in these observations disappear.

Moreover, the regulations do not provide for any such subsequent Integrity Certificate pertaining to period beyond the relevant period of selection for considering any case.

- 15. This deponent further begs to clarify that the notification regarding appointment of the officers of the State Forest Service to the Indian Forest Service is issued by Government of India in exercise of the powers conferred under Indian Forest Service (Recruitment) Rules, 1966 and the Indian Forest Service (Appointment by Promotion) Regulations, 1966. A copy of such an order issued on 28.2.2000, in an earlier case is enclosed as Annexure 'C' to substantiate this point. The State Government only reproduces in its official Gazette, the notification so issued by the Govt. of India. A copy of a notification dated 13.2.2001 issued by the State Government, which reproduces the notification of the Govt. of India dated 8.2.2001, is enclosed as Annexure 'D'.
- 16. It is submitted that the deponent having taken the steps as stated above, has now very little to do in the matter and it is for the UPSC to finalize the list and Govt. of India to issue a notification, as they may decide, which would be reproduced by the deponent as and when it is received by him.

 This deponent begs to submit that UPSC has the exclusive

powers now to finalize the list as deemed just and proper by them and the Central Government can issue the notification accordingly thereafter.

- 17. That the deponent respectfully states that he had taken all necessary steps to comply with the Hon'ble Tribunal's order and there is no negligence or willful defiance at all on his part.
- 18. That the statements made in this affidavit and the statements made in paragraphs are true to my knowledge; those made in paragraphs are true to my information based on records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this the Soul December, Jan

..... Deponent

Solemnly sworn before me by the deponent who is personally known to me on this the 3200 day 2004

Annexure 'A Most Immediate Court Case Say Emissiment & Forect

Gram: UNISERCOM Telex: 031-62677 FAX: 011-23782049

Email: upsc@vsnl.net.

File No.10/2/2004-

UNION PUBLIC SERVICE COMMISSION (SANGH LOK SEVA AYOG)

DHOLPUR HOUSE, SHAHJAHAN ROAD

New Delhi – 110 069

the 17th November, 2004

Supul EXF

To

The Chief Secretary. Govt. of Assam, Dispur, Guwahati - 781 006.

[Kind Attn.: Shri P P Varma, Principal Secretary (Forests)]

Subject :- Inclusion of the name of Shri P P Changkakati in the Select List of 2001 for promotion to the IFS in compliance with the Orders dated 21.02.2003 of the Hon'ble CAT, Guwahati Bench in OA No.260/2002 - Regarding....

Sir,

I am directed to refer to your FAX message dated 25.08.2004 (the original letter has not been received so far) on the subject.

It may kindly be recalled that vide the State Govt's letter No. FRE 135/2002/Pt-III/26 dated 03.03.2004 (copy enclosed), it was informed that the State Govt have preferred an appeal against the Order dated 21.02.2003 of the Hon ble CAT, Guwahati Bench in OA No.260/2002 filed by Shri P P Changkakati. The State Govt further informed, vide letter No. FRE. 109/94/Pt-III/174 dated 24.06.2004, that stay orders have not yet been obtained. The Commission, in its letter dated 29.09.2004, had requested the State Govt to furnish a copy of this Writ Petition which may kindly be forwarded to this office urgently by special messenger. The present status of the Writ Petition and on the stay orders, if any, may also kindly be furnished to this office.

Regarding implementation of the orders of the Hon'ble CAT dated 3.1 21.02 2003, the State Government have stated in their two letter Nos. FRE. 35/2002/Pt-II dated 18.06.2004 and 22.07.2004 that on the basis of the conduct of the officer and the departmental proceedings against the officer, subsequent to the recommendations, they are of the considered opinion that Shri Changkakati is not at all suitable for appointment to the IFS.

- 3.2 The State Government would be aware of the provisions of the Promon Regulations for making an officer unconditional under Regulation 7(4) and this was made clear in the Commission's letter dated 12.07.2004. With reference to the Commission:-
 - (i) The recent Integrity Certificate in respect of the officer proposed to be made as unconditional, duly signed by the Chief Secretary of the concerned State Govt.
 - Promotion Regulations with a positive recommendation to make the officer's inclusion in the Select List as unconditional so that the Govt. of India can take steps to appoint the officer to the IFS.
- 3.3 In the aforementioned letters of the State Govt dated 18.06.2004 and 22.07.2004, the State Government have only forwarded an Integrity Certificate date. The State Government have also not forwarded a proposal with a positive recommendation to include the officer unconditionally in the Select List of 2001.
- 3.4 It is thus evident that neither have the State Govt complied with the orders of the Hon'ble Tribunal by sending appropriate proposals in accordance with the provisions of the Promotion Regulations nor have they obtained stay orders in the Hon'ble High Court.
- 3.5. It is further observed from the letter of the Govt of Assam, dated 27.08.2004 have taken the following stand:

"It is clear that the State Government has done its part under the provisions of the Regulations in order to comply with the Hon'ble CAT's Order dated 21.02.2003. The remaining part to comply with the Order is to be undertaken by the UPSC and the Central Government, both of which are not under any control of the State Government. The Regulations also do not provide any authority to the State Government to take any step beyond the scope of Regulation 6"

- 3.6 As such, the above stand of the State Government is not in congruity with either the orders of the Hon. CAT in O.A. No. 260/2002 (P.P. Changkakati's case) or the State Govt in their letter dated 25.08.2004 is not relevant to the case at this stage.
- 3.7 As already stated these orders of the Hon'ble CAT are to be complied with unless appealed against and stay orders obtained.

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- 4. In view of the above, and in absence of the required proposal from the State Govt, the Commission is not in a position to consider the case of Shri Changkakati for his unconditional inclusion in the Select List of 2001 in accordance with the provisions of the IFS (Appointment by Promotion) Regulations, 1966.
- In this context, it may also be recalled that the SCM for 2004 has not been held so far as the orders of the Hon. CAT in O.A. No. 260/2002 has not yet been complied with. The State Govt's attention is also drawn to the order dated 26.03.2004 of the Hon. CAT Guwahati Bench in Contempt Petition No. 14/2004 in O.A. No. 337/2002 filed by Shri M. Kalita regarding the delay in preparing the Select Lists of 2002 onwards. The Tribunal in these orders have stated as follows:-

"The facts given above and some more facts given in the reply of Respondent No. 4 shows that the Selection Committee could not proceed in the matter due to various reasons for which the UPSC cannot be held responsible... ... the main delay is caused because of the delayed action of the State Government."

- Thus in view of what has been stated above, it is evident that the orders in O.A. No. 337/2002 (M Kalita's case) to convene the SCM for the IFS Assam Cadre cannot be implemented unless the orders in O.A. No. 260/2002 (P.P. Changkakati's case) are implemented or stayed. This assumes importance since the State Government have also included Shri Changkakati's name in the eligibility list for 2002 and onwards and this may lead to further legal complications.
- In view of the two orders of the Hon. CAT in OA Nos. 337/2002 and 260/2002, it would be necessary for the State Government to obtain stay orders in P.P. Changkakati's case from the Hon'ble High Court urgently, in the first instance. This may kindly be accorded Priority as the next date of hearing in the Contempt Case C.P. No. 35/2003 is understood to be on 14.12.2004.
- The State Government may kindly keep the Commission apprised of the developments in the Contempt Case as also the Writ Petition.

Yours faithfully,

(Molly Tiwari)

Under Secretary (AIS)

Union Public Service Commission

Tel.23382724

(TO SE PUBLISHED IN PART-1 SECTION 2 OF THE GAZETTE OF IN IA)

F.No.17013/02/99-IFS-II Government of India Ministry of Environment and Forests

Forests 577

Paryararan Bhavan, CGO Complex, Lodhi Road,

Dated, the 28th February, 2000

New Delhi - 110003

NOTIFICATION :

In exercise of the powers conferred by sub-rule(1) of rule 8 of the Indian Forest Service(Recruitment) Rules, 1966, read with sub-regulation (1) of regulation 9 of the Indian Forest Service (Appointment by Promotion) Regulations, 1966, the President is pleased to appoint the undermentioned seven officers of the State Forest Service of Assam to the Indian Forest Service with immediate effect and to allocate them to the Assam-Meghalaya Joint Cadre of the Indian Forest Service under sub-rule (1) of rule 5 of the Indian Forest Service (Cadre) Rules, 1966.

Name of the officer Date of Birth S.No. Connedery (Amy) 01.06,1943 Sh. Nagen Das Sh. N.K. Sarma Sh. H.K. Saikia UJ. 01.05.1947 02 01.02.1947 03 02.12.1952 0.4 Sh. P.S. Das . 19.02.1955; 17.02.1955 Sh. S. Nayak 05 Sh. P.N. Bordoloj Sh. A.S. Laskar 06 01.03.1954 07

(R. Sanehwal)

to the

Govt, of India

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

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Distribution:

The Chief Secretary, Government of Assam, Disput

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

The Principal Chief Conservator of Forests, Assam, Suwahati with a spare copy for the officer concerned.

Under Secretary

4.1 The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.

5. The Accountant General, Assam, Dispur.

6. Guard File.

(G) (7) (7) (C) (d)

MYCO CHIPICE

6

GOVERNMENT OF ASSAM. DISPAR: FOREST DEPARTMENT

ORDERS BY THE GOVERNOR

MOTIFICATION TO SHEET AND SHEET Dated Dispur the 13th February/2001.

The following Notification of Govt. of India HO.FRE: 109/94/Pt-I/116: is reproduced for general information,

Notification No.17013/02/2000-IFS-II, dtd.8th February, 2001.

I Notification No.17013/02/2000-IFS-II, dtd.8th February, 2001.

I sound by the Govt. of India, Ministry of Environment and worests. NOTIFICATION - TELL LES

In exercise of the powers conferred by sub-rule(1) of Rule 8 of the T.F.S. (Recruitment) Rules, 1966 read with sub-regulation(1) of the T.F.S. (Recruitment) Rules, 1966 read with sub-regulations, 1966, the Regulation 9 of the TFS (Appointment by Promotion) Regulations, 1966, the president to pleased to appoint with immediate officer the immediate of the sub-rule 1966. President is pleased to appoint with immediate effect the undermentioned bresident is pleased to appoint with immediate effect the undermentioned brees of the State Forest Service of Assam to the Indian breest Service against existing Vacancies and to allocate them to the Assam-Meghalaya Joint Cadre of the Indian Forest Service under sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and the Indian Forest Service under sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and the Indian Forest Service under sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and Indian Forest Service under sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and Indian Forest Service and Indian Forest Service under sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and Indian Forest Service and Indian Forest Service under Sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and Indian Forest Service and Indian Forest Service under Sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and Indian Forest Service under Sub-rule (1) of Dule 5 of the TES(Cadre) Dules 1966 Forest Service and Indian Forest Service and Indian Forest Service under Sub-rule (1) of Dule 5 of the Indian Forest Service and Indian Forest Service ત્રાણે...

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Under Secretary to the Govt of India.

(A.B. Md. Eunus)

Joint Secretary to the Govt of Assam.

Forest Department Dispure Forest Department, Dispur

Hemo No. FRE. 109/94/Pt.I/116-A, Dated Dispur, the 13th February/2001. LOUD WIEDS OFF

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The Accountant General (A&E) Assam, Beltola, Maidamgaon, Guwahati-28. The Principal Chief Conservator of Forests, Assam, Rehabari, राज्यस्य कांच्या राज्यस्य प्रवत्य प्रवास केंग्रा

The Principal Secretary to the Govt.of Meghalaya, Forest and Guwahati -0. Environment Department, Shillong.

The Principal Chief Conservator of Forests, Govt.of Meghalaya,

The Under Secretary to the Govt. of India, Ministry of Environment and Forests, C.G. &. Complete, Lodhi Road,

The Chief Conservator of Forests (Social Forestry) Assam, Guwahit 1-24. New Delhi-110003.

- The Chief Conservator of Forests (Wildlife) Assam,
 Rehabari Guwahati -8.
- The Chief Conservator of Forests (Territorial) Assam, Panbazat Guwahati-1. 8-
- The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
- The Director, Indra Gandhi Gational Forestokeademy, Dehrodun, P.O. Newsperest, Pin-248036.
- The Director Lal Bahagur Shastri National Academy of Admir, Mussoorie.
- The Conservator of Forests. 12,

Selection.

- 13. Personnel(A) Department, Dispur, Guwahati-6.

 14. Shri P. Kokoky, DCF, Instructor, North East Forest Rangers!

 20. Peolic G. Jalukbari, Guwahati-14.

 Shri R. Bhattacharjee, D.F.O. Assam State Zoo Division,

 Guwahati-57

 16. Shri Sa abmed D.F.O. Logging Division Graphsti.

 - Shri S. Ahmed, D.F.O., Logging Division, Guwahati.
 - The P.S. to the Chief Minister, Assam, Dispur for information of the Chief Minister.

 The P.S. to Minister of State Forests, Assam, Dispure. 17
 - 18% for information of the Minister.
 - The P.S. to Chief Secretary, Assam for information of 19% the Chief Secretary.
 - The Deputy Director, Assam Govt. Press, Bamunimaidam, Guwahati-21 for publication of the Notification in the 20/3 next issue of the Assam Gazette.
 - Personal file of the officers.

Carlotte State Control

By order etc.

(A.P. Md. Eunus)

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

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GÜWAHATI BENCH, GUWAHATI.

OA No. 47/2007

BETWEEN:

SHRI PRASANTA PRAN CHANGKAKATI

APPLICANT

AND

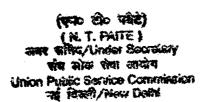
UNION OF INDIA & OTHERS

RESPONDENTS

WRITTEN STATEMENT FILED ON BEHALF OF RESPONDENT No. 3

Written Statement of N.T. Paite posted as Under Secretary in the Union Public Service Commission, New Delhi.

- 2. I solemnly affirm and state that I am an officer in the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi and am authorised to file the present Written Statement on behalf of Respondent No. 3.
- 3. That I have read and understood the contents of the above Application and in reply I submit as under:
- At the outset, it is submitted that the Union Public Service Commission discharge their functions, duties and Constitutional obligations assigned to them under the Constitution. Further, by virtue of the provisions made in the All India Services Act, 1951, separate Recruitment Rules have been framed for the Indian Administrative Service/ Indian Police Service/ Indian Forest Service. In pursuance of these Rules, the IFS (Appointment by Promotion) Regulations, 1966 [Promotion Regulations, in short] have been made. In accordance with the provisions of the Promotion Regulations, the Selection Committee presided over by the Chairman/Member of the Union Public



Service Commission, makes selection of State Forest Service [SFS, in short] officers for promotion to the Indian Forest Service.

PRELIMINARY SUBMISSIONS:

- 5.1 This respondent is filing the present reply to bring out the factual position vis-a-vis the role of UPSC in so far as the preparation of the Select Lists for promotion to the IFS is concerned.
- It is respectfully submitted that promotion of SFS officers to the IFS is 5.2 done in accordance with the IFS Promotion Regulations. Under these Regulations, the Government of India, State Government and the UPSC have each been assigned specific roles. The Central Govt., in consultation with the State Government concerned, determines the number of posts for recruitment by promotion of SFS officers of the State to the IFS during a particular year in terms of Rule 4(3)b of the IFS(Recruitment) Rules. 1966 read with the Regulation 5(1) of the IFS (Appointment by Promotion) Regulation 5,1966. Thereafter, the State Government forwards a proposal to the Commission alongwith the Seniority List, Eligibility List (upto a maximum of three times the number of vacancies) of the State Service Officers, Integrity Certificates, certificates regarding disciplinary/criminal proceedings, certificate regarding communication of adverse remarks, details of penalties imposed on the eligible officers etc. and complete ACR dossiers of the eligible officers.
- 5.3 The above documents received from the State Govt. are examined by the Commission for completeness and after the deficiencies have been resolved and reconciled, a meeting of the Selection Committee is convened for preparing the Select List for promotion to the IFS. As per Regulation 3 of the said Regulations, the meeting of the Selection Committee is presided over by the Chairman or a Member, UPSC.
- 5.4 In accordance with the provisions of Regulation 5(3AA) of the Promotion Regulations, the aforesaid Committee duly classifies the eligible State Forest Service officers included in the zone of consideration as

(एंन्ड टी॰ पविटे) (M. T. PAITE) ज्यार प्रतिद/Under Secretary प्रति सोच पोवा आयोग Union Public Service Commission पर्व विज्ञी/New Dolld

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'Outstanding', 'Very Good', 'Good' or 'Unfit', as the case may be, on an overall relative assessment of their service records. Thereafter, as per the provisions of Regulation 5(4) of the said Regulations, the Selection Committee prepares a list by including the required number of names first from amongst the officers finally classified as 'Outstanding', then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names within each category is maintained in the order of their respective inter-se seniority in the State Forest Service.

5.5 Further that the names of the officers whose integrity certificate is withheld by the State Govt. or against whom there are disciplinary/criminal proceedings or unexpunged adverse entries in their Service records, are included in the Select Lists provisionally in accordance with the provisions of proviso to Regulation 5(4) which read as under:-

"Provided that the name of an officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government."

As per the provisions of Regulation 6 and 6-A, the State Govt. and the 5.6 Govt. are required to furnish their observations the recommendations of the Selection Committee. After taking into consideration the observations of the State Govt. and the Central Govt. and the requisite records received from the State Govt., the Commission take a final decision on the recommendations of the Selection Committee with or without modifications in terms of the provisions of Regulation 7. appointments to the IFS are made from the Select List by the Central Government, Ministry of Environment & Forests during the validity period of the Select List As far as declaration of provisionally included officers in the Select List as unconditional and final is concerned it is stated that within the

(क्क श्रंट प्रथ2)
(N. T. PAITE)
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प्रमी सिक्सी/New Dolla

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validity period of the Select List the State Govt. has to make a proposal to the Commission in this connection as per the then prevailing 2nd proviso to Reg.7(4) of the Promotion Regulations which reads as follows:-

"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.

CONTENTIONS OF THE APPLICANT

- 6. The applicant has made the following contentions in his OA:
 - clearance of disciplinary proceedings pending against him in the Select List of 2001 by the Selection Committee as a disciplinary proceeding was pending against him at the time of the Selection Committee Meeting. The said proceeding was dropped on 16.07.2002 exonerating him of all the charges. The Select List was valid till 29.07.2002. However, the respondents did not declare his name as unconditional and final and thereafter did not appoint him to the IFS. As such, the action/inaction of the Respondents are in clear violation of the proviso to Reg.7 of the Promotion Regulations.

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- (ii) That the disciplinary proceeding pending against him at the time of the Selection Committee Meeting was dropped on 16.07.2002 exonerating him of the charges. As such, he was free from any cloud as on 01.01.2001 i.e. the date of eligibility for the Select List of 2001. The second show cause was served only in the month of October, 2003. So the proceedings initiated after October, 2003 have no bearing on the Select List of 2001. This Hon'ble Tribunal also concurred with the applicant and directed the respondents to promote the applicant to the IFS. Therefore, the inaction on the part of Respondents in promoting the Applicant to the IFS in terms of his selection in the year 2001 is clearly illegal, arbitrary and discriminatory.
- (iii) That during the contempt proceedings in CP No.35 of 2003 filed by the same applicant against non-implementation of the order dated 21.02.2003 of the Hon'ble Tribunal, a communication 17.11.2004 issued by the Union Public Commission was brought on record wherein it was stated that in absence of a proposal from the State Govt., the Commission was not in a position to consider the case of the applicant for his unconditional inclusion in the Select List of 2001. The condition prescribed by UPSC in their communication i.e. requirement of integrity certificate covering the period upto 17.11.2004 is clearly without any authority and not required in terms of the Regulations and also as per the order dated 21.02.2003 of the Hon'ble Tribunal. The only requirement is for production of integrity certificate for the period which was under consideration till the date of publication of the Select List. The Promotion Regulations also limit the withholding of integrity certificate to the proceeding as pending against the officer on the date of selection. As such, the action of the UPSC is illegal.





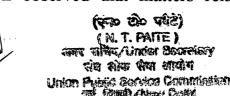
FACTS OF THE CASE

It is most respectfully submitted that the meeting of the Selection 7.1 Committee for preparation of the Select List of 2001 for promotion to the Indian Forest Service of Assam-Meghalaya Joint Cadre (Assam Segment) was held on 05.11.2001 against 01 (one) vacancy determined by the Government of India, Ministry of Environment & Forests. The Selection Committee selected the name of Shri P P Changkakati, (Applicant in the instant OA) for inclusion in the Select List of 2001 provisionally subject to clearance of disciplinary proceedings pending against him and issue of integrity certificate by the State Govt. in accordance with the provisions of Regulation 5(4) of the Promotion Regulations. The Commission approved the Select List on 30.05.2002. In terms of Regulation 7 of the Promotion Regulations, the Select List was valid upto 29.07.2002. However, during the validity period of the Select List of 2001, the Commission did not receive any proposal from the State Government for making Shri P P Changkakati's inclusion unconditional.

7.2. It is humbly submitted that aggrieved by his non-appointment to the IFS from the Select List of 2001, Shri Changkakati filed OA No. 260/2002 before this Hon'ble Tribunal. This Hon'ble Tribunal <u>vide</u> Order dated 21.02.2003 directed as follows:-

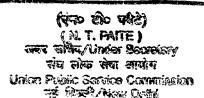
"The respondents are accordingly directed to take up the matter with right earnest for appointing the applicant to the Indian Forest Service in terms of regulation on the basis of recommendation made by the Selection Committee held on 05.11.2001 and pass appropriate orders forthwith in accordance with law keeping in mind the observations and directions made in the OA."

7.3 It is further submitted that on receipt of the above orders of the Hon'ble Tribunal, the Commission observed that matters relating to departmental



enquiry, certifying of integrity etc. were within the purview of the State Government. Thus for complying with the direction of the Hon'ble Tribunal, the State Government were required to make a proposal under Regulation 7(4) with a positive recommendation to the Commission to make Shri Changkakati's inclusion in the Select List of 2001 as unconditional. The Government of Assam were, therefore, requested, vide UPSC's letter No.11/169/2002-AIS dated 21.03.2003, to furnish a self-contained proposal for making the inclusion of Shri Changkakati in the Select List of 2001 unconditional, in case they did not propose to challenge the said Orders of the Hon'ble Tribunal.

- 7.4. In reply to the Commission's above said letter the State Government informed vide their letter dated 03.03.2004 that they had preferred an appeal before the Hon'ble Guwahati High Court against the said order of the Hon'ble Tribunal. The Commission vide letter dated 19.05.2004 requested the State Government to intimate whether a stay order had been obtained in the case or not. The State Government were also informed that in the absence of stay orders, the orders of the Hon'ble Tribunal were required to be implemented.
- 7.5 Vide letter dated 28.05.2004, the State Govt informed that they were not in a position to send a proposal for making the inclusion of the name of Shri Changkakati in the Select List of 2001 as unconditional since they had filed a WP before the High Court against the Order dated 21.02.2002 of the Hon'ble Tribunal. They also requested to keep one vacancy unfilled for Shri Changkakati. As determination of vacancies comes under the purview of the Government of India, the Commission vide letter dated 18.06.2004 requested the State Govt to seek the views of the Govt. of India on the proposal of keeping one vacancy reserved for Shri Changkakati. It was also impressed upon the State Government that the Selection Committee Meeting for the years 2002 onwards could be convened only after a final decision on appointing Shri Changkakati to the IFS from the Select List of 2001 was taken or \$\frac{1}{2}\$ tay Orders against the Order dated 21.02.2003 were obtained.



7.6. It is also respectfully submitted that for making an officer unconditional under Regulation 7(4), the following documents and information are required to be furnished by the State Government to the UPSC as per the uniform procedure followed for all States/Cadres:

- (i) The recent Integrity Certificate in respect of the officer proposed to be made as unconditional, duly signed by the Chief Secretary of the concerned State Govt.
- (ii) A proposal from the State Government with a positive recommendation to make the officer's inclusion in the Select List as unconditional.

The deponent most respectfully submits that the State Govt vide their letters dated 18.06.2004 & 24.06.2004 informed that the proceedings against Shri PP Changkakati, due to which the integrity certificate was withheld earlier, had since been completed and that he had been exonerated of all charges. Consequent to the conclusion of this proceeding and in the light of the order of the Hon'ble CAT dated 21.2.2003 in OA No. 260/2002, the State Government furnished the integrity certificate in his favour only for the period relevant to the meeting of the Selection Committee held on 05.11.2001. However, they also stated that in view of the subsequent departmental proceedings and criminal proceedings pending against him, the State Govt were of the opinion that Sh Changkakati was not at all suitable for appointment to Indian Forest Service in terms of the provisions of Reg 9(2). The State Government requested the Commission and the Govt of India to give serious consideration to their opinion. In turn, the Commission vide DO letter dated 12.07.2004 informed the State Govt that the proposal furnished by them was neither in accordance with the rules and regulations nor in consonance with the directions of the Hon'ble Tribunal and that the State Government were of the view that Shri Changkakati was not at all suitable for promotion to the Indian Forest Service in terms of the



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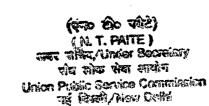
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provisions of Regulation 9(2). The State Government were also informed that the Indian Forest Service (Appointment by Promotion) Regulations were amended on 31.12.1997 and consequently, Regulation 9(2) deleted from the Regulations. Thus the State Govt's proposal was not in accordance with the existing Promotion Regulations applicable to this case. The State Govt were also required to make a proposal under Regulation 7(4) to the Commission with a positive recommendation of the State Government that they recommend the officer's unconditional inclusion in the IFS Select List which they have not done. The State Government were further informed that in case they did not propose to recommend the officer's unconditional inclusion in the Select List of 2001, then the State Govt may pass speaking orders to that effect keeping in view the letter and spirit of the orders of the Hon'ble CAT.

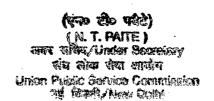
- 7.8. It is also submitted that in regard to the opinion of the State Govt that Shri Changkakati was not at all suitable for appointment to the Indian Forest Service, the Govt. of India vide their letter dated 19.07.2004 informed the State Govt that these facts ought to have been submitted by them before the Hon'ble Tribunal/High Court and necessary orders obtained and they accordingly requested the State Govt to take appropriate action in the matter.
- 7.9. The State Govt vide their letter dated 22.07.2004 reiterated their earlier stand and stated that they had complied with the orders of the Hon'ble CAT in so far as issuing an integrity certificate to Shri PP Changkakati was concerned. They further stated that their observation that Sh Changkakati was not at all suitable for appointment to the Indian Forest Service was in consonance with the provisions of the Regulations 6(iv). They requested the Commission to take a decision as provided under Regulation 7.
- 7.10. The Commission vide their letter dated 11.08.2004 pointed out to the State Government that they had neither issued speaking orders nor sent a positive proposal to make the officer's inclusion in the Select List as unconditional in accordance with the provisions of the Regulations. The State



Govt had also not obtained stay orders against the Hon'ble CAT's order. The Commission, considering the lack of response from the State Government in appreciating the rules and regulations, as an extreme step also proposed to treat the State Govt's letter dated 22.07.2004 and Integrity Certificate dated 16.06.2004 as a request of the State Govt under Regulation 7(4) to make Shri Changkakati's inclusion in the Select List of 2001 as unconditional. The State Govt vide their FAX dated 25.08.2004 stated that they were of the opinion that the proposal in accordance with the provisions of Regulations 6 had already been submitted and there was little scope for them to pass a speaking order under the said Regulations. The State Government also informed the Commission that they could now proceed with the case under the various provisions of Regulation 7 including those under Regulation 7(2) which provide powers to the Commission to make any changes in the list received from the State Govt.

7.11. The Commission vide their letter dated 17.11.2004 informed the State Govt that in the absence of a positive proposal from them, the Commission could not proceed to consider the case of Shri Changkakati for his unconditional inclusion in the Select List of 2001 in accordance with the provisions of the Indian Forest Service (Appointment by Promotion) Regulations. The State Government were once again requested to obtain stay orders from the Hon'ble High Court. This was necessary since the implementation of the Orders would have implications on the vacancies and the eligibility lists of the subsequent years.

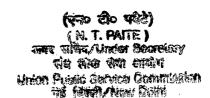
Writ Petition filed by Shri P P Changkakati before the Hon'ble High Court against the Hon'ble CAT Order dated 21.02.2003 in OA No.260/2002 had been disposed of. The State Government also informed vide letter dated 17.11.2004 that their views on appointment of Shri Changkakati to the Indian Forest Service had been communicated to the Commission. As the State Government had not forwarded the details of the Writ Petition filed by Shri Changkakati before the Hon'ble High Court, the State Government were



requested to forward the details to the Commission alongwith a copy of the High Court order disposing of the same. They were also requested to intimate the latest status of the WP filed by the State Govt. <u>Vide</u> their letter dated 12.01.2005, the State Govt informed that the WP filed by them had been dismissed by the Hon'ble High Court as infructuous with the observation that the order of the Hon'ble CAT had been complied with. The State Govt reiterated their views that Shri Changkakati was not suitable for promotion to the Indian Forest Service in view of the subsequent disciplinary cases initiated against him.

7.13. Thereafter, Shri P P Changkakati filed a Contempt Petition before the Hon'ble Tribunal against non-implementation of their order dated 21.02.2003. The Commission was not cited as a party in the said Contempt Petition. The Hon'ble Tribunal <u>vide</u> their Order dated 10.03.2005 have disposed of the said CP with a direction to pass appropriate orders in compliance with the directions contained in the said Order. The operative portion of the said Order of the Hon'ble Tribunal is extracted below:

"From what is stated above, it would appear that the Government of Assam has done everything which is required for compliance of the direction issued in the Order of this Tribunal dated 21.03.2003 in OA No.260/2002 and that it is only because of the unhelpful attitude of the UPSC, there is delay in complying with the direction issued by the Tribunal. Taking into account all the circumstances of the case and in view of the inordinate delay of more than two years in the matter of compliance of the directions issued in the OA, we direct the contemners to send a copy of this order to the UPSC within two weeks from the date of receipt of the same from this Tribunal to enable the UPSC to proceed with the matter and to include the name of the petitioner in the Select List for the year 2001 without any further delay. We make it clear that in view of what is stated above, it is not necessary for the respondents



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to have further correspondence with UPSC in the matter for including the name of the petitioner in the Select List for the year 2001 for promotion to the IFS in compliance with the Orders dated 21.03.2003 in OA No.260/2002 other than forwarding a copy of this Order to UPSC. We hope that the UPSC will take the matter seriously and will pass appropriate Orders in compliance of the directions contained in this order, within a period of two months from the date of receipt of copy of the judgement."

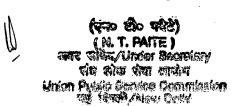
7.14. In pursuance to the Orders of the Hon'ble CAT dated 21.02.2003 and as required under the provisions of Regulation 7(4) of the promotion regulations, the State Government were required to furnish a proposal to the Commission to make Shri Changkakati's inclusion in the Select List of 2001 as unconditional. Although the State Government had certified the integrity of Shri Changkakati in respect of the Select List of 2001, they had also stated that in view of the subsequent departmental proceedings and criminal proceedings pending against him, Shri Changkakati was not at all suitable for appointment to the Indian Forest Service. Because of this contradiction in the stand of the State Government, the Commission had not been in a position to declare Shri Changkakati's inclusion in the Select List of 2001 as unconditional in accordance with the provisions of the Regulations and Government of India instructions.

7.15. However, in view of the Orders dated 10.03.2005 of the Hon'ble Tribunal in the Contempt Petition No.35/2003, the Commission vide their letter dated 28.04.2005 declared the name of Shri P.P. Changkakati as unconditional and final and requested the Govt. of India, Ministry of Environment and Forests to take further necessary action to comply with the direction dated 21.02.2003 of the Hon'ble CAT, Guwahati Bench in OA No.260/2002 filed by Shri P P Changkakati.



REPLY TO THE CONTENTIONS

- 8.1 As regards contention of the Applicant in para 6(i) that the respondents violated Reg.7(4) of the Promotion Regulations by not declaring his name as unconditional and final after clearance of the disciplinary cases pending against him, it is most respectfully submitted that as mentioned in paras 7, even after disposal of the disciplinary proceedings pending against Shri P.P. Changkakati, no proposal was received from the State Govt. requesting to declare his name as unconditional and final during the validity period of the Select List as required under Reg.7(4) of the Promotion Regulations. However, after receipt of a copy of the Order of this Hon'ble Tribunal dated 21.02.2003 in OA No. 260/2003, the Commission requested the State Govt. to forward a proposal in this connection. As mentioned in paras 7 above, no such proposal came through from the State Govt. for a long period even after protracted correspondence. After a long time, the State Govt. furnished an integrity certificate in favour of Shri P.P. Changkakati which was not as per the uniform procedures followed by the Commission for different State As such, the Commission found it difficult to declare his name unconditional and final. However, in view of the direction dated 10.03.2005 of the Hon'ble Tribunal in the Contempt Petition filed by Shri P.P. Changkakati (in which the UPSC was not cited as a party), the Commission vide their letter dated 28.04.2005 declared inclusion of the name of Shri P.P. Changkakati in the Select List of 2001 as unconditional and final Appointment of officers included in the Select List to the Indian Forest Service comes under the purview of the Govt. of India, Ministry of Environment & Forests. As such the submissions made by them in this connection may be perused. This Answering Respondent at no point of time has violated any provisions of the Promotion Regulations nor dishonoured the directions of the Hon'ble Tribunal.
- 8.2 As far as the contention of the applicant at para 6(ii) is concerned, the deponent submits that after approval of the Select List by the Commission, if an officer whose name is included in the Select List is, after such inclusion, issued with a charge sheet or a charge sheet is filed against him in a Court of



Law, his name in the Select List shall be deemed to be provisional as per 1st proviso to Reg.7(3) of the Promotion Regulation which reads as follows:-

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

Provided that if an officer whose name is included in the Select List is, after such inclusion, issued with a charge sheet or a charge sheet is filed against him in a Court of Law, his name in the Select List shall be deemed to be provisional."

It is further submitted that in the case of the Applicant the Commission on its part declared the name of the Applicant as unconditional and final on the basis of the directions of the Hon'ble Tribunal. As such, the contentions of the Applicant in this regard are not based on facts. The Govt. of India who are responsible for interpreting the Promotion Regulation may submit further in this connection.

- 8.3 Regarding contentions of the applicant at para 6(iii), it is submitted that as his name has already been declared unconditional by the Commission vide their letter dated 28.4.2005, this contention is also not based on facts. It may however be clarified in this connection that the State Government had certified the integrity of the applicant upto the date of the Selection Committee meeting but cast aspersions on his suitability for appointment to the IFS. These conflicting views of the State Government necessitated the issuance of the communication dated 17.11.2004. As such, the Commission has not violated any rule in this regard.
- 9. In view of the facts and circumstances stated above and after taking into consideration the submissions made by the Govt. of India and State Govt., the Hon'ble Tribunal may be pleased to pass suitable orders in the instant OA.

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VERIFICATION

I do hereby declare that the contents of the above Statement are believed by me to be true based on the records of the case. No part of it is false and nothing has been concealed therefrom.

Verified at New Delhi on the 30^{44} day of April, 2007.

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ORIGINAL APPLICATION NO. 47/2007 IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Shri P P CHANGKAKATI

Applicant

Vs.

Union of India & Ors

Respondents

Reply on behalf of the Respondent No. 1

- I, Ashok Kumar, aged 51 years S/o Late Shri L D Kalra, working as Under Secretary in the Ministry of Environment & Forests, Government of India, Paryavaran Bhawan, New Delhi do hereby solemnly affirm and say as under: -
- 2. That I am Under Secretary in the Ministry of Environment & Forests, Government of India, New Delhi and having been authorised, I am competent to file this reply on behalf of Respondent No. 1. I am acquainted with the facts and circumstances of the case on the basis of the records maintained in the Ministry of Environment & Forests. I have gone through the Application and understood and contents thereof. Save and except whatever is specifically admitted in this reply, rest of the averments will be deemed to have been denied and the Applicant should be put to strict proof of whatever he claims to the contrary.

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3. BACKGROUND OF THE CASE

- 3.1 The applicant is a State Forest Service Officer of Assam cadre and has made out a grievance against denial of promotion to the applicant to the Indian Forest Service cadre of Assam-Meghalaya cadre. Facts of the case are that the name of the applicant was included in the Select List of 2001, which was prepared by the Selection Committee in its meeting held on 5.11.2001 for one vacancy in Assam segment of Assam-Meghalya cadre. However, the inclusion of the name of the applicant in that Select List was provisional as disciplinary proceedings were pending against the applicant.
- In terms of the proviso to sub rule (4) of Rule 7 of the IFS (Appointment by Promotion) Regulations the appointment of a provisionally included officer can be considered by the Central Government only after the UPSC, on the basis of a proposal from the concerned State Government, declares the inclusion of the provisionally included officer in the Select List as unconditional and final before the expiry of the validity of that Select List. Since the name of the applicant had not been made unconditional and final by the UPSC he could not be appointed to IFS by the answering respondent.

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3.3 The applicant then filed O.A.NO. 260/2002 (P P Changkakati Vs. UOI & Ors.) in this Hon'ble Tribunal. This OA was allowed by this Hon'ble Tribunal vide its order dated 21.2.2003.

- Since in terms of the 2nd proviso to sub rule (1) of rule 3.4 9 of the IFS(Appointment by Promotion) Regulations, 1966, relating to appointments to the Service from the Select List, the appointment of an officer to IFS, whose name has been included or deemed to be included in the select list provisionally, can be made after his inclusion in the Select List is unconditional by the UPSC on the basis of a proposal to be submitted by the State Government in this behalf, it was for the State Government of Assam to send the proposal to the Union Public Service Commission for making the inclusion of the name of Sh P P Changkakati in the Select List for 2001 unconditional. Only after the inclusion of his name in the Select List of 2001 had been made unconditional the answering respondent could take further action for his appointment to IFS as directed by the Hon'ble Tribunal.
- 3.5 Subsequently, the Government of Assam (Respondent No 2) intimated that the proceedings against Sh P P Changkakati, due to which his integrity certificate had been withheld earlier, had been completed and he has

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been exonerated of all charges. The Government of Assam therefore issued the integrity certificate in favor of Sh Changkakati and submitted a proposal to UPSC vide their letter dated 18th June, 2004.

- 3.6 Simultaneously, however, the Govt of Assam vide their letter dated 24th June, 2004 to this Ministry (the answering respondent) indicated that in view of the continuing disciplinary proceedings initiated against Sh P P Changkakati in August 2002 and another disciplinary proceedings initiated against him in December, 2003 and his arrest on 2nd June, 2004, the State Government was of the considered opinion that Sh P P Changkakati was not at all suitable for appointment to IFS.
- 3.7 It is submitted that in terms of the proviso to Regulation 7(3) of the Promotion Regulations if an officer, whose name is included in the Select List, is, after such inclusion, issued with a charge-sheet or a charge-sheet is filed against him in a Court of Law, his name in the Select List shall be deemed to be provisional. Though the UPSC vide its letter dated 28th April, 2005 made the inclusion of the name of Sh P P Changkakati in the Select List of 2001 as unconditional and final on the basis of the proposal submitted by the Govt of Assam and requested this Ministry to take further action in this matter, the

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answering respondent could not appoint him to IFS as the Govt of Assam vide their letter dated 24th June, 2004 had taken the position that in view of the continuing disciplinary proceedings initiated against Sh P Changkakati in August 2002 and disciplinary proceedings initiated against him in December, 2003 and his arrest on 2nd June, 2004, the State Government was of the considered opinion that Sh P P Changkakati was not at all suitable for appointment to IFS. It is also submitted that the Govt of Assam vide their letter dated 31st May 2005 intimated to the answering respondent that the Police case under section 384 in 2003 and the departmental proceedings initiated against Sh P P Changkakati in 2003 were continuing and in view of this the State Govt was not in a position to issue fresh Integrity Certificate in respect of Sh P P Changkakati. Thus the inclusion of the name of Sh P P Changkakati in the Select List of 2001 was treated as "provisional" in terms of the 2nd Proviso to Regulation 9(1) quoted above and hence the applicant could not be appointed to IFS. Having submitted the brief background of the case the answering respondent submits its reply in the proceeding paragraphs.

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4. PARA WISE REPLY

- 4.1 In response to para 4.1 the answering respondent has no comments.
- 4.2 In response to para 4.2, it is submitted that as the averments made therein relate to Respondent No.2, the answering respondent has no comments and the reply statement of Respondent No.2 in this regard may kindly be referred to.
- 4.3 In response to para 4.3 it is submitted that as the averments made therein relate to Respondent No.2, the answering respondent has no comments and the reply statement of Respondent No.2 in this regard may kindly be referred to.
- 4.4 In response to para 4.4 it is submitted that as the averments made therein relate to Respondent No.2, the answering respondent has no comments and the reply statement of Respondent No.2 in this regard may kindly be referred to.
- 4.5 In response to para 4.5 it is submitted that as the averments made therein relate to Respondent No.2, the answering respondent has no comments and the reply statement of Respondent No.2 in this regard may kindly be referred to. It is admitted that the name of the applicant was included in the Select List of 2001 prepared in terms of Rule 5(1) of the IFS

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Promotion) Regulations, (Appointment by (Promotion Regulations are attached at **ANNEXURE R** 1) but that his name was included as "provisional" in that Select List as some court case was pending against him. In terms of the proviso to sub rule (4) of Rule 7 of the IFS(Appointment by Promotion) Regulations, appointment of the applicant, who was a provisionally included officer in the Select List of 2001, been considered by the could have Government only after the UPSC, on the basis of a proposal from the State Government of Assam to declare the name of applicant in the select list of 2001 "unconditional", declared the inclusion of the applicant in the Select List as unconditional and final within the validity period of that Select List.

- 4.6 In response to para 4.6 it is submitted that as the averments made therein relate to Respondent No.2, the answering respondent has no comments and the reply statement of Respondent No.2 in this regard may kindly be referred to.
- 4.7 In response to para 4.7 the answering respondent has no comments as the averments made therein are matter of record.
- 4.8 In response to para 4.8 the answering respondent has no comments as the averments made therein are matter of record.

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4.9 In response to para 4.9 the answering respondent submits that the contention of the applicant that subsequent case against the applicant has relevance for the purpose of his promotion to the IFS in terms of his inclusion in the Select List of 2001 is misconceived as it has specifically been laid down vide the proviso to Regulation 7(3) of the IFS(Appointment by Promotion) Regulations that if an officer, whose name is included in the Select List, is, after such inclusion, issued with a charge-sheet or a chargesheet is filed against him in a Court of Law, his name in the Select List shall be deemed to be provisional. In this view of the matter it was not permissible with in the rules to promote the applicant to IFS so long as his name was treated as "provisional" in the Select List of 2001.

It is also submitted that for promotion of the State Forest Service officers included in the Select List, the State Government are required to forward signed declaration of marital status and consent for termination of lien in the State Service on eventual substantive appointment in the IFS from the State Forest Service officers included in the Select List to the Central Government separately. Any adverse development in respect of the officers included in the consideration zone which is likely to render him

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unsuitable for appointment to the Service for the time-being (e.g.) withdrawal of integrity certificate by the State Govt. / issue of charge sheet / filing of criminal case against the officer etc. is also required to be immediately brought to the notice of the Central Government by the State Govt. concerned.

- 4.10 In response to para 4.10 the answering respondent has no comments as the averments made therein are matter of record and the reply statement of Respondent No. 3 in this regard may kindly be referred to.
- 4.11 In response to para 4.11, 4.12, 4.13, 4.14 and 4.15 the answering respondent submits that it is admitted that the UPSC vide its letter dated 28th April, 2005 made the inclusion of the name of Sh P P Changkakati in the Select List of 2001 as unconditional and final on the basis of the proposal submitted by the Govt of Assam. However, it is submitted that the Govt of Assam (Respondent No 2) vide their letter dated 24th June, 2004 (Annexure R-2) and again vide their letter dated 22nd July, 2004 (Annexure R-3) had taken the position that in view of the continuing disciplinary proceedings initiated against Sh P P Changkakati in August 2002 and another disciplinary proceedings initiated against him in December, 2003 and his arrest on 2nd June, 2004, the State

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Government was of the considered opinion that Sh P P Changkakati (the applicant herein) was not at all suitable for appointment to IFS. It is submitted that after the inclusion of the name of the applicant was made unconditional by the UPSC, the answering respondent requested the Respondent No 2 vide its letter dated 25.7.2005 (Annexure R-4) to make available the fresh Integrity Certificate in respect of Sh P P Changkakati (the applicant herein) and also provide details about the outcome of the departmental proceedings if finalized. The Respondent No 2 vide its letter dated 31st May 2005 (Annexure R-5) intimated to the answering respondent that the Police case under section 384 in 2003 and the departmental proceedings initiated against Sh P P Changkakati in 2003 were continuing and in view of this the State Govt was not in a position to issue fresh Integrity Certificate in respect of Sh P P Changkakati. In view of this the answering respondent was bound by the proviso to Regulation 7(3) of the IFS (Appointment by Promotion) Regulations and the appointment of the applicant to IFS on the basis of inclusion of his name in the Select List of 2001 could not be made.

It is submitted that integrity is indeed the sine qua non of merit and suitability: no person can be considered as

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possessing merit and suitability if he lacks in character and integrity.

It is further submitted that it is well settled in service jurisprudence that an employee has no right to promotion. He has only a right to be considered for promotion. The promotion to a post and more so, to a selection post, depends upon several circumstances. To qualify for promotion, the least that is expected of an employee is to have an unblemished record. That is the minimum expected to ensure a clean and efficient administration and to protect the public interests. The least that is expected of any administration is that it does not reward an employee with promotion when his conduct and integrity is not certified by the State Government. Α denial of promotion circumstances is a necessary consequence of his conduct.

4.12 In response to para 4.16 the answering respondent submits that the present application is barred by delay and latches as it is not filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act 1985. Even if the applicant had a legitimate claim it was expected of him to approach the Court for the relief within the prescribed limitation period. It is submitted that during the interregnum Selection Committee

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meetings for preparing the Select Lists of 2002, 2003 and 2004 have been held and officers have been appointed to IFS under the IFS (Appointment by Promotion) Regulations and those officers have acquired rights which cannot be defeated by collateral entry of the applicant at a higher point without the benefit of actual experience during the period of his absence when he chose to remain silent before making the claim. It is thus submitted that this inordinate and unexplained delay or latches is by itself a ground to refuse the relief, irrespective of the merit of the claim.

PRAYER

In view of the foregoing paragraphs, it is abundantly clear that there is no cause of grievance by the applicant against Respondent No.1 and the present Application is devoid of any merit and deserves to be dismissed forth with and the Respondent prays accordingly.

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VERIFICATION

I, Ashok Kumar, Under Secretary to the Government of India having my office at Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi - 110 003, do hereby verify that the contents stated above are true and correct to the best of my knowledge, belief and information and that nothing has been suppressed there from.

Verified at New Delhi on this $\frac{1}{6}$ day of April, 2007.

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ANNEXURE R 1

INDIAN FOREST SERVICE (APPOINTMENT BY PROMOTION) REGULATIONS, 1966

(Corrected upto 31st January, 2005)

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

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 posts specified as such in the regulations made under sub-rule(1) of rule 4 of 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:
 - 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 31st day of *December of the same year.
 - 2. All other words and 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-

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(1) There shall be constituted for a State Cadre or a Joint Cadre specified in column 2 of Schedule, a Committee consisting of the Chairman of the Commission or where the Chairman is unable to attend, any other member of the Commission representing it and other members specified in the corresponding entry of column 3 of the said Schedule:

Provided that

- no member of the Committee other than the Chairman or the member of the Commission shall be a person who is not a member (i) of an All India Service;
- the nominees of the Government of India shall not belong to the (ii) cadre for which the meeting of the Committee is to be held; and
- the Central Government may after consultation with the State (iii) Government concerned, amend the Schedule.
- (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 the members of the Committee had attended its meetings.

Omitted 4.

Preparation of a list of suitable officers :-5.

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 (i) 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 held, and no list for the year in question shall be prepared when,

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 (a) Service under rule 9 of the recruitment rules; or

the Central Government in consultation with the State Government decides that no recruitment shall be made during the year to the (b)

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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;

Provided further that where no meeting of the Committee could be held during a year for any reason other than that provided for in the first proviso, as and when the Committee meets again, the select list shall be prepared separately for each year during which the Committee could not meet, as on the 31st December of each year;

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 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 member 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 day of January of the year for which the select list is prepared, he is substantive in the State Forest Service and has completed not less than eight years of continuous service (whether officiating or substantive) in post(s) included in the State Forest Service.

Explanation I — 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.

Provided also that the officers belonging to any service referred to in item (ii) of clause (g) of rule 2 of the Recruitment rules shall not be 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,

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eight years to 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 for which the select list is prepared, 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 Academy, Dehradun, 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 include 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 local body, and
- (ii) An international organisation, an autonomous body not controlled by Government or a private body.

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

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 for which the select list is prepared.

*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 54 years on the first day of January of the year for which the select list is prepared 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

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held but could not be considered as no meetings 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(A)(A) The Selection Committee shall classify the eligible officers as 'Outstanding', 'Very 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' then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order the names inter-se within each category shall be in the order of their seniority in the State Forest Service.
- @ Provided that the name of an officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal, are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government.

Provided further that while preparing year-wise select lists for more than one year pursuant to the second proviso to sub-regulation (1), the officer included provisionally in any of the select list so prepared, shall be considered for inclusion in the select list of subsequent year in addition to the normal consideration zone and in case he is found fit for inclusion in the suitability list for that year on a provisional basis, such inclusion shall be in addition to the normal size of the select list determined by the Central Government for such year.

Explanation I: The proceedings shall be treated as pending only if a charge-sheet has actually been issued to the officer or filed in a Court, as the case may be

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Explanation II: The adverse thing which came to the notice of the State Government rendering him unsuitable for appointment to the service shall be treated as having come to the notice of the State only if the details of the same have been communicated to the Central Government and the Central Government is satisfied that the details furnished by the State Government have a bearing on the suitability of the officer and investigation thereof is essential.

- (5) Omitted.
- 6. **Consultation with the Commission**; The list prepared in accordance with regulation 5 shall then be forwarded to the Commission by the State Government alongwith:
 - i) the records of all members of the State Forest Service included in the list;
 - the records of all members of the State Forest Service who are proposed to be superseded by the recommendations of the Committee.;
 - the observations of the State Government on the recommendations of the Committee.
- 6(A). The State Government shall also forward a copy of the list referred to in regulation 6 to the Central Government and the Central Government shall send their observations on the recommendations of the Committee to the Commission.

7. 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;
 - b) the observations of the Central Government and unless it considers any change 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 modifications, if any, as may, in its opinion, be just and proper.
- (3) The list as finally approved by the Commission shall form the Select List of the members of the State Forest Service

Provided that if an officer whose name is included in the Select List is, after such inclusion, issued with a charge-sheet or a charge-sheet is filed against him in a Court of Law, his name in the Select List shall be deemed to be provisional.

(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 upto 60 days from the 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 also that where select list is prepared for more than one year pursuant to the second proviso to sub-regulation (1) of regulation 5, the select lists shall remain in force till the 31st day of December of the year in which the meeting was held to prepare such lists or upto sixty days from the date of approval of the select lists by the Commission under this regulation, 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 (i) 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) Omitted

8. Omitted

9. Appointments to the Service from the Select List -

(1) Appointment of a member of the State Forest Service, who has expressed his willingness to be appointed to the Service, shall be made by the Central Government in the order in which the names of members of the State Forest Service appear in the Select List for the time being in force during the period when the select list remains in force. ,06

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Provided that the appointment of members of the State Forest Service shall be made in accordance with the agreement arrived at under subrule(3) of rule 8 of the recruitment rules in the order in which the names of members of the State Forest Service occur in the relevant parts of the Select List for the time being in force

Provided further that the appointment of an officer, whose name has been included or deemed to be included in the select list provisionally under proviso to sub-regulation(3) of regulation 7, as the case may be, shall be made within sixty days after the name is made unconditional by the Commission, in terms of the first proviso to sub-regulation (4) of regulation 7

Provided also that in case a select list officer has expressed his unwillingness for appointment to the Service, he shall have no claim for appointment to the Service from that select list unless he informs the Central Government through the State Government before the expiry of the validity period of the select list, revoking his earlier expression of unwillingness for appointment to the Service.

*(2) Omitted.

10. ***Powers of the Central Government not to appoint in certain cases :

Notwithstanding anything contained in these Regulations, *the Central Government may not appoint any person whose name appears in the Select List, if it is of opinion that it is necessary or expedient so to do in the public interest.

Provided that no such decision shall be taken by the Central Government without consulting the Union Public Service Commission.

"Schedule (see regulation 3)

S. No	Name of the State Cadre/Joint Cadre	Other members of the Committee
1.	Arunachal Pradesh,Goa, Mizoram and Union Terriroties	 a) Chief Secretary of the constituent State. In respect of Union Territory segment, the senion most Chief Secretary amongst the Chief Secretaries of the Union Territory administrations; b) The senior most Chief Secretary of the remaining constituents of the Cadre; c) Principal Chief Conservator of Forests of the constituent segment for which the meeting is held. In respect of Goa segment, the Conservator of Forests to attend; d) Head of Forests Department of the constituent segment, not below the rank of Secretary to

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		Government. For Union Territory segment, the senior most officer looking after Forest Department among all Union Territories; e) Joint Secretary, Government of India dealing with AGMUT cadre in Ministry of Environment & Forests; f) Two nominees of the Government of India not below the rank of Joint Secretary.	
2.	Assam-Meghalaya and Maniput- Tripura Joint Cadres	 a) Chief Secretaries to the Governments of the Constituent States. b) Principal Chief Conservators of Forests of the Constituent States. c) Two nominees of the Government of India not below the rank of a Joint Secretary. 	
3.	Other Cadres	 a) Chief Secretary of the State Government; b) Secretary, Forest Department of the State Government; c) Principal Chief Conservator of Forests of the State Government; d) Two nominees of the Government of India not below the rank of Joint Secretary. 	

Substituted/Inserted/added vide Department of Personnel and Training Notification No. 14015/16/91-AIS(I), dated 28th, November, 1991.

- © Substituted/Inserted/added vide Department of Personnel and Training Notification No. 14015/32/91-AIS(I)-C, dated 18th, August, 1993.
- # Substituted/Inserted/added vide Department of Personnel and Training Notification No. 14015/14/96-AIS(I), dated 22nd, March, 1996.
- ** Substituted/Inserted/added vide Department of Personnel and Training Notification No. 14015/56/96-AIS(I), dated 5th, February, 1997.
- Substituted/Inserted/added vide Department of Personnel and Training Notification No. 14015/52/96-AIS(I), dated 31st, December, 1997
- **** Added vide Department of Personnel and Training Notification No. 14015/08/2001-AIS(I)-C, dated 31st January, 2005



DEPARTMENT OF ENVIRONENT & FOREST DISPUR: GUWAHATI-781006.

No.FRE. 135/2002/Pt.II/130

Dated Dispur, the 24th June, 2004

From . P.P. Varma,

Principal Secretary to the Govt. of Assam.

To

Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi-110003.

Proposal regarding Sri P.P. Changkakati, inclusion of the name in the select list of 2001 unconditionally.

Ref: Ministry of E & F letter No.F.22012/47/2002-IFS-II dated 8th July, 2003.

Sir,

With reference to the above and in accordance with the decision of the Selection Committee held on 5.11.2001, I am directed to say that the proceedings against Shri P.P. Changkakati, due to which the integrity certificate was withheld earlier, have since been completed and Shri Changkakati have been exonerated of all charges. A copy of the order in this case is enclosed. Consequent to the conclusion to this proceeding and in the light of the order of the Hon'ble CAT dated 21.2.2003 in OA No.260/2002, Chief Secretary, Assam has issued an Integrity Certificate in favour of Shri P.P.Changkakati. A copy of this certificate is enclosed. All other relevant documents relating to Sri P.P.Changkakati have been sent to the UPSC earlier vide FRE.109/94/Pt.1/163 dated 25.9.2001.

In this connection, the State Government, in terms of the Sub-Regulation (2) of the Regulation 9 of the IFS (Appointment by Promotion) Regulation 1966 has decided to convey their opinion regarding suitability of Shri P.P. Changkakati for appointment to the IFS as follows:-

The State Government has initiated a departmental proceeding against Shri P.P. Changkakati in August, 2002 involving charges of illegal appointments. This proceeding is continuing. A copy of the show cause notice and statement of allegations is enclosed.

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In the month of June-July, 2003 Shri P.P. Changkakati detained 4 trucks carrying Red Sander's Wood with malafide intentions causing serious embarrassment to the Government. Later on, enquiry conducted by senior Forest officials revealed that the detained timber was legally transported and did not warrant any detention. Allegations of demand of illegal gratification by Shri P.P. Changkakati were also made in this matter and Government had to transfer him on 11.7.2003.

In the month of October, 2003 complaints were received that Shri P.P. Changkakati demanded Rs. 1.00 lakh from a timber shop owner. It was complained that Shri Changkakati has threatened him to close the shop if the said bribe is not paid. A raid was carried out by the District Administration in his residence on 2.10.2003 and Rs. 20.000.00 in the form of Rs.100 denomination currency notes were found from the possession of Sri Changkakati and these notes included four notes duly signed by the Deputy Commissioner earlier. This established the complaint and accordingly a police case U/S 384 IPC has been registered. Till 1st June, 2004 Shri P.P. Changkakati was evading arrest but on 2nd June, 2004 he has been arrested from a Hospital in Guwahati city. A copy of the report of the District Magistrate is enclosed.

In another raid conducted by the Forest officials and the Magistrates in the residence of Shri P.P. Changkakati in October, 2003, 99 pieces of timber were seized. These timbers, as revealed from the hammer markings on it, belong to Government and relate to the year 1992-93. This is a serious forest offence and is in direct violation of the orders of the Hon'ble Supreme Court regarding inventorisation of such timbers. This matter is now under investigation by the Special Investigation Team constituted under the orders of the Hon'ble Supreme Court.

In December, 2003 another DP has been initiated against Shri P.P. Changkakati involving charges relating to demand of illegal gratification, misappropriation of Government money, misuse of power for personal gain, negligence and dereliction of duty causing loss to the Government revenue and violation of the direction of Hon'ble Supreme Court etc. A copy of the charge sheet and statement of allegation are enclosed.

A copy of the report dated 18.3.04 containing details of the above mentioned cases prepared by the Chief Conservator of Forest (Territorial), Assam is enclosed for

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your ready reference. Under these circumstances the State Government is of the considered opinion that Shri P.P. Changkakati is not at all suitable for appointment to IFS in terms of the provisions of Regulation 9(2). It is requested that the opinion of the State Government should be given serious consideration by the Commission and the Government of India.

Hon'ble CAT, Guwahati Bench was apprised on 18.6.2004 that the Integrity Certificate in respect of Shri P.P.Changkakati has been issued and that the matter has been sent to UPSC. The Hon'ble CAT has directed that this matter be posted before the next Division Bench when respondent will show the compliance report. A copy of this order is also enclosed. In the light of this order it is requested that the Government of India may consider the case of Shri P.P.Changkakati and intimate their decision at the earliest so that the same can be placed before the Hon'ble CAT as directed by them.

Encl: as above (38 pages)

Yours faithfully,

(P.P. Varma

Principal Secretary to the Govt. of Assam

Memo No.FRE.135/2002/Pt.II/130-A

Dated Dispur, the 24th June. 2004.

Copy to:

1. Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110069

(P.P. Varma)

Principal Secretary to the Govt. of Assam

GOVERNMENT OF ASSAM THENT OF ENVIRONMENT AND FOREST DISPUR ::: GUWAHATI

/81/368

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Dated Dispur, the 16th July, 2002.

ORDERS BY THE GOVERNOR ORDER

Whoreas a departmental proceeding was drawn up against Shri P.P. Changkakati, then Divisional Forest Officer, Kamrup Wast Division vide Govt. order No. FRE. 127/8%/85, dtd. 3.10.1994 on the charges of financial irregularities.

Whereas, Shri L.D. Adhikary, IFS, Conservator of Forest (now retd.) was appointdas Enquiry Officer to enquire into the charges. The Enquiry Officer submitted report vide his letter No. FG.22/CAC dtd. 29.11.1997;

Whereas, the disciplinary authority was not satisfied with the Enquiry report, and appointed Shri V.K. Vishnel , IFS, Chief Conserve of Forest to enquire into the charges afresh. The Enquiry officer submitted report vide his letter No. FE.267/REWP/Enquiry, dtd. 14.10.

After careful consideration of both the reports of Enquiry alongwith other relevant records, it is seen that the charge against the delinquent officer could not be proved. Assam is therefore, pleased to order for drapping the departmental La exonexation proceeding drawn up against Shri P.P. Changkakati, DCF. from all the charges. The period from 29.3.95 to 26.10.95 apent units suspension shall be treated as on duty for all pruposes.

By order etc. and in the name of Governor

sd/- B.B. Hagjer, Secretary to the Govt. of Assam, Environment and Forest Department

Memo No. FRE. 127/81/368-A

Dated Dispurathe 16.7.July. 2000

- 1. The Principal Chief Conservator of Forest, Assam, Rehabari, Guarda 2. The Accountant General (A&E). Assam, Beltola, Guwahati 29. Copy to :-
- 3. The Chief Conservator of Forest (Territorial) Assam, Guwahati
- 4. The Conservator of Forest, Central Assam Circle, Guwahati 1.
 5. P.S. to Minister of State Forest (Ind) for information of Minister of Shri P.F. Changkakati, DFO, Kamrup East Division, Guwahati.

- 7. personal file of officer.

By order etco,

sd/- A. Khare, Additional Secretary, Ferest Desert -89-87' 3-27-

your ready reference. Under these circumstances the State Government is of the considered opinion that Shri P.P. Changkakati is not at all suitable for appointment to IFS in terms of the provisions of Regulation 9(2). It is requested that the opinion of the State Government should be given serious consideration by the Commission and the Government of India.

Hon'ble CAT, Guwahati Bench was apprised on 18.6.2004 that the Integrity Certificate in respect of Shri P.P.Changkakati has been issued and that the matter has been sent to UPSC. The Hon'ble CAT has directed that this matter be posted before the next Division Bench when respondent will show the compliance report. A copy of this order is also enclosed. In the light of this order it is requested that the Government of India may consider the case of Shri P.P.Changkakati and intimate their decision at the earliest so that the same can be placed before the Hon'ble CAT as directed by them.

Encl: as above (38 pages)

Yours faithfully,

(P.P. Varma)

Principal Secretary to the Govt. of Assam

Memo No.FRE.135/2002/Pt.II/130-A

Dated Dispur, the 24th June, 2004.

Copy to:

1. Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110069.

(P.P. Varma)

Principal Secretary to the Govt. of Assam

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Integrity Certificate.

Whereas the Integrity Certificate in respect of Sri P.P.Changkakati required in connection with the meeting of the Selection Committee constituted under Regulation 3 of IFS (Appointment by Promotion) Regulation 1966 and held on 5.11.2001 had been withheld on 29.8.2001 by the then Chief Secretary, Assam due to pendency of a departmental proceeding at that time,

and whereas the said proceedings have been dropped on 16.7.2002 vide order No.FRE.127/81/368 dated 16.7.2002, and Sri P.P. Changkakati exonerated of all charges,

and whereas the Hon'ble Central Administrative Tribunal, Guwahati Bench in their order dated 21.2.2003 in OA No.260/2002 have observed that no more vigilance report or integrity certificate was warranted after the DP was dropped, and the applicant has become automatically eligible for promotion from 16.7.2002 itself or even retrospectively,

the integrity of Sri P.P. Changkakati in respect of the period relevant to the said meeting of the Selection Committee held on 5.11.2001 is hereby certified.

Dated Dispur, The 16th June, 2004 (J. P. Rajkhowa)

Chief Secretary to the Government of Assam.

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FOREST DEPORTMENT OF ASSAM

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Shri P.P.Changkakoti.

Deputy Concervator of Foresta.

Kamrup Sast Division, Gusah di-1.

the Assam Services (Discipline and Appeal) Rules, 1964 resisting and Appeal) Rules, 1964 resisting and Appeal) Rules, 1964 resisting a Article 311 of the constitution of India, why my of the regular presented in Rule 7 of the aforesaid pulse should not be sufficient on you for the following distings, based on the atatement of allowing distings based by the atatement.

Charde No.1 : While you were in-charge of Divisional Formal, Officer, Genetic Cell Division, you had illegally announced of Division and favoured persons in various sector mumber of your chosen and favoured persons in various sector members call Division in violation of Govt. instanciation of the constitution of the sector and in which the time to time, without following my rules and in which provision of Article 16 of the constitution of makes

misuse of officer power for making the illegal apopinterate in violation of Govt. instructions, rules and provision of patient of the constitution of India.

Charge No.2 : While you were in-charge of Division it a real Officer, Genetic Celi Division, you had illegally annotated the number of your chosen persons in various posts under time by Division in Violation of Govt. Instructions issued from time by time and rules and provision of Article 16 of the constitution of India as a result of which there is continuous financial location India as a result of which there is continuous financial to the Covt. in the form of payment of salary and other exposures to the Allegal appointers.

You are, therefore, charcod with mean wince in the misuse of office power and violation of Rule 3 of the house in Service (Conduct)Rules, 1965 for financial loss of conduct particular expenses to these illegal arrival payment of salary and other expenses to these illegal arrival.

TO (non) days then the date of receipt of this community of a provided you do not in tend to larger the the date of respect the tend to larger the tend to larger the tend to larger the tend to larger the tend to be the tend to be

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intend to inspect these documents you should write undersigned for the same within 7(Seven) days from the date of receipt of this communication and submit your explanation thereafter within 10 (ten) days from the dof completion of the inspection.

Your written statement stating whother was desire to be heard in person should be submitted to the undersigned within the period as specified above.

Enclo :-1.Statement of Allegations-Annexure-1.

Sel-B. B. Hogger

Secretary to the Govt. of Assar, Forest Department, Dismir

2.List of documents-Annexure-11.

Charge No.1:

while you were in-charge of Divisional Forest Officer, Genetic Call Division, Guwahati, you had illegally appointed the following 7(seven) number of your chosen and favoured passons under Genetic Call Division.

- (1) Shill Bankar Kalita, Foxest Guard vide Office Order No.28 dtd. 1-4-99.
- (2) Shri Lakny Nato, Malk vide Office Order No. 27, dtd. 1-4-99.
- (3) Smti. Boby Baruah, Forester-1 vide Office Order No. 66, dtd. 1-10-99.
- (4) Shri Phukan Ch. Pas, Mali vide Office Order No.67, Atd. 12-10-00.
- (5) Shri Pranab Shuyan, Dak Runner vide Office order 10.33, 363.12.10.53
- (6) Shri Shuyam Dubba, Deon vide Office Order Ho.69, 1-553
- (7) Shri Binov Das, Forest Guard, wide Office Order 15.70, dtd. 17-11-22.

There were clear instructions from the Government of Assam, Vide Covernment of Assam, Department of Personnel, For moved(): Office Memorangum Ho.ABP.74/96/1, datad, Dispur, the 30th May, 1996 regarding basi on recruitment by ad hoc appointment. The aforesaid Office Memorandum clearly states that

"the Covernment of Assam have decided that all allock recruitments abould be made by way of requiar appointment by following the concerned service rules or relevant rules/disculars for making regular appointment and henceforth, there shall be not direct recruitment by way of ad hoc appointment under any department or of any organization under the control of any department or organization under the State Government. All Departments and authorities under the State Covernment are directed to comply what is Government decision.

This instruction comes into force with immediate of it to and will remain in force until further orders".

The Government of Assam Finance(Budget)Department, Of Clarifornation 40.88.56/96/204, dated Dispur, the 11th Hov/1996, regarding them on appointment on leave vacancy states that

After careful consideration of all aspects, it has been decided they beneaforth, no leave vacancy shall be filled

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You are, therefore, charged with areas also as her and misuse of officer power for making the illimate accompan in violation of Govt. Instructions, Jules and providence Artigle 16 of the constitution of endlac.

That widle you were noared as in distance for a charce do.2 : officer, Cenetics Call Division you had illegally a material Tingven) of Tour chosen and favoured because in many after the The Covernment of Assum, Department of Personnel, Personnel OFFIce Memorandum Ho. ABP. 74/96/1. Aprod 30th May, 1936 hove procruttment by ad the appointment.

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companient of Assam, Pinnogo (Parablications). Office Memorandum Ho. Ter. 8/94/67, dated the join and the restaurance appointment of persons quainst leave vacquetes, turnetes due to deputation, study leave, training etc. of the source a or wonts • ·

The Covernment of Assan, Decarbook of Coloners, personnel(n), neft.co Momoroudum (n. 130.74/96/4), diese see December, 1996 stated that no leave varanted on about he compa by any authority.

It was come gated to construct at the time extension of instructions dited above and rules typinithe releases of col justice and constitutional provisions of Armelowic and to do an, eshibiting your insubordingtion to supplie to resulted in continuing loss to the dovernment by more and of salary and other expenses to the illegal accordance to

You are, therefore, charged with more misses misuse of office power and violation of tule 3 of the en Civil Service (Conduct) Rules, 1965 for Cinaman America to making payment of salary and other amesons to const appoint to see

Confidential

Government of Assam

Office of the Deputy Commissioner : Kamrup(Metropolitan): Assam No. DC R/ OA/ 2003-179 Dated the 6" October 2003 ()

The Principal Secretary to the Covernment of Assam, Department of Forest, Dispur.

Sub Antl Corruption raid in the premises of Srl Prasnuta Pran Chankakati, DEO, East/Kainrup Division.

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With reference to the subject quoted above, I have the honour to enclose herewith an inquiry report along with enclosures submitted by Sri Chandra. Kamal Bhuyan, ACS, SDO, Kamrup Metropolitun District on the anti corruption raid on 2nd October 2003 at the residence of Sri Prusunta Pran Blunkakhli, DFO Last Kaimup Division for favour of your information and inecessary action and fraging Molest the

Ble Pronting Western Vietne Continuence Yours falthfully,

(nollanzalland, 1910) and Kaonang Park Tone (1914, Brahmand De

Deputy Cominisationer,

THE DEPUTY COMMISSIONER, KAMRUP (METRO). GUWAHATI, Assum.

Sub: - ANTI CORRUPTION RAID IN THE PREMISES OF SRI PRASANTA PRAN CHANGKAKOTI, D F O, EAST.

Ref. Your order No. DCK/QA/2003-177 Dated the 30th, September, 2003. apt on the most bedomentary the Coloring I

Sir.

I have the honor to inform you that as directed vide order quoted above; I accompanied Sri Bibekananda Das, Addl. S. P. (City), on 2nd, October,03 at around 11 30 AM, to the residence of Sci Prasanta Prair Changkakoti, D.F.O., Guwahati East Division, at Pramathesh Baruah Road, Rehabari, Guwahati following the complaint petition by one Sri Paran Saikia, copy of which is enclosed herewith. The complainant had aftered that Sri Changkakoti had demanded Rs. 1, 00,000/-(Rupees One Lakh) as illegal gratification from him and failing which had threatened to close down the timber shop owned by Sri Saikia. On arrival we were Informed by Sri Saikia that he had given Sri Changkakoti Rs. 20,000/- (Rupees Twenty Thousand) as illegal bribe.

*On entering the residence of Sri Changkakoti we found him scated at the Dining Table located in the Drawing Room of his residence, when we explained our purpose of visit. He did not offer any resistance and we requested him to conduct a search of ourselves to assure him that we were carrying anything objectionable on our persons. Sri Changkakoti searched our persons and certified in writing that we were in fact carrying nothing objectionable (Photocopy of the mine hieneloseit).

Following this we proceeded to search the person of Sri Changkakoti when Rs. 20,000/-, in Rs.100/- denomination currency notes (a total of tyrehundred notes) allegedly given by Sri Saikia as bribe was recovered from his person. We also recovered four currency notes from amongst those two hundred notes marked with your signature.

Once the currency notes were recovered, it was prima facte established that Srl Changkakotl had taken bribe as complained by Srl Salkia and hence the O/C, Paltanbazar P S and Sri Uma Bornh, S I of Police, Paltanbazar P S proceeded to write out the Seizure List at which point Sci-Changkakoti excused himself from the room on the pretext of going to the toilet. Before leaving the room Sri Changknokti was requested by the Police personnel to sign and acknowledge the Seizure List which he refused. After a sufficiently long period of time Sri Changkakoti emerged to talk to Capt.

Robin Bordolof, Howble Minister of State, Sports, Assam who had in the meanwhile arriveden the place. Sri Changkakotl accompanied the Minister to the residence of his younger brother named Pradipta Pran Changkakoty at the ground floor of the same house when he was followed by Sri Borah, S.L. On entering the house of Sri Pradipta Pran Changkakoti, both the Minister and Sri Prasanta Pran Changkakoti shut the door leading into the house keeping the S I of Police outside. After about five minutes the Minister walked out alone and left in his official vehicle when the S I of Police entered the house of Sri - Changkakoti to find Sri Prasanta Pran Changkakoti missing from the premises. Apparently, Sri Prasanta Pran Changkakoti, DFO, escaped through the rear door of the house and could not be located till our departure at around 4PM. Thus, it was a clear case of absconding from the law on the part of Sri Prasanta Pran Changkakoti.

The money mentioned above was seized by the Police and a case registered in Paltanbazar Police Station u/s 384 IPC and Section 7 of Prevention of Corruption Act and General Diary entry number 108 of 2nd. October, 2003. The Case No. of the same is 349/03 under Paltanbazar Police

Station.

This Sir is for your kind perusal and necessary action.

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Englosed: As stated. The transmission of the state of the

Dated the 6th. October, 20031 in the Yours faithfully, a at Produce Front

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to purpose to the following the purpose of the control of the cont Hall the second to the second to

and a state of

CHANDRA KAMAL BHUYAN, ACS) Sub Divisional Officer, (Sadar),

and determined the Kumrup (Metropolituu), GUWAHATI. 1 1 1

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-36 -

FIRST INFORMATION REPORT (Under Section 154 Cr. P. Cl.)

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ii) *Act :	Sections : pres	rangless of coult	whiliast.
(ii) *Act :	IX.	19 0 19:05	pursues a grande de la companya de l
tv) *Other Acta & Sections:			and the second second
(a) General Dinty Reference: Enti (b) *Occurrence of Offence: *Day (c) Information received Date 2	"D:	us 5/10/63 - 11	The state of the state of the
nt the Police Station:	· · · · · · · · · · · · · · · · · · ·		
Trype of Information: *Williams	prat :		
(b) *Address (c)	Millian Brown of	challend (Dis	·/ S // (1)
(b) Maries	Ben	t No.	a make the term of the contract of the contrac
(c) In case outside limit of this	Police Station then	the name of P.S.	a participation of the second section of the section of the second section of the section of the second section of the sectio
and the second s	and the content of the first terminal and the content of the conte		•
5. Complainant/Informant:	roli SoliWi	1	and the second
6. Complainant/Informant: (a) Nama	July Sho	sand souper	
(c) Date/Your of Birth			
(d) Nationality	SPAN STAND	Place of la	1110
(c) Passport No. (r) Occupation Passine (r) Address Person	55 '. (o. (o.	us() creche	
(k) Address Justice Product	Mexicana San	Olof Kinningh	.0%(1
* 7. Details of Known/suspected/unk #			
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*Runto Adde S. D. C. C. S.

*Runk Add S. D. (Col)

Number, If may,

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DC9/10/03

Ιo

The Chief lighticial Magistrate, Kamrup, Guwahati-1

Sub:- Seizure Report

煮ってCR/OR/6/03-04/45-46

Sir,

I have the honour to report you that this day on 08-10-2003 at about 2.30 P.M. I have solve following properties from the possession of 1. Sri Milik Sarmah C/O- Prasanta Pran Changkakati S/C- Flaridev Sarmah Vill. Bainaoja P.O- Aulachuka, P.S.- Mongaldoi Dist. Darrangg (Assam) 2. Sir i F - Sarmah, C/O- Prasanta Pran Changkakati W/O- Sri Milik Sarmah Vill. Bainaoja P.O- Aulachuka Mongaldoi Dist. Mongaldoi (Assam) 3. Sri Nabin Koch Vill. Bokagaon P.O- Balipara P.S.- Rangapa Sonitpur (Assam) for an Offence Comittee under Section 40,41 & 43 (b) of A.F.R (Amandment) Assam

Seized Properties:-

1. Teak and Sal Sacri timbers = 99 Ps. = 6.336 Cum.

(Scizure list enclosed)

And have informed the matter to the Conservator of Forest, Central Assam Circle, Giovahuti. This is for facour of your kind information and necessary action.

Yours facility of

Naponahi Ch. 1999 Circle Chekin Conservator For 1999 Guicalio

SEIZURE LIST

This day on 8th Och 33 at about 2.30 P.M ... I Sri Nripendra Kalita, Fr-I of Circle Checking Range, C.1. AC have seized the following properties from the possession of Sri Milik Ch. Sarmah, C/O- Prasanta Properties from the possession of Sri Milik Ch. Sarmah, C/O- Prasanta Propendra Kalita, Fr-I of Circle Checking Range, C.1. According to the following P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi Dist. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi (Assarring Kakati S/O- Late Haridev Sarmah Village Bainaoja P.O Andachaka P.S. Mongaldoi (Assarring Kak

List of seized Properties: Enclosed list of Seized timber with page from 1-3 99 Page of Sawn Timbers



Vide L.M.B Pugen No. KIFITE, 1.9 dex. 10.03

البعضو المحتسم كالمريخية المحتمد والمحتمدة والمريخية

Signature of Witness

Sd/- M.N. Bora, A.C.F Sd/- C.N. Moral, A.C.F Sd/- R. Konwar, FR, R.O. CCR Sd/- N. K Haloi, Dy.R Sd/- K. C. Kalita, Fr-1 Signature of Scising Officer

Paici- 8/10/03

Seziure conducted in presence of us. This has a reference to D.C. Kameup (Metro's) verbal order did.8/10/03

Sd/- Mrs. Shaindsha Barak. E.A.C of E.M. Kanwap (M) Sd/- Sri K.G. Bhuyan. E.A.C(M) 40-

67) (M) M

SEIZURE LIST

This day on 8th Oction at about 2.30 P.M... 1 Sri Nripendra Kalita, Fr-I of Circle Checking Range, C.1 AC have seized the following properties from the possession of Sri Milik Ch. Sarmah, C/O- Prasanta Pro-hangkakati S/O- Late Haridev Sarmah Village Bainaoja P.O Anlachaka P.S. Mongaldof Dist. Mongaldof (Assambland) or an offence committed at Chachef, Guwahati-22 U/S 40, 41 and 43 (b) AFR Vol. No. VII of 1891 and 446. Ammendment Act. of 1995. in presence of the following eye witness.

List of seized Properties : Enclosed list of Seized timber with page from 1-3 99 Page of Sawn Timbers



Vide L.M.B Pages No. KEFFF6, 1.9 (6.8-10-03

Sy Milis Summa Symptom of Aussei Forsin Color.

Signature of Witness

Sd/- M.N. Bora, A.C.F Sd/- C.N. Moral, A.C.F Sd/- R. Konwar, FR, R.O. CCR Sd/- N. K Haloi, Dy.R Sd/- K. C. Kalita, Fr-1 Signature of Scising Officer

<u> Policia azrova</u>n

Sezhare conducted in presence of us. This has a reference to D.C. Kameup (Metro's) verbal order did. M10A11

Sd/- Mrs. Shaindaha Borah. E.A.C of F.M. Kanwip (M) Sd/- Sri K.G. Bhayan. E.A.C(M) _91-

SEIZURE LIST

This day an 5th CAO3 at about 2,30 P.M ... USri Nripendra Kana, Fr-Lof Circle Checking Range, CAC have seized the following properties from the possession of Sri. Hiramoni Sarmah, C/O- Prasanta Pelangkakati. W/O- Sri. Milik Ch. Sarmah. Village- Bainaoja. P.O Aulachaka. P.S. Mongaldoi. Dist. Mongalis. Assam). for an offence committed at Chachef, Guwahati-22 U/S 40, 41 and 43 (b) AFR Vol. No. VII of 1891 as 19(a) Animendment Acts of 1995. in presence of the following eye witness.

List of seized Properties :

Enclosed list of Seized timber with page from 1-3 ⁹⁹ Page of Sawn Timbers K E S

Vide LaM.D. Pages blo, 1317176, 100 degraps are

Kr.- Jan Jan dan dan Sambi. Sigaulay of Actional Patron

Signature of Bitness

SdV, M.N. Bora, A.C.F.

Sd's C.N. Moral, A.C.F.

3d4 R. Korovar, FR, R.O. CCR

Sdis N. K. Halol, Dy.R.

Sdl- K. C. Kulita, Fr-1

Signature of Serving Officer

Dates 2010A)3

Seziure conducted in presence of us. This has a reference to D.C. Kameup (Metro's) verbal order dtd.8/10013

Sd/- Mrx Sharmisha Rorah EA.C of E.M. Karning (M) Sd/- Sri K.G. Rhuyan, E.A.C(M)

104,02

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(i) de

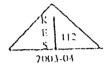
SEIZURE LIST

This day on 8th Oct/03 at about 2.30 P.M... 1 Sri Nripendra Kalita, Fr-Lof Circle Checking Emberone CAC have seized the following properties from the possession of Sri Nabia Koch, C/O-Prasanta Pran Chao Si 5/o-Late Dalim Ch. Koch Village Bokagaon P.O Balipara P.S. Rangapara Dist. Souitpur (Assam) for an excommitted at Chachef, Guwahati-22 U/S 40, 41 and 43 (b) AFR Vol. No. VII of 1891 and 49(a) Ammended of 1995, in presence of the following eye witness.

List of seized Properties:

Enclosed list of Seized timber with page from 1-3

90 Page of Sawn Timbers



Vide LALD Papes No. EPATO, Later with the

Syll Sd Nabin Nobh Symmer of Azassal Pursin

Signature of Hitness

Sd'- M.N. Bora, A.C.F

Sd/- C.N. Moral, A.C.F

Sd4 R. Konwar, FR, R.O. CCR

SdS(N,K) Haloi, DyR

Sdz, K. C. Kalita, Fr-l

Signature of Scizing Officer

Date: 8/10/03

Sezime conducted in presence of us. This has a reference to D.C. Kamerup (Merce's) sected mace dtd.8710393

Sde Mrs. Sharnistha Borah. E.A.C of F.M. Kanwap (M) Sde Sri K.G. Bhuyan. E.A.C(M) -J05-103.

Measurement of Seized Timber

Vil.	······	t i to di 6 Mar Mar Lapuddy y na sabaranaga e ab sab			1		
180.	"quality		Specificat	ion		Existing hummer Impression	Seizure Hammer
1	Teals	2.20	0.13	0.13	0.037	Not distrinct	improvion
2	Teak	2.50		0.11	0.033	Not distribut	Carlo Marianthianage & Carlo C
	Teak	2.32	017	0.13	0.051	Nil	The second section of the second section secti
	Tenk	2.42	0.15	0.07	0.025	In District	And the second s
	Teak.	2.15	0.14	0.14	0.042	Nil	THE RESIDENCE OF THE PARTY OF T
	Teak	2.15	0.12	0.12	0.031	Nil	di diperdentana a primera diperda di se da ci di di di di di di diperdenta di diperdenta di disenti di di di di
	Toak	2.20	0.15	0.1	0.033	Nil	The street of the state of the
	Toak	1.95	0.13	0.12	0.030	Nil	***************************************
	Teak	2.35	0.16	0.1	1)(,(),()	Nil	THE RESIDENCE OF COMMERCIAL PROPERTY AND ADDRESS OF THE PARTY AND ADDRE
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	Teak	2.20	0.15	0.14	0.046	Nil	dende destinance representation de la company de la compan
	Teak	2.25	0.15	0.07	0.024	Nil	And the same of th
	Sal	2.25	0.12	0.11	0.030	NII	
1.1		2.85	0.2	0.07	0.040	NII	**************************************
15		2.25	0.15	0.15	0.051	Nil	The state of the content of the cont
10		2.15	0.14	0.15	0.015	Nil	The state of the s
17		2.20	0.16	0.16	0.056	MI	
	Houk Hoak	2.25	0.16	0.13	0.047	NII	The sale of the sa
}	Heak	2.15	0.15	0.14	0.045	In Districct	714.1
$-\frac{\lambda}{2}$		2.25	0.13	0.1	0.029	Nil	
$\frac{\lambda}{2}$	+]	1.85	0.15	0.15	0.012	MI	
$\frac{2}{2}$		2.25	0.13	0.07	0.020	In Distrinct	
2		2.20	0.14	0.11	0.034	In Distrinct	
2	_ {	1.85	0.15	0.12	0.033	Nil	and a second a paragraphic on the paragraph of the second
1 2		2.75	0.14	(1,12	0.038	Nil	
1 - 2		2.18	0.14	0.13	0.010	In Distrinct	
1	8 Toak	240	-0.13	0.13	0.011	Nil	
	9 Feak	218	$\frac{0.13}{0.13}$	0.11	0.031	Nil	* 17 . and management of managements (managements)
~~~~~	GTeak	2.20	0.13	0.1	0.029	In Distrinct	
	1 Teak	230	0.12	0.1	0.02/1	Nil	
]	12 Teak	2.25	0.1	0.13	0.029	****	and the second of the second o
]	Trak	1.90	012	0.1	0.023		THE STATE OF THE S
1	H Foak	2.15	(1,13	0.13	0.036		Make A majora majora a kara ka majora ka ka kana ka
********	15 Toak	2.25	0.1	().1	- 0.025		
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	12 Feak	2.25	(),13	0.11	$-\frac{0.02t}{0.03t}$		
	W Teak	2.21	0.14	11.11	0.032	*   + +	and the same of th
}	19 Teak	2.25	0.13	().14	0.040		
}	10 leak			0.1	0.02		
•	H leak	1.90	0.14	0.14	0.03		
	12 Teak	2.20	(),   1	0.13	0.03		
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}	44 leak	4.20	0.2	0.07	0.05		
h	45 Teak	2.35	11.18	0.07	0.05	·	
	do leak	2.20	0.15	0.12	0.01		· · · · · · · · · · · · · · · · · · ·
	47 leak	2.20	0.14	0 14	0.04		**************************************
-	48 Leak	1.75	0.1	0.07	0.0		**************************************
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	19 loak			0.0-			
	To leak	2.20	0.25	(1 (17		······ }	
	SH leak		0.45	- (115			
	52 leak	4.10	0.25	- 0.07		** ** }	and it is a construction of a set of the construction of the const
}	5.3 Loak	.7.10		0.17			
	51 Feak	4.00	$-\frac{0.3}{0.27}$	0.07			- the state of the
}	VIII	4.41		- 11 (17)	00	83 In Distrinct	
	55 Teak	4.(X)	0.12	0.07		111 K 12 Stv	
-	Solsal	4.30	0.3		5.1.03	no In District	

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58	feak	4.00	0.23	0.1	0.092	In Distrinct	The second section of the sect
39	Leak	1.25	0.2	0.07		In Distrinct	
(10)	Leak	4.45	0.2	0.1	0.089	In Districe t	
61	Tenk .	4.50	(1.2)	(),(1)	0.083	In Districct	
62	Teak	2.25	0.74	0.1	0.077	In District	
63	Teak	2.20	0,38	0.1	0.084	In Distrinct	
61	Teak	3.30	0.25	0.1	(,083	In Distrinct	
	Took #	4.10	0.28	0.07	(),()()	In District	
66	Teak	3.95	0.3	0.1	0.119	In Distrinct	
	Tenk	2.25	0.13	0.1	0.029	Nil	
68	Teak	2.55	0.1-	0.13	0.033	Nil	
(19)	Teak	4.00	0.25	0.08	~		
	Teak	3.25	0.3		0.080	Nil	
	Teak	4.05	0.2	0.07	0.088	In District	
		7.00	1.2	11,11/	0.057	In Distrinct	and the same of th
72	Leak	3.80	0.22	0.07	0.059	K 12 SW	
	***************************************	-			1,,,,,,,,	<del></del>	
				,			
1	Sal	3.65	0.15	0.3	0.164	K 12 SW	
	Sal	3.10	0.15	0.33	0.153	Nil	Sd/-
	Sal	3.95	0.2	0.07	0.055	Nil	Milik Ch. Sormo
	) 5al	4.05	0.15	0.1	0.061	Nil	Dt. 08-10-03
·	Teak	2.8()	0.2	0.07	0.039	Nil	
	Teak	3.35	0.2	0.1	0.067	In Distrinct	Hiramoni Surnah
7	) Teak	3.25	0.28	0.12	(1,1(x)	In Districct	
	1						
	l Took	4.05	0.25	0.12	0.122	In Districk t	
	1 Teak 2 Teak	4.25	().25	().15	0.159	In Districct	
1-6	2 1 Cak	3.50	0.4	0.07	11.038	In Districk t	
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	Ì			1	1		112
	3 Tenk	3,50	0.3	140,0	0.084	In Distrinct	2003.04
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}	5 Teak	2.75	0.33	0.07	().();-1		Transmitted of the desire of the second seco
	6 Teak	3.25	0.32	0.1	0.104	— (	Company of the state of the sta
	7 Teak	3.80	0.25	0.1	0.095		
}	ut Tealc	2.35	0.15	0.22	0.071	In Distrinct	The state of the s
	19 Teak	2.20	0.4	0.08	0.070	Nil	- The state of the
,	X) Teak	2.25	0.3	0.1	0.00	NII	Witness
	月 Feak	2.25	(), \	(1, )	0.06	I In Distrinct	Sd/.
,	12 Teak	2.25	0.22	(),(1%		****   *******************************	N.Moral, A.C.F.
	13 Took	2.40	0.1	().15		- 4.0 marks	
	M look	2.40	0.1	0.15			M.N.Boro, N.C.F.
	95 Teak	3.50	0.08	0.3			To be the second
	90 Teak	3.50	0.4	0.07			R. Konwar , F.P.
	97 Sal	4.45	0.18				13.13.11.11.11.11.11.11.11.11.11.11.11.1
I	98 Teak	4.05	0.12	···			
	99 Teak	3.15			<del></del>		
٠							

Total

99 Pcs.

¢ 342

\$d/-K.G Bhuyan E.A.C.Kamrup (Metro)

> Sd/-Sharmistha Docate E.A.C. of E.M Komrop (Metre)

(Constituted by the Ministry, of Environment & Forests, vertiment of India; under the nothority vested in it vide Supreme Court Orders dated 13.01.2000 in WP (C).202/95) Raom 106, Paryayuman Bhayan l ele Inx : 436 3º /6 F. No. 8-45/NEC/2003 Pil.XII October 2003 To The Principal Chief Conservator of Forest, Government of Assam, Forest Department, Guwahati Sub: Un-inverntorized timber details under O.R.No.CCR/8 of 3/10/03 Sir. Lam to refer to your letter No. FG.9/1/OB/RS/03 dated 22.10.2003 on the above subject and say that the SIT has decided to carry out further investigations. in respect of timber seized from the resident of Mr, P.P. Changkakoti through the Regional Chief Conservator of Forest, Shillong. For this purpose after completing the inquiry at the State Government level, copies of the concerned document. may please be made available to the Regional Chief Conservator of Louville Shillong along with findings of the State Government. It shall be ensured that the seized timber is kept safely. ours faithfully (M.K. JIVYE, " 45

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## BERCINE INVESTIGATION TRAM

(Constituted by the Ministry of Environment & Forest, Government of India, under the duthority vested in it vide Supreme Co Orders dated 19.01.8000 in VP (C) 202/99)

Room 106, Paryavanan Phovan, CGO, Complex, Lodi Roud, New Delhi – 110 003

F.N.8-JOYNEC/2002-PEXIL

Dated: 20th October 2003

To:

The Principal Chief Conservator of Eprest, Government of Assam,

Half (Quivolie) Trial SS

Suprestructor regarding Tentrer select by the one

Sir,

Lam refer to your letter, Note 6.2/1/OF/RC '03 lated 26.9.2003 on the salpover subject rand to say that offer exemination of the interim report freedly of from your offshe above subject following observations are made.

Pamily Pess, No.40/14:p I dated 22.02.2001 was Issued from Pamily I pamily Pess, No.40/14:p I dated 22.02.2001 was Issued from Pamily Pess, No.40/14:p I dated 22.02.2001 pieces in 13.505 cum of sall sawn; timber against Mill Challen No.33/26 dated 22.02.2001 issued by Quality Timber Depot, Damunigaon; But the horizoner impression as another covered by Transit Pass No.40/140 dated 22.02.2001 pillegal.

7. Transit Face No.34/14(1) dated 17/02.2001 was issued from Benjunigaen Rango under Kemrup West Division for 311 pieces = 13,555 cum of Mon-est seven timber against Mill Challan No.33/1 dated 17.0.12001 issued by Assem Cane Deaters (Section Saw Mill), Bernunigaen. To the Challan Mill Challan. Further species of the timber the not been mentioned in the

47-107

Shove Transit Pass. This shows that the limber covered by Transit roomstated and t7,02,2001 is illegal.

- 3. Transit Pass No.35/1440 dated 19.02.2001 was Issued against Mill Challan No.33/27 dated 19.02.2001. But the hammer impressions in the Transit Pass on tally with the hammer impressions on the corresponding Mill Challan. This shows that the timber covered by Transit Pass No.35/1440 dated 19.02.2001 is Illegal.
- 4. Transit Pass No.63/1440 duted 27.02.2001 was issued against Mill Challan No.33/30 dated 27.02.2001 and 34/1 dated 27.02.2001. But the hammer impressions on the Transit Pass do not tally with the hammer impressions on the corresponding Mill Challan. This shows that the timber covered by Transit Pass No.63/1440 dated 27.02.2001 is illegal.
  - 5. The Mill Challan No.33/27 dated 19.02.2001 was issued against the timber logs received vide Transit Pass No.13/1113 dated 23.12.2000, which was issued against C.O. No.KWD/26, KWD/63, KWD/64 and KWD/67 or 1989-99.
    - timber operation against C.O. No.KWD/26 of 98-99 and to an betillegal as operated volume exqueds by 60% as compared to the volume calculated as per volume table.

      Therefore, the timber covered by Mill Challan No.33/27 dated 19.02,2001 is illegal.
    - (ii) timber operation against C.O. No.K.WD/63 of 98-99 are found-ty be illegal as operated volume exceeds by 104% as compared to the volume calculated as per volume table.

      Therefore, the timber opvered by Mill Challan No.33/27 dated 19.02.2001 is illegal.
    - (III) Umber operation against C.O. No.KWD/64 of 98-99 is found to be illegal as operated volume exceeds by 48% as compared to the volume calculated as per volume table.

      Therefore, the timber covered by Mill Challan 146,337.77 dataset 19.02.2001 is illegal.
      - (iv) timber operation against C.O. No KWD/67 of 98-99 is found to be illegal as operated volume exceeds by 165% as compared to the volume calculated as per volume table.

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2 (3)

Therefore, the timber covered by Mill Challan the White devel 19.02.2001 is illegal.

6. The measurement of timber recorded in Trailsit Pass No. 12/2181 dated 28.02.2001 do not fally with the measurement of timber in the corresponding Mill Challan No.2/2 dated 26.02.2001 against which the Jiransit Pass was issued.

Weasurement in the Will Challan

Measurement the Trains

Pass'"

SI.No.(2) 0.22 X 0.18 X 2.20 X 4 Pes. 1 0.28 X 0.18 X 2.20 X 1 Pes.

SI.No.(10) 0.15 X 0.08 X \$ 65 X Pes. 0.15 X 0.08 X 2.45 X 2 Pe

SI.No.(11) 0.15  $\times$  0.10  $\times$  2.30  $\times$  \$ Pes. 0.15  $\times$  0.10  $\times$  2.90  $\times$  5 Pes.

Therefore, the timber covered by Transit Pass No.12/2181 date (28:02.2001 is illegal.

- 7. In the Mill Challa No. 30 dated 18:12.2000, the volume of timber have been calculated wrongly.

  St.No.(7) 0.300 X 0.037 X 3.70 X 6 Peg. = Volume shown 0.574 cu.m. Har as per actual calculation volume should be 0.246 cu.m.
- 8. The enquiry appears to trave bleen done by the Mr. 17.15 Changakakott, DFO, Kamrup (East) Division, Guwahati who himself been been found to be in possession of un-inverniorized illegal timber. The call come of the enquiry done by him is therefore highly doubtful.
  - 9. The SIT vide his letter dated 28:2.2003 had raised specific issues about the seized timber, none of whom have been replied to. . .
  - 10. Though it is reported that physical measurement of the seized limit of has been done, discrepancies, if any are not mentioned.

49 109

It is appressed that an early action for a nighting to a engage places be taken including regarding specific issues raised by the 1995 cap to the inordinate delay taking place at your level in a supposition of enquiry the timber is likely to deteriorate and undesirable already may be made.

You are also requested to take appropriate disciplinary action across the officers for the delay taking place in completing the enquiry and no wrong conclusions drawn by them inspite of documents clearly pointing out otherwise.

Yours, milling /,

(MIK, JIWrojika) MEMBER SIT

Copy to:-

Regional Chief Conservator of Forest, Shillong

СОИНВЕЙДУГ

Draft Proceeding

#### GOVT. OF ASSAM DEPARTMEN" OF ENVIRONMET AND "ORESTS DISTUR::GUWAHATI-6

No. FRE. 92/2002/Pt. I/115,

the 23rd Opcomber, 2003,

From:

Frincipal Secretary,

Department of Environment & Forests,

Dispur, Guwahati-6.

To.

Sri P.P. Changkakati, D.C.F (U/S). C/O Divisional Forest Officer, Kamrup East Division,

Guwahati-1.

Sub:

Ref:

Govt. Notification No.FRE.92/2002/Pt-1/59, dt.6th Oct/2003. Departmental Proceedings.

You are hereby required to show cause under Rule 9 of the Assau Services (Discipline and Appeal) Rules, 1964, read with Article 311 of the constitution of india why any of the penalties prescribed in Rule 7 of the aforesaid rules, should not be inflicted on you on the following charges based on the statement of allegations attached herewith: -

Churge No.1

Involvement in corruption by accepting bribe for personal gratification

That while you were the D.F.O. of Kamrup East Division, Guwahati, you demanded bribe of Rupees 1,00,000/- (Rupees One Lakh only) for your personal gratification from one Sri Paranjyoti Saikia, Colony Bazar, Kahilipara, Guwahati-18 who is the owner of P.K.P Timber, Guwahati. As per negotiation made with Sri Paranjyoti Saikia in this regard. An amount of Rs. 20,000/- (Rupees Twenty Thousand only) was to

Sri Paranjyoti Saikia informed the matter of the aforesaid negotiation to be paid to you on 2nd October'03. the D.C. Kmnrup (M) vide his application dated 30-09-2003 with the help of S.P. City.

The D.C. Kamrup (M) later on arranged raid operation in your residence

on the day of occurrence of giving and accepting the bribe to you. Accordingly, a raid operation was carried out by a team of officers of both civil and police authority on 2nd October 2003 in your residence following all formalities and an amount of Rs. 20,000/- (Rupees Twenty Thousand only) including four currency notes in one hundred demonition with signature of the D.C. Kumrup (M) was recovered

The case no.349/03 has been registered in Paltan Bazar Police Station from you in person. under section 384 IPC and section 7 of the Prevention of Corruption Act as per General

Diary entry number 108 of 2nd October 2003. You are, therefore, charged with involvement in corruption as per statement of allegation attached herewith.

#### Misappropriation of Government money: Charge No.2

That while you were the D.F.O. of Kamrup East Division, Guwahati, you were to implement the schemes under Revolving Fund of 2002-2003 in the Division. You had withdrawn an amount of Rs. 20, 93,032.00 (Rupees Twenty lacks ninety three thousand and thirty two) only by refund voucher on 13-01-2003. You also received Rs. 6. 35,000.00 (Rupees Six lacks thirty five thousand) only from D.F.O. Kamup West Division on 30-05-2003. Both the amounts were meant for implementation of schemes

During the office inspection of Kamrup Fast Division on 12th August 113 under the Revolving Fund 0f 2002-03. by the Conservator of Forests. Central Assum Circle, Cunvalual, it was reported by the then D.F.O. of the Division that an amount of Rs.2, 92,000,00 (Rupees Two lacs ninety two thousand) only were being kept in the Division from cash-safe in scal-cover condition and the said amount was undirbursed cash amount under Revolving Fund of 02-03 for the Division as being reported by the Head Assistant of the division.

After thorough scrutiny and verification of the records related with the

subject, it was found that

1. You delayed in disbursement of fund to the executing agencies for execution of scheme works.

You disbursed the fund money in cash, instead of cheque.

The disbursement of Rs.1,50,000.00 (Rupces One lakh fifty thousand) only during Feb/03 and Rs.3,92,000.00 (Rupees three lakhs ninety two thousand) during June/03 to the Range Officer, Guwahati Range as appearing in the Division Cash Dook and Division Ledger Account respectively is without adequate C.A. Requisition and cannot be recognized from Account Procedural point of view.

Due to the anomalies arising out of allocation and disbursement of fund to the executing agencies, an amount of Rs.2,92,000.00 had remained undisbursed causing partial implementation of scheme works under the Revolving Fund of 02-03 in the

You are therefore charged with misappropriation of Govt. money, as per Division. statement of allegation attached herewith.

#### Mis-use of Official Power for personal gain. Charge No.3:

While you were the D.F.O. of Kamrup East Division, the Govt. of Assam in the Department of Environment and Forests vide its No.FRM.103/2001/32, dated 17th Oct/2001 allowed for extraction of 1, 00,000 Cum, of sand from Fatasil Stone Mahal No. 4 and Mainakhuring Stone Muhal No. B under Kamrup East Division on permit to M/S BLA-CISC-CLC IV of National High Ways Authority of India on payment of royalty at the rate of Rs.70.00 per Cum. for their awarded work of National High way 37 Guwahati Bye-Pass K.M. 146.00 to 156.00.

Further, the Govt. of Assam in the Department of Environment and Forests vide its No.FRM.103/2001/38, dated 12th December/2001 allowed extraction of 50,000 Cum of stone from A & B unit of Natun Rani Stone Mahal under Kamrup East Division on permit to M/S BLA-CISC-C & C JV of National Highway Authority of India on payment of simple royalty at the rate of Rs.70.00 per Cumt.

On contrary to the Govt. directions as stated above, you had allowed extraction of 90,000 Cum. of stone from Natun Rani Stone Mahal unit  $\Lambda$  & B against the allotted volume of 50,000 Cumt. by the Govt, as reported vide letter No.A/Permit/1787-

The deviation of the Govt. Order made by you is done without obtaining 88, dt.14-10-03. any approval of the Govt: of Assam thereupon, for your personal gain, which had caused loss of Govt. revenue.

You are therefore charged with mis-use of official power for personal gain as per statement of allegation attached herewith.

#### Charge No.4: Serious negligence and dereliction of duty resulting in considerable loss to the Goyt.

While you were the D.F.O. of Kamrup East Division, you had issued permits for extraction of sand and stone to different Govt, agencies against the indents submitted by the concerned authority. While doing so, you did not verify the genuinity of such indents due to your negligence in Govt, duty. An enquiry in this regard reveals that you had honoured 45 nos. of forged indents for issue of permits, which had involved extraction of 38,810 Cum, of sand.

You were asked to lodge F.I.R. against the offenders in extraction of much and stone with the help of forged indents by the Conservator of Forests, Central Assum-Circle, but you did not imply the said instruction. It had not only established your -52

(39)

negligence of Govt, duty, but also invite the charge of connivance in doing illegalities in objection of stone and sand.

extraction of stone and sand.
'You are therefore charged with negligence of Govt, duty as per statement of allegation attached herewith.

#### Charge No.5: Loss of Govt. Revenue.

While you were the Divisional Forest Officer of Kamrup East Division, Government of Assam had lost huge amount of revenue for your utter negligence of Govt, duty and mis-use of official power etc. for your personal gain.

You had allowed M/S BLA-CISC-C&CIV for extraction of 90,000 Cum of stone from Natur Rani Stone Mahal no. A & B deviating the Govt. instruction/direction for removal of 50,000 Cum, of stone. Thereby, 40,000 Cum, of stone had been extracted as additional volume at the rate of simple royalty of Rs. 70/- per Cum Thereby, the Govt, had lost revenue as per calculation stated below:

 Rate of per Cum. of stone as per Mahal value =Rs.310/= for 40,000 Cum.= Rs. 1,24,00,000.00

Net loss of Govt. Revenue

(-) Amount as per permit value

=Rs. 28,00,000.00

@ Rs. 70.00 per Cum. for 40,000 Cum

Rs. 96,00,000.00

Again, you had issued 45 Nos. of permits for stone and sand against the inflictitious indents, involving extraction of 38,810 Cum. of sand and 7612 Cum. of stone, enusing loss of Govt. revenue for Rs. 38,35,400.00 only in the matter of sand as per report submitted by Sri S. Khataniar, ACF, of the office of the Conservator of Forests. Central Assam Circle, Guwahati.

You are therefore charged with loss of Govt, revenue as per statement of allegation enclosed herewith.

## Charge No.6 <u>Violation of Supreme Court's Direction.</u>

While you were the D.F.O. of Kamrup East Division, Guwahati you had disposed of the following forest offences in the capacity of Authorised Officer and released the vehicles seized in the forest offences violating the supreme Court direction dt... in W.P.(C) No... The Hon'ble Supreme Court in its said direction suggested that the seizest vehicle should not be released and if to be released, it should be on production of Bank guarantee at par the value of the vehicle. This was circulated for information and necessary action by the Chief Conservator of Forests (T) Assam vide his letter no. FGT.58/CR/Mise./96, dt. 06-09-02. You had violated the aforesaid direction in disposing the Forest offences by releasing the seized vehicle on production of Indennity Bond but without production of Bank guarantee.

CHOIL OF Durk Roungings.	and Cathanagal	05 04-02
1. G/152, dt. 15.02.02	Date of disposal	00-0-00
2. PSQ/89 dt. 11.02.02	Date of disposal	20-04-02
	-do-	31-07-02
	-do-	21-08-02
4. G/10 dt. 05.05.02		
5. G/13 dt.10.06. 02	-(10)-	26-07-02
	-do-	15-05-03
(1) (1) (2)	-do-	17-12-02
7.SG/10 dt.27.07.02		07-09-02
8.SG/13 dt.18.08.02	-do-	* '
9:SG/14 dt.18:08:02	-do-	07-09-02
71174117	-do-	13-09-02
10.Cl/35 dt.26.08.02		3()-1()-()2
11.G/42 dt.05.09.02	-do-	
12.Cl/48 dt.10.09.02	-do-	26-12-02
1 201 111	-(lu)-	11-12-02
1.7. 37	_	24-06-03
14.G/115 dt.18.12.02	-(11)-	2

You, are, therefore, charged with the yiolation of the Supreme Court's Direction as per statement of allegation enclosed herewith.

hoy.

3-113

#### Non-Submission of Fort - Nightly Diary. Charge No.7:-

While you were the D.F.O. of Kumrup East Division, you had failed to submit the fort-nightly diaries, which is obligatory in your part. Non-submission of your diary had caused enough constrains in monitoring and controlling your service to-wards the department. Thereby, you had not co-operated the Department Administration in smooth running of Departmental business.

#### Charge No.8: - Breach of Trust.

While you were the D.F.O. Kamrup East Division, you had neted against the interest of the Department in the matters as stated in Charge No.1 to 7, thereby causing breach of trust.

You are therefore charged with Breach of Trust as per statement of

allegation.

You should submit your written statement in defence-within ten days from the date of receipt of this communication provided you do not intend to inspect the documents, which have relevance with the issues under enquiry. In case you intend to inspect those documents you should write to the undersigned for the same within seven days from the date of receipt of this communication and submit your explanation thereafter within ten days from the date of completion of the inspection.

Your written-statement stating whether you desire to be heard in person

should be submitted to the undersigned within the period specified above.

Marca

Principal Secretary, Department of Environment & Forests, Dispur, Guvahati-6.

-116--54- 114-

## Statement of Allegation In support of

Charge No.1: Involvement in corruption by accepting bribe for personal gradification.

That, while you were the Divisional Forest Officer of Kamrup East Division, Guwahati, you were involved in corruption by accepting bribe for personal gratification.

On 30-09-2003, one Sri Paranjyoti Saikia, the owner of P.K.P. Timber, Guwahati intimated the D.C. Kamrup (M) by his written application dated 30-09-2003 that you in the capacity of the D.F.O. Kamrup East Division had been harassing the applicant i.e. Srl Paranjyoti Saikia by demanding bribe on several pretexts. Sri Saikia, as stated in his application, had already paid you some amount. In addition, you had used Sri Jiten Bora, F.R. I/e Protection Squad Range of the Division (now under suspension) to demand Rs. 1,00,000/- (Rupees One Lakh only) from Sri Saikia; else his timber would be seized.

Later on, a negotiation had been made to pay Rs: 20,000/- (Rupces Twenty Thousand only) as installment money on 1st October 2003 in between 8-30 to 9-00 AM of the day. The copy of letter dated 30-09-2003 of Sri Paranjyoti Saikia is enclosed as Exhibit No. I.

The D.C. Kamrup (M) had forwarded the said application to S.P. (City) to take appropriate necessary action in this regard on 30-09-2003.

The S.P. (City) directed the Adll. S.P. (City) to take necessary action with due formalities on01-09-2003.

'Accordingly, a raid operation was arranged and conducted on 02-09-2003 at you residence following all formalities by the Adll. S.P. (City), O/C Paltan Bazar P.S. and others under supervision of S.D.O. (S), Kamrup (M) as evident from search list enclosed herewith as Exhibit No. II.

During the course of raid operation, an amount of Rs. 20,000/- (Rupers Twenty Thousand only) in Rs.100/- denomination currency notes (a total of two hundred notes) was recovered from you in person. Out of two hundred nos. of currency notes of Rs. 100/- denomination, four currency notes marked with the signature of the D.C. Kamrup (M) were also recovered.

Thus it had been established that you had been accepted bribe of Rs 20,000/- (Rupees Twenty Thousand only) from Sri Paranjyoti Saikia, as evident from the report dated 6th October 2003 of the Sub-Divisional Officer, (Sadar), Kamrup (Metropolitan), Guwahati, which is enclosed as Exhibit No. III.

Accordingly, a case had been registered against you in Paltan Bazar Police Station with case No. 349/03 under section 384 IPC and section 7 of Prevention of Corruption Act. Copy of FIR is enclosed as Exhibit No. IV.

Your aforesaid misdeed had been widely published in the local and national dailies, which had tarnished the image of the Government, photocopies of such news appearing in the local and national dailies are furnished herewith.

- i) News item published in the "Amar Asom" dated 3rd October 2003 Exhibit no. V.
- ii) News item published in the "Assam Tribune" dated 3rd October 2003-Exhibit no. VI.
- iii) News item published in the "Aji" dated 3rd October 2003 Exhibit VII.
- iv) News item published in the "Khabar" dated 3rd October 2003 . Exhibit no. VIII.
- v) News item published in the "Asomiya Protidin" dated 3rd October 2003—Exhibit no. 1X.

As such, you are charged with involvement in corruption by accepting bribe to personal gratification.

Statement of Allegation In support of

Charge No.2 : Mis-appropriation of Govt. Money.

That while you were the D.F.O. of Kamoup East Division, Guwahati, you were provided with Govt. fund for implementation of scheme under Revolving Fund of 2002-03.

Accordingly you had withdrawn Rs.20,93,032.00 ( Rupees Twenty lakh ninety three thousand and thirty two) only by refund vouchers on 13-1-03 and deposited the same in P.L. account No. 010061562 in the State Bank of India as evident from the Ledger Account page and Deposit slip of S.B.I. You also received Rs.6,35,000.00 ( Rupees Six lakh thirty five thousand) only from the D.F.O. Kamrup West Division vide Cheque No.583801/781002002 dt.30.-5.03 and also deposited the same in your aforesaid P.L. account which had been reflected in division Ledger Account page.

Though, you had withdrawn Rs. 20,93,032 and deposited the same in P.L. account as stated above on 13-01-03, you had disbursed the amount to the Range Officers and others on 19.02.03 and 20.02-03 causing inordinate delay in disbursement for 35

days as per Cheque Register's page and Division Cash Book pages.

Further, you could have availed the scope of disbursing the amount to the Range Officers and others in cheque but you had preferred to disburse the amount in cash

to the implementing agencies.

While disbursing the Govt, fund you adopted wrongful method which is evident in disbursement of Rs.1,50,000.00 to Range Officer, Guwahati Range during Feb/03 without obtaining proper civil advance requisition and civil advance voucher from the Range Officer for Feb/03. The C.A. requisition of Range Officer, Guwahati for Feb/03 and C.A voucher of Feb/03 of Range Officer Guwahati are without the signature of the Range Officer.

The anomalous disbursement of Govt, fund had been reflected in the cush accounts of Range Officer, Guwahati for Feb/03. As per Division cash Book as well as Cheque register, you had provided Rs. 1,50,000.00 to Runge Officer, Guwahati Range during Feb'03 under the Revolving Fund Scheme. But the Range Officer, Guwahati Range had submitted his cash account for Feb'03 for Rs.2,50,000.00 (Rupees Two lakh fifty thousand) only. You returned the cash account to the Range Officer with a direction to re-submit the same for Rs.1,50,000.00. Even after that the Range Officer, Girwahati Range vide his letter No.O/1/Accounts/802, dt.18-07-03 refunded the same cash account copy of Rs.2,50,000.00 stating that he received Rs. 2,50,000.00 as C.A during Feb/03 under Revolving Fund.

An enquiry had been conducted in this connection by the Director, Accounts being ordered by the Govt. of Assam in the department of Environment and

Forests vide its No.FRM.135/2003/Pt/2 dt.09-07-03.

You had kept an amount of Rs.2,92,000.00 (Rupees Two lakh ninety two thousand) only as undisposed Govt. fund under the Revolving Fund of 02-03 in the Division iron Cash Safe as evident from the enquiry report of Sri S Khatoniar. ACF and Sri N. Moral, ACF of O/O Conservator of Forests, Central Assam Circle (Exhibit No. X) and D.F.O.'s letter No. AfRevolving Fund/1348-49, dt.14.02.03 (Exhibit No. XI).

From the above-mentioned I facts and documents, it is clearly established that you had mis-appropriated the Govt. Fund under the revolving Fund of 2002-2003.

> Statement of Allegation In support of

Charge No.3: Mis-use of Official Power for personal gain:

That while you were the D.F.O. of Kamrup East Division, Guwahti the Govt. of Assam in the Department of Environment and Forests allowed M/S BLA-CISC C & C JV of National High Way Authority of India for extraction of 1,00,000 Cumt. ( One Lakh Cubic meter) of Stone from Fatasil Stone Mahal No.4 and Mainakhurung Stone Mahal No.B under Kamrup East Division on payment of royalty (a) Rs.70.00 (Rupees seventy) per Cum. vide their No.FRM.103/2001/32, dt.18th Oct/2001 (Exhibit No.XII).

Again, the Govt. of Assam in the Deputment of Environment and Forest allowed M/S BLA-CISC-C&CIV of National High way Authority for extraction of 50,000 (Fifty thousand) Cuble meter of Stone from Natur Raul Stone Muhal No.A & B -56 -

(81) (3) (in

The loss of Govt, revenue is worked out as follows:

1. Rate of per Cu.mt. of stone as per nearest Mahal value is Rs. 3 1 .00 for 40,009 Cu.mt. of stone (The settlement of er of Natur Rani Stone Mahal No.

Rs. 1,24,00,000.00

is enclosed as exhibit no. XVIII)

2. Amount as per permit value @ Rs.70.00 per

Cu.mt of stone as required

Rs. 28,00,000.00

Net loss of Govt. revenue

Rs. 96,00,000.00

Again, issue of 45 nos, of permits against the forged/infectious indents as detailed in charge no. 4 for extraction of sand and stone had resulted in loss of Govt. revenue to the tune of Rs. 38,35,400.00 as per report and statement submitted by Sri S. Khatoniar A.C.F. in the Office of the Conservator of Forest, CAC, which is enclosed as exhibit no. XVI.

Thus, the Govt. of Assam had lost Govt. revenue of Rs. 96,00,000.00
4Rs. 38,35,000.00
Rs. 1,34,35,000.00
to its exchequer.

You are therefore charged with the loss of Govt. revenue.

## Statement of Allegation In support of

Charge No. 6: Violation of Hon'ble Supreme Court's direction:

That while you were the D.F.O. of Kamrup East Division, you violated the direction of the Hon'ble Supreme Court judgment in (2000) 7 supreme court cases 80.

The Hon'ble Supreme Court in its aforesaid judgment clearly ordered that the seized vehicle in forest offences should not be released and it required to be released under any circumstances must be on production of Bank Guarantee at per the value of which seized vehicle, which is enclosed in Exhibit no. XIX.

While you disposed of the forest offences in the capacity of Authorised Officer, you violated this Hon'ble Supreme Court direction in the offences as stated below:

Nos, of offence	Date of disposal
1. G/152 dt. 15-02-02	05-04-02
2. PSQ/89 dt. 11-0 <b>2</b> -02	20-04-02
3. G/4 dt. 20-04-02	31-07-02
4. G/10 dt. 05-05-02	21-08-02
5. G/13 dt. 10-06-02	26-08-02
6. G/23 dt. 25-07-02	15-05-03
7. SG/10 dt. 27-07-02	17-12-02
8. SG/13 dt:18-08-02	07-09-02
9. SG/14 dt.18-08-02	07-09-02
10. G/35 dt. 05-09-02	30-10-02
11. G/42 dt. 05-09-02	13-09-02
12, G/48 dt. 10-09-02	30-10-02
13. G/29 dt. 30-09-02	11-12-02
14. G/115 dt. 18-12-02	24-06-03

Your orders in disposing the above listed forest offences clearly violates the Hon'ble Supreme Court direction as stated above, wherein the seized vehicles in the forest offences on production of indemnity bond and on production of bank guarantee at per the value of the vehicle as directed by the Hon'ble Supreme Court.

You are therefore charged with the violation of Hon'ble Supreme Court direction in this regard.



Statement of Allegation In support of Charge No. 7: Jon-submission of ! t-nightly dairy.

While you were the Divisional Forest Officer of Kumrup East Division, Guwahati, you had not submitted the fort-nightly diary for the entire period.

You had joined in Kamrup East Division as the Divisional Forest Officer on 28th February 2002. And you had not submitted your fort-nightly diary till you were placed under suspension. Submission of fort-nightly diary is a mandatory provision as per Forest Manual to serve the multiple objects of forest management as well as Forest

You had violated the provision with your malalied intension and Administration. therefore you are charged with "non submission of fort-nightly diary".

#### Statement of Allegation In support of

Charge No. 7. Breach of Trust.

While you were the Divisional Forest Officer of Kamrup East Division, you caused "Breach of Trust" by acting upon the allegations as stated in the statements of allegation in support of charge nos.1 to 7.

You are, therefore, charged with "Breach of Trust"

#### Performa l List of witness

- 1. Sri C. K. Bhuyan, A.C.F. S.D.O. (Sadar), Kamrup (M) Guwahati-1
- Sri Vivekananda Das. A.P.S. Addl. Superintendent of Police, Guwahati City, Guryahati-1
- Sri Paran jyoti Saikia. Colony Bazar, Kahilipara, Guyahati-28
- 4. Sri Girin Medhi. Officer in Charge, Pultan Bazar Police Station, Paltan Bazar, Guwahati.
- 5. Sri K. Kharghoria, Divisional Forest Officer, Kamrup East Division, Guwahati-1
- 6. Sri N. Moral. Assistant Conservator of Forest, O/O Conservator of Forest, Central Assam Circle, Gusvaháti-L
- 7. Sri S Khatoniac, Assistant Conservator of Forest, O/O Conservator of Forest, Central Assam Circle, Guwahati-1.
- 8. Sri Paresh Das. I/C Guwahati Range, Kamrup East Division, Guwahati-1.
- 9. Sri Jahur Ali, F.R. VC Rani Range, Kamrup East Division, Guwahati-1.

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#### Performa-II

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### IN THE GAUTIATI HIGH COURT

offligh Court of Assam, Nagaland, Meghalaya, Manipur, Tripura et l. Nizoram & Armachal Pradesh)

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### CONFIDENTIAL

U.O. No. PGT.120/P.P.C/DFO/03 Dated 18-Mar-04.

The Principal Secretary to the Govt. of Assam, Environment 3 Forest Department, Dispur, Gawahati-6.

Sub: Violation of the Hon'ble Supreme Court Orders and laws by Shi P.F. Changkakati.

As discussed the information relating to violation of the Hon'ble Supreme Court's Orders and laws by Shri P.P. Changkakakti is furnished below:

- 1.1 The Hon'ble Supreme Court of India vide order dated 04/03/1997 in W.P.(C) No.202 of 1995, T.N. Godavarman Thirumulkpad Vrs. Union of India and others has ordered for preparation of inventory of all timber in all form lying in North-East India.
- 1.2 The Hon'ble Supreme Court yide its order dated 15/01/1998 directed that all timber founds in possession of an offender or abandoned in the torest shall be confiscated to the State Govt.
- 1.3 The premises belonging to Shri P.P. Changkakati (his family), Divisional Forest Officer (under suspension and absconding) were raided by the forest officials on 08/10/2003 in the presence of 2 (two) nos. of Executive Magistrates deputed by the District Magistrate, Metro, Guwahati.
- 1.4 During the course of the above raid, a total of 99 (ninety-nine) pieces of timber equivalent to 6.336 cubic meter were found in the said premises.
- 1.5 Some of the above timbers had Govt. markings of the year 1992-93 (indicating the said timber to be Govt. property) and some had no markings at all. As the timber was illegal, the same was seized in presence of witnesses including the Executive Magistrates. It is very important to note that Shri P.P. Changkakati was in illegal possession of Govt. timbers for personal use since 1992-93.

- 1.6 The timber found in the premises of Shri P.P. Changkakali was not only illegal but also uninventorised in violation of Hon'ble. Supreme Countered
  - 1.7 An Offence Report No.CCR/8 of 2003 was drawn up with Shri P.P. Chap-kakati being the prime accused for trial in the court of the Authorised Officer.
    - 1.8 The Authorised Officer vide order dated 26/12/2003 convicted Shri P.P. Changkakati by way confiscating the above seized timbers.
    - 1.9 The very serious matter of possession of illegal and uninventorised timber by a Senior Officer Shri P.P. Changkakati was brought to notice of the Special Investigation Team by the Principal Chief Conservator of Forests, Assam.
      - 1.10 It will not be out of place to mention here that the Special Investigation Team has been constituted by the Ministry of Environment & Forests, Govt. of India under the authority vested in it vide Hon'ble Supreme Court order dated 13/01/2000 in the aforementioned W.P. (C) 202/1995.
        - 1.11 The Special Investigation Team has decided to carry out further investigations in respect of the above seized timbers after the enquiry at the State Govt loved is completed (Order No.8-15/NEC/2003-PT, XII dated 23/10/2003)
        - 1.12 The whole matter is now under the investigation of the Special Investigation Team for further orders after his conviction as above (Para 1.8)
          - 2.1 The Bureau of Investigation and Economic Offences has detected and detained huge quantity of timber at B.G. Railway Yard, Guwahati. The matter was subsequently taken up by the Special Investigation Team for enquiry
            - 2.2 The enquiry report submitted by Shri P.P. Changkakati was found to be taken. He had attempted to certify illegal timber as legal but was caught by the Special Investigation Team (S.I.T. Order No. 8-15/NEC/2002 PT XII dated 28/10/2003)
              - 2.3 The matter is pending with the Special Investigation Team for final orders. The Special Investigation Team has already ordered for taking disciplinary action against Shri P.P. Changkakati.

- Shri P.P. Changkakati was caught red-handed with the bribe-money allegedly given by Shri Paran Saikia during the anti-corruption rold at the residence in Guwahati on 02/10/2003 when he was holding the office of the Divisional Forest Officer, Kamrup East Division, Guwahati. The complaint petition of Shri Paran Saikin, First Information Report and the report of the Sub-Divisional Officer (Sadar), Kamrup Metropolitan District, Guwahati is selfexplanatory. A case No. 349/2003 has been registered against Shri P.P. Changkakati in Paltanbazar Police Station under section 384 of LP.C. road with section-7 of the Prevention of Corruption Act, 1988.
- 3.2 Shri P.P. Changkakati is absconding and not reporting for Govt. duty since 02/10/03.
  - Shri P.P. Changkakati has approached the Hon'ble Gauhati High Court for grant of pre-arrest bail three times in the interim period. His petition for grant of pre-arrest ball in the case under para 3.1 was rejected by the Hon'hlo Gauhati High Court vide order dated 02/03/2004 in B.A. No. 241 of 2004, Sri P.P. Changkakati Vrs. State of Assam for the third time.
    - The Principal Chief Conservator of Forests, Assam vide his letter No. PG. 230 dated 08/12/2003 has forwarded a draft charge sheet to the Govt, of Assaus in the Environment & Forests Department for initiating disciplinary proceedings against Shri P.P. Changkakati.
    - 4.2 The charges brought against Shri P.P. Changkakati by the Principal Chief Conservator of Forests, Assam are extremely serious in nature Some of the charges are:
      - Involvement in corruption by accepting bribe for personal (a)gratification.
      - Misappropriation of Govt. money.
      - Misuse of official power for personal gain. (b)
      - Serious negligence and dereliction of duty resulting in considerable (d) loss to the Govt.
      - Loss of Govt. revenue. (e)
      - Non-submission of fortnightly diary. **(f)**
      - Violation of Supreme Court Orders.

- 5.1 The Hon'ble Supreme Court vide order dated 29/04/2002 in Interloculory Application No. 685 in W.P.(C) No. 202/1995 has directed "The High Court should in the cases pending before it, where the High Power Committee or the Special Investigation team is a party or its orders are being challenged, page appropriate orders in the light of the direction's of this Court to the effect that no such order should be challenged in the High Court."
  - 5.2 The direction of the Hon'ble Supreme Court in para 5.1 above, has been communicated vide order dated 17/06/2002 by the Hon'ble the Chief Justice, Gauhati High Court under cover of memo No. II C.VII. 116/2001/3097/A dated 17/06/2002.
  - 6.1 As per the provision of Rule-9 (1) of Indian Forest Service (Appointment by Promotion) Regulation, 1966, appointment of the members of the State Forest Service to the Indian Forest Service is made by the Central Govt, on the recommendation of the State Govt, in the order in which the name; of members of the State Forest Service appear in the Select List for the time being in force.
    - 6.2 Sub-Rule-2 of Rule-9 of the aforesaid Promotion Regulation stipulator that it should not ordinarily be necessary to consult the Union Public Service Commission before such appointment are made, unless during the penal intervening between the inclusion of the name of the member of the State Forest Service in the Select List and the date of the proposed appointment their occurs any deterioration in the works of the member of the State i or of Service which in the opinion of the State Govt, is such as to render him unsuitable for appointment to the Indian Forest Service.
      - 7.1 The facts and circumstances elaborated above may be summarized as follows:-
        - (a) Shri P.P. Changkakati apparently was in illegal possession of Gozt, timbers since 1992-93 for personal use. The said crime was detected in 2003 and was convicted by the Authorized Officer cum Division of Forest Officer, Kamrup East Division by way of confiscating the humbers to the State. Shri P.P. Changkakati has not only violated the laws of

land but also violated the orders/direction/instructions of the Hon'ble Supreme Court with impunity. The matter is pending well ★ Special Investigation Team constituted by the Hon'ble Supreme Court in final decision including initiation of further action against the said Sharp P.P. Changkakati

- (b) Shri P.P. Changkakati has tried to certify illegal timbers an least timbers. He was caught in this fraudulent attempt by the Special Investigation Team constituted by the Hon'ble Supreme Count Special Investigation Team has directed to initiate necessary disciplinary action against the said Shri P.P. Changkakati
  - (c) The petitions for granting pre-arrest bail in case No.349/2003 . Paltanbazar Police Station, under section 384 of IPC rend vit section-7 of the Prevention of Corruption Act, 1988, has already been rejected by the Hon'ble High Court three times in a row
    - (d) Serious charges like Misappropriation of Govt. more misuse of official power for personal gain, counting loss of them revenue, violation of the Hon'ble Supreme Court's Orders etc. have been brought by the Principal Chief Conservator of Foresta, Associate against the said Shri P.P. Changkakati.
      - (e) The material facts mentioned herein in above read with the contents of the paras 6.1 and 6.2 above it will reveal that the said that the Said that the Changkakati was in the habit of violating the laws of land and the orders of the Hon'ble Supreme Court from 1992-93.
        - (f) Shri P.P. Changkakati is absconding from the Govt. Service vince of the O2/10/2003 after been caught red-handed with the bright manage above
          - (g) Shri P.P. Changkakakti as illustrated above is apparently a habite d offender.
  - 8.4 The narration made herein above may be examined and circumpanness and facts on records may be brought to the notice of the Hon'ble Cord appropriately in any case either pending or to be filed before the Hon's High Court or Central Administrative Tribunal or State Administrative Tribunal or any subordinate courts below by Shri P.P. Changladali

- 66-126

includes the potition/application seeking pre arrest bail, which may be filed by Shri P.P. Changkakati.

8.2 Shri P.P. Changkakati was in violation of rules and regulations since 1992 93 (reference paras 1.1 to 1.12). He did not cease continued violation of law in 1990 and subsequent years till date despite various orders passed by the Hon'ble Supreme Court in the Writ Petition in Civil Rule No. 202/95 1.11 Godavarman Thirumulkpad Vrs. Union of India and others, Such habitual violation of law of land and Hon'ble Supreme Court's orders with effect from 1992-93 read with the provisions of Rule-9 of the Indian Forest Service (Appointment by Promotion) Regulation, 1966 render him unsuitable for appointment to the Indian Forest Service by promotion after 1992-93.

The subject matter needs due examination and requisite action as and when required in order to ensure that the orders passed or to be passed by the Hon'ble Court are in full conformity with the letter and spirit of the various orders of the Hon'ble Supreme Court as above.

Encl. 1) Offence Report No.CCR/8 of 2003,

2) Authorised Office Order dt. 26/12/2003,

3) SIT Order No.8-15/NEC/2003-Pt.XII dt. 23/10/2003,

4) SIT Order No.8-15/NEC/2002-Pt.XII dt.28/10/2003,

5) Complaint petition dt. 30/09/2003 of Shri Paran Saikia,

6) FIR No.349/03 dt. 02/10/2003,

7) Anti-Corruption Raid report dt.6/10/03 of the SDC(S), Kamrup(M), Guwahati

8) Hon'ble Gauhati High Court Order dt. 02/03/2004 in B.A.No.241 of 2004

9) Principal Chief Conservator of Forests, Assam letter No.PG.230 dt 9/17/60.

10) Hon'ble the Chief Justice, Gauhati High Court's order dt. 17/06/2009.

'abmitted (V.K. Vishnoi) Chief Conservator of Cores Assam, Guwahali 1

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, FROM No. A. (SEE PULE 42 ) ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH: ORDER SHEET Mise Petition No: 103 mo. A 260/02 Contempt Petition No: Review Applecation No: Applements: - P. P. Cherry Kakah Respondents: - Ravil Shamkan franad Advocate for the Applecants: - D.K. Dal. Ampocate for the Respondants: - COSC. Col. of Assom Order of the Tribunal

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18.6.2004

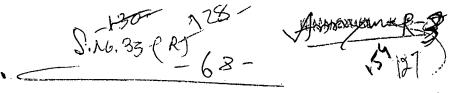
When the matter was called for, Mr. P.P.Verma, Principal Secretary, Deptt. Of Forest appeared in person and submits that integrity certificate has already been issued on 16.6.2004 and the matter has been sent to UPSC.

post the matter before the next maketer Division Bench. On that day, respon downs will show us the compliance report.

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Sd/MEMBER(J) Sd/MEMBER(Adn)

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### GOVERNMENT OF ASSAM DEPARTMENT OF ENVIRONENT & FOREST DISPUR: GUWAHATI-781006.

No.FRE. 135/2002/Pt.II/ 141

Dated Dispur, the 22nd

From: P.P. Varma,

Principal Secretary to the Govt. of Assam.

To

Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110069.

Proposal regarding Sri P.P. Changkakati; inclusion of the name in the select list of

2001 unconditionally.

Ref: UPSC's letter No.10/2/2004-AIS dated 12th July, 2004 and Govt of Assam letter No.FRE.135/2002/Pt.II/81 dated 18th June,2004 and FRE.135/2002/Pt.II/130 dated 24th June, 2004.

Sir,

With reference to the above correspondence and in accordance with the provisions of Regulation 6 of the IFS (Appointment by Promotion) Regulations 1966 as amended, I am submitting the following:-

1. The minutes of the Selection Committee held on 5.11.2001 and the select list of the officers recommended by it is enclosed. The recommendations of the Committee were placed before the Joint Cadre Authority and the resolution thereof was sent to UPSC vide FRE.109/94/Pt.I/200 dated 20th March, 2002. A copy this letter and the resolution is enclosed. The State Government also communicated its agreement to the recommendation of the Selection Committee held FRE.109/94/Pt.I/2006 dated 17th May, 2002 and a copy of this letter is also enclosed. on

In this connection, it may be noted, as mentioned earlier, that the proceedings against Shri P.P. Changkakati, due to which the integrity certificate was withheld, have since been completed and Shri Changkakati have been exonerated of all charges. A copy of the order in this case was enclosed with our earlier letter dated 18th June, 2004. Consequent to the conclusion of this proceeding and in the light of the order of the Hon'ble CAT dated 21.2.2003 in OA No.260/2002, Chief Secretary, Assam has issued an Integrity Certificate in favour of Shri P.P.Changkakati. A copy of this certificate was also enclosed with our letter of 18th June, 2004.

Relevant records, relating to the Members of the State Forest Service included in the Jest Fore

Jest Sed selection committee

Jest Sed selection commit above said select list, have been sent to the UPSC vide FRE.109/94/Pt.III/165 dated 28.5.2004 in connection with the proposed selection committee meeting for the years 2002, 2003 and 2004. The same may be consulted for the purpose of this case. Should me make a reference to No Law ?

0/0 \$60y. (E&F) Dy. No. 2 9 38 ]/



3. No officer of the State Forest Service has been superseded as a consequence of the above recommended list and therefore no records, as referred in Regulation 6(ii), are required.

4. The observations of the State Government, in terms of the Regulation 6 (iv) regarding the recommendations of the Committee, is as follows:-

- 4.1 The State Government has considered carefully the case of Shri P.P.Changkakati whose name appears in the select list of 2001 referred above on the basis of his conduct subsequent to the recommendations. A departmental proceeding against Shri P.P. Changkakati has been initiated in August, 2002 involving charges of illegal appointments. This proceeding is continuing. A copy of the show cause notice and statement of allegations was enclosed with our earlier letter dated 18th June, 2004.
- 4.2 In the month of June-July, 2003 Shri P.P. Changkakati detained 4 trucks carrying Red Sander's Wood with malafide intentions causing serious embarrassment to the Government. Later on, enquiry conducted by senior Forest officials revealed that the detained timber was legally transported and did not warrant any detention. Allegations of demand of illegal gratification by Shri P.P. Changkakati were also made in this matter and Government had to transfer him on 11.7.2003.
- 4.3 In the month of October, 2003 complaints were received that Shri P.P. Changkakati demanded Rs. 1.00 lakh from a timber shop owner. It was complained that Shri Changkakati has threatened him to close the shop if the said bribe is not paid. A raid was carried out by the District Administration in his residence on 2.10.2003 and Rs. 20,000.00 in the form of Rs.100 denomination currency notes were found from the possession of Sri Changkakati and these notes included four notes duly signed by the District Magistrate. This established the complaint and accordingly a police case U/S 384 IPC has been registered. Till 1st June, 2004 Shri P.P. Changkakati was evading arrest but on 2nd June, 2004 he has been arrested from a Hospital in Guwahati city. A copy of the report of the District Magistrate was enclosed with our earlier letter dated 18th June, 2004.
  - 4.4 In another raid conducted by the Forest officials and the Magistrates in the residence of Shri P.P. Changkakati in October, 2003, 99 pieces of timber were seized. These timbers, as revealed from the hammer markings on it, belong to Government and relate to the year 1992-93. This is a serious forest offence and is in direct violation of the orders of the Hon'ble Supreme Court regarding inventorisation of such timbers. This matter is now under investigation by the Special Investigation Team constituted under the orders of the Hon'ble Supreme Court.
    - 4.5 In December, 2003 another DP has been initiated against Shri P.P. Changkakati involving charges relating to demand of illegal gratification, misappropriation of Government money, misuse of power for personal gain, negligence and dereliction of duty causing loss to the Government revenue and violation of the direction of Hon'ble Supreme Court etc. A copy of the charge sheet and statement of allegation were enclosed with our earlier letter dated 18th June, 2004.

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of the report circuit 18.3.04 containing details of the above mentioned cases mitted by the Caner Conservator of Forest (Territorial), Assam was enclosed with earlier letter dred 18²² June, 2004 and the same may be relied upon in this connection United circumstances, the State Government is of the considered opinion the Sm. P.P. Changkakati is not at all suitable for appointment to IFS.

Further I am directed to say that the State Government has complied with the orders of the Hart ele CAT in as far as issuing an Integrity Certificate to Shri PP Ciantescan is concerned. However, the observations of the State Government are in consonance with the provisions of the Regulations 6(iv) and are submitted to the Commission for their consideration and decision as provided under Remission 7.

In view of what has been stated above, the Commission may kindly consider the accordingly.

Yours faithfully,

(P.P. Varma) Principal Secretary to the Govt. of Assam

Encl:

- 1. Copy of the minutes of the Selection Committee Held on 5.11.2001.
- 2. Resolution of the JCA.
- 3. Govt. Letter approving the minutes of the Selection Committee

Memo No.FRE. 135/2002/Pt.II/ 141-A

Dated Dispur, the 22nd July, 2004

The Secretary to the Government of India, Ministry of Environment & Forest, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003 with reference to our earlier letter No.FRE.135/2002/Pt.II/130 dated 24th June, 2004 and in accordance with the provisions of the Regulation 6(*) along with the enclosures as above for necessary action.

(P.P. Varma) 27/7/04

Principal Secretary to the Govt. of Assam.

F. No. 22012/47/2002-JFS-II Government of India Ministry of Environment & Forests (IFS-II Section)

Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi- 110 003

Dated the July 25, 2005

To

Shri B.B. Hegjer, IAS.

Commissioner & Secretary, Environment & Forest/Department.

Government of Assam;

Dispur

Guwahati.

Sub: Issue of Integrity Certificate in respect of Shri P.P. Changkakatti, DCF,

kam directed to invite a reference to your letter No. 135/2002/PT-II/196 dated 3/15t May, 2005 on the subject mentioned above and to state that in view of the inability of the State Government to issue fresh intigrity certificate; the name of Shri P.P. Changkakatti shall be treated as 'deemed provisonal in the Select List of 2001. On the conclusion of the disciplinary proceedings and police case pending against him, requisite action for his appointment to IFS on the basis of his inclusion in Select List for the year 2001 as permissible under the rules may be taken by the State Government in consultation with the Ministry and UPSC. The Hon'ble CAT, Guwahati Bench may also be apprised of the position with reference to their order dated 10th March, 2005 in the Contempt Petition No. 35 of 2003 (O.A. No. 260/2002).

Yours faithfully

Under Secretary to the Govt. of India

### GOVERNMENT OF ASSAM ENVIRONMENT AND FOREST DEPARTMENT DISPUR :::::: GUWAHATI ££££££££

NO.FRE.135/2002/Pt-II/196

Dated Dispur, the 31st  $M_{\odot}y/2005$ 

Shri B.B. Hagjer, IAS, From

Commissioner & Secretary,

Government of Assam,

Environment & Forest Deptt..

 $T_{O}$ 

The Joint Secretary, Govt. of India, Ministry of Environment & Forest, Paryavaran Bhavan, Lodhi Road,

New Delhi.

Issue of Integrity Certificate in respect of Shri P.P. Changkakati, DCF, Assam. Sub

D.O.No.22012/47/2002-IFS_II, dtd. 04-05-2005.

Sir,

With reference to the above, I am directed to inform you that the Police Case under section 384 in 2003 and the Departmental Proceedings initiated against Shri P.P. Changkakati in 2003 is continuing and both the cases are under process. The Departmental Proceedings involve charges relating to illegal gratification, mis-appropriation of Govt. money, mis-use of power for personal gain, negligence and dereliction of duty, causing loss to Govt. revenue and violation of the direction of Hon'ble Supreme Court of India. In this connection, our earlier letter vide No. FRE.135/2002/Pt-II/141, dtd. 22-07-2004 may kindly be referred to.

In view of above, the State Govt. is not in a position to issue fresh Integrity Certificate in respect of Shri P.P. Changkakati till finalisation of the police case and departmental proceedings.

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH ::

### In the matter of :-

B. Ano. 47/07 prasanta Pran Changkakati

... Applicant

-V5-

Union of India

... Respondent.

In the matter of :-

Written statement on behalf of respondent No. 2.

ON BEHALF OF RESPONDENT ( WRITTEN STATEMENT

I, Dr. A.U. Choudhury, Joint Secretary to the Government of Assam, Environment and Forest Department, Dispur, Guwahati - 6 do hereby solomnly state as follows :-

- That I am the Joint Secretary to the Government of Assam, Environment and Forest Department, Dispur, Guwahati - 6. In the above case, a copy has been served upon me I have gone through the same and being the Joint Secretary I have understood the contents thereof. I am acquainted with the facts and circumstances of the case, I have been authorised to file this written statement on behalf of the respondent No. 2.
- That I do not admit any of the averments except which 2. are specifically admitted hereinafter and the same are deemed as denied.
- З. That the applicant initially joined the Forest Department as an Assistant| Conservator of Forests in the year 1981 and thereafter he was promoted to the rank of the Deputy Conservator of Forests.
- That while he was serving as Divisional Forest Officer at Darrang, Social Forestry Division in 1986-87 there were reported irregularities as intimated by the then Deputy Commissioner, Darrang,

Central Acministrative Tribunal

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Televisia reads

Give

Mangaldoi to the Secretary to the Government of Assam, Dispur and suggested to transfer from the charge of the said Division and accordingly he was transferred to the office of the Chief Conservator of Forest (General), Assam, Guwahati vide order dated 29.11.06. Thereafter an enquiry was made by the Chief Conservator of Forest and submitted the report vide letter dtd. 17.1.87.

- That while he was Divisional Forest Officer, Kamrup West Division, he committed serious financial irregularities and was placed under suspension vide order dtd. 29.3.95. However due to pending of departmental proceedings he was reinsteated vide order dtd. 26.10.95.
- 6. That the enquiry was made into the charges drawn up against him and subsequently the Departmental proceeding was dropped vide order dtd. 16.7.02.
- 7. That again departmental proceeding was initiated against the applicant vide order dtd. 16.8.02. Further a criminal case is pending against the applicant. Under the above circumstances the Government could not issue Integrity Certificate.
- 8. Being aggrisved the applicant approached before this Hon'ble Court by filing D.A. No. 260/02 with a prayer to promote him to the Indian Forest Service and the Hon'ble Tribunal after hearing was pleased to dispose of the case vide order dated 21.2.03, with a direction to the respondents to take up the matter with right earnest for appointing the applicant to the Indian Forest Service in terms of regulation on the basis of remommendation made by the Selection Committee held on 5.11.01.
- 9. That in compliance with the Hon'ble CAT's order dated 21.2.03. The Government of Assam furnished proposal alongwith the Integrity Certificate on 22.7.04 to the UPSC in accordance with the provisions of the regulation 6 of the Indian Forest Service

निहीय प्रशासिक अधि रण Central Administrative Tribunal

(Appointment by promotion), Regulation, 1906, and the particular subRegulation 6(N) of the relevant regulation. However the State Government was of the view that due to the pendency of the Department!
proceeding the applicant was not found to be suitable for appointment to IFS.

### 10. Reply to the facts of the case :-

10.1. That with regard to the statements made in paragraph 4.1. of the application the humble answering respondent has nothing to made comment on it.

That with regard to the statements made in paragraph 4.2. of the application, the humble answering respondent begs to state that in 1986-87 while he was discharging his duties as Deivisional Forest Officer, Darrang, there were reported irregularities and a case was lodged against the applicant which was intimated by the then Deputy Commissioner, Darrange, vide W.T. Message dated 23.10.86 suggested the Secretary to the Government of Assam, Forest Department for the transfer of the applicant. Accordingly he was transferred from Darrange to the Office of Chief Conservator of Forest (General), Assam, Guwahati with same capacity vide order dtd. 29.11.06. Thereafter an enquiry report dtd. 12.1.87 was submitted by the Chief Conservator of Forest (General) Assam and in the said enquiry report the enquiry officer requested the authority to make an enquiry into the whole activities which not only created problem to the department and put the department in the embrassing position, done and created by the applicant and to take drasticdisciplinary action by placing him under suspension.

Copy of the W.T. Message dtd. 23.10.06 and the enquiry report dtd. 1 21.27 is annexed herewith and marked as Annexure 12 2 respectively.

10.3. That with regard to the statements made in paragraph 4.3 of the application, the humble answering respondent begs to state

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केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribenal 1000

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that while the applicant was the Divisional Forest Officer, Kamrup West Division, he committed serious financial irregularities and was placed under suspension vide order dtes 29.3.95. Later on pending finalisation of the Departmental proceeding he was reinstated in his service vide order dated 26.10.95.

- 10.4. That with regard to the statements made in paragraph 4.4 of the application, the humble answering respondent begs to state that Government of Assam appointed Sri L.D. Adhikari, IFS, Conservator of Forests, Central Assam Circle, Guwahati as Enquiry Officer to enquire into the charges drawn up against the applicant vide order dtd. 13.3.97. Thereafter Government of Assam appointed Sri V.K. Vishnoi, IFS, Chief Conservator of Forest, Research to make a fresh enquiry into the charges drawn up against the applicant vide order dated 27.10.98.
- 10.5. That with regard to the statement made in paragraph 4.5 of the application, the humble answering respondent begs to state that the Government of Assam has dropped the departmental proceeding drawn up against the applicant vide Government notification dated 16.7.2002.
- 10.6. That with regard to the statements made in paragraphs
  4.6 and 4.7 of the application the humble answering respondent
  begs to state that the Government of Assam had initiated another
  departmental proceeding against the applicant in different charges
  vide order dtd. 16.8.02. Due to the pendancy of the departmental
  proceeding the Government of Assam could not issue Integrity
  Certificate.
- 10.7. That with regard to the statements made in paragraph
  4.8 to 4.10. of the application, the humble answering respondent
  begs to state that in compliance with the Hon'ble CAT's order
  dated 21.2.03 the Government of Assam forwarded the proposal alongwith the Integrity Certificate issued by the Chief Secretary of
  Assam to the UPSC on 22.7.04 in accordance with the provision of

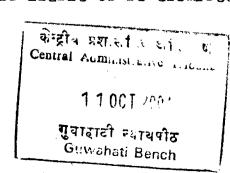
Regulation 6 of the Indian Forest Service (Appointment by promotion), Regulation 1966 and in particular, sub-regulation 6(IV) of relevant regulation.

Further it is stated that it was necessary and unavoidable to furnish the observation of the State Government as required under regulation 6(IV) of the Rules for consideration of UPSC.

The State Government was of the view that the applicant was not found suitable for appointment to IFS.

Further, the Ministry of Environment and Forest has also mentioned that though the inclusion of the Sri Chankakati in the Section list of 2001 has been made unconditional by the UPSC, he could not be inducted into IFS for want of Integrity Certificate and outcome of Departmental proceeding pending against him. They further stated his inclusion in the Selection List was being treated as "deemed provisional" and that one vacancy earmarked for Sri Changkakati.

- 10.8. That with regard to the statements made in paragraph 4.11 of the application the himble answering respondent begs to state that the Government of Assam could not furnish the Integrity Certificate in respect of the application due to the pendency of the Departmental proceeding and criminal proceeding against him.
- 10.9. That with regard to the statements made in paragraph 4.12 to 4.16 of the application the humble answering respondent reiterates and reaffirms the statements made in paragraphs 10.6 & 10.7 of this written statement.
- 10.10. That the answering respondent begs to state that the above case has not merit at all and is liable to be dismissed.



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### VERIFICATION

I, Dr. A.U. Choudhury, aged about by years, presently working as a Joint Secretary to the Government of Assam, Environment and Forest Department, Dispur, Guwahati - 6, do hereby verify that the statements made in paragraphs 1 and 2 are true to my knowledge, those made in paragraphs 3 to 10.10 are being matters of records of the case derived therefrom which I believe to be true and the rest of my humble submission before this Hon'ble Tribunal.

I have not suppressed any materials facts thereof.

And I sign this verification on 11th Oct 2007

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SIGNATURE

M5JUR SECHETARY

DESPUT/CHEEF COUSERVATOR OF FOREST GARACTI/CHIEF COISERVATOR OF FOREST ULURARI C THEO S SILFURIUM

MANGALDAI CHARRAGO DEPCICH mach:

HO.MCD. 15/16/134. WED 23-10-86(.) REGRET TO INFORM YOU THAT WHELL P. F. CHARGRAEATI D. F. O. BOCIAL PORESTRY, SECTIONS STREET, DARRING BEELS BESTACKED IN AN AUNOMAL MANEER IN VARIOUS FART OF THE LESSBECT (.) ON 20-10-86 ME HAS KIMAPPED ONE MG AFAR ALL OF VILIAGE BANKER EASH FAS. INLOACH AND WHORGEVILLY CONFIRED HIM IN BOME FLACES AND REF TO BE RESCUED (.) REPORT OF EMIL SIMILAR KIDNAPPING UNDER BARRAMAN P.B. IN ALSO REPORTED (.) APPROACH BY THE POLICE AUTHORITY TO BELEMBE WHOSE PERSONS WAYE SO PAR FAILED(;) CASE MAS DEED RECISTERED DE THE POLICE MARINET THE CONCERTED D. F.O. (.) REPORT ALSO RECEIVED THAT THE OF 22ND OCCUBER HE WRONGFULLY ENTERED DITO THE CAMPUS OF B.D.O. DELIGHER -BLALMARI AND MISHIPAVED THE OFFICIALS AND ABUSED THE OFFICERS AND INPAGED PROPERTIES (.) IT IS ALSO REPORTED TIGHT IN AN UNAUTHORISED MARKANE HE HAS TABLES AGAI SOME OF THE TIMBERS SUPPLIED TO THE BLOCK (.) PEPOID! ALSO RECEIVED THE HE IS THEIRG UNBITHORISED PHOTOGRAPH IN BLACK OFFICE PROMINSE WETH A VIDBO CAMBRA (.) FURTHER REPORT RECEIVED THE THE PROPERTY WHEN THE THE PROPERTY OF THE PROPERTY IS MOR HACHES (.) PARA (.) THE BERIES OF INCIDENTS HAVE BAIGED AN ALARM IN THE DISTRICT (.) THE MAN MES TAKEN ITS OWN COURSE (...) IT IS DESIGNALE THE TO AVOID EMBARIABUMENT TO THE DEPARTMENT IN PARTICULAR AND THE GOVERNMENT IN GENERAL THE OFFICER SHOULD BE TRANSFERRED IMMEDIATELY (.) IT THE ALSO BUIGIESTED THAT AN ENQUIRY MADE INTO THE APPAIRS BY A SECTION CEPACIAL OF THE ACREST DEPTT (.)

Ded Mangaldai, t'e 23rd October, 1986 Capy to to CoCa APRO Mangalani for transmission please. Here No. MCD. By By Lipak

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- e) The Bacy on the Court of Aspen, Gerest Dipte. Dispur.
- 2) The Chief Sect Warming Gove of Assen, Mapur. ed lipskhuck, Omihakk chast Canbaryator of Forest, Beclal Forestry.

1)-Miles Copacion of Forest. Ulabari. Carbeti.

( B.B. MARUA ) Comissioner, Derroy, nendal del

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### CONFIDENTIAL

GOVERNMENT OF ABSAM
OFFICE OF THE CHIEF CONSERVATOR OF FORESTS (ASSAM
REHABARI : GUWAHATI

Phone NO.(Off.) 27484 Phone NO.(Res.) 23557

Gram # ASCHIEFOR Post Box NO. - 7

NO.PG.230, Dated Guwahati, the 12th, Jan'87.

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The Secretary to the Govt. of Assam, Forest Department, Dispur, G U W A H A T I - 781 006.

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: Activities of Shri P.P.Changkakoti, Deputy Conservator of Forests.

Sir

I have the honour to inform you that Shri P.P. Changkakoti, Deputy Conservator of Forests has been conducting himself in a most unbecoming manner which has created a problem to the Department. Unless immediate drastic action is not taken against him, the matter may deteriorate further and would go beyond control.

In this respect, I am to point out that while serving as Divisional Forest Officer, Darrang Social Forestry Division, Mangaldoi due to his various activities, the Deputy Commissioner, Darrang requested Government for immediate transfer of Shri Changkakoti from Darrang Social Forestry Division and to cause an amquiry into the whole affairs by a senior officer. This respect, I am enclosing herewith a copy of Massage dated 23.10.1986 of the Deputy Commissionary the contents of which are self-explan-

centrem to be true

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wrongful entry into the campus, misbehavier with officials as well as seizing of timbers not only attracted the attention of the public of that area, but also embarrassment to Govt. Departments. In this connection, I am enclosing herewith a copy of letter NO. DRDA/MLD/66/86-87/4085-88 dated 24.10.1986 of the Project Director, D.R.D.A., Darrang, Mangaldoi, the contemts of which are self-explanatory for your kind information and requisite action.

Such action of Shri Changkakoti, Deputy Conservator of Forests generally do not falls within his normal jurisdiction being a Deputy Conservator of Forests of the Social Forestry Wing.

For these reasons which includes his personal safety also, the then Chief Conservator of Forests in consultation with Secretary, Forests and myself as Chief Conservator of Forests, Social Forestry asked Shri Changkakoti to hand over the charge of his Division to Shri P.S.Das, Deputy Conservator of Forests, i/c Nalbari Social Forestry Division positively on 24.10.86 and to proceed on leave. Inspite of definite instruction, Shri Changkakoti did not handed over the charge on 24.10.86. However, subsequently, he handed over the charge to Shri P.S.Das, Deputy Conservator of Forests on 26.10.1986.

Shri Changkakoti, D.C.F. had submitted his earned leave petition to the Conservator of Forests, Western Assam Social Forestry Circle. As it was incomplete one, the same had been returned to him by the Conservator of Forests for re-submission. But uptill, he has not submitted his Earned Leave petition duly and correctly filled in.

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Suddenly after availing 27 days Earned Leave, Shri Changkakoti reported joining in his duties on the aftermoon of 21.11.1986 though without submitting a charge certificate. Subsequently on 1.12.1986, he again reported that he had assumed the charge of D.F.O., 1/c Darrang Social Forestry Division by unilaterally without any signature of Shri P.S.Das who was in-charge of the Division then. Thereafter, Shri P.P.Changkakoti took over the Cheque Book of the Divisional Forest Officer, Social Forestry Darrang in custody of the Accountant incharge (there is no Head Assistant in Social Forestry Division) telling the Accountant that he can legally assume charge unilaterally as per S.R.100 (which however stands deleted now) and have issued 6(six) numbers of cheques. Out of these 6 cheques, 2(two) cheques have been honoured erroneously by the Bank at Mangaldoi while 4(four) Nos. have been dishonoured. The whole matter has been enquired by the Conservator of Forests, Western Assam Social Forestry Circle.

In this respect, I am enclosing herewith a copy of enquiry report submitted by him vide SFE.1/WAC. dated 22.12.1986, which is self-explanatory for information of Government.

Meanwhile, as per Government Order FREU1/Pt. 1988, 13 dated 21.11.1986, Shri P.S. Das, D.C.F. handed over charge to Shri T. Das, D.C.F. on 4.12.1986 and also handed over the partly used cheque book after taking possession of the same from the Accountant. Though Shri T.R. Das, J.C.F. assumed office as D.F.O., Social Forestry, Darrang, he (Shri T.R.Das) could not occupy the D.F.O's chair as the same continued to be under forceful and illegal occupation of Chri P.P. Changkakoti.

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The C.F., N.A.S.F. Circle during his inspection found that Shri P.P.Changkakoti is occupying the D.F.O's chair which he refused to vacate even when the Conservator of Forests personally explained to him the irrational of this act and behaviour.

Again, at the time of handing over charge of Darrang S.F.Division to Shri P.S.Das, D.C.F. on 26.10.1986, Shri Changkakoti did not hand over the vehicle Nos. AMZ 9968 and AMZ 8253 to Shri Das. It is reported that he took the Government Vehicle NO.AMZ-8253 for his personal use in addition to the allotted Vehicle of the D.F.O. NO. AMZ-9968 already in his possession. At present, whereabout of both these Government vehicles are not known. In this connection, I am enclosing herewith the written statements submitted by the drivers. Shri Putul Ch. Deka and Shri Krishna Kanta Das and copy of C.F., W.A.S.F. Circle's letter NO.SWE.1/WAC(Con), dated 2.1.1987 the contents of which are self-explanatory. This clearly indicates that he has mis-used the Govt. Vehicles for his personal works. As both the vehicles were not there the drivers are sitting idle as reported by them.

It is reported that Shri P.P. Changkakoti, D.C.F. has taken away one Kirloskar Water Pump from the Kathpahi Nursery Beat on 7.1.1987. Whereabout of the Government property taken away by Shri P.P. Changkakoti, D.C.F. is not known.

Further, Shri Changkakoti had applied for casual leave for A(four) days with effect from 4.12.1986 to 8.12.1986 and headquarter permission leave on medical ground on 23rd.24th and 26th Dec'86.As he was no longer under the establishment, no leave etc. had been granted to him by Conservator of Forests, Western Assam Social Forestry Circle. In this respect, I am enclosing herewith a dopy of letter NO.SFE.15/.AC/B, dtd. 7.1.47 alongwith its enclosures of the C.F., W.A.S.F. Circle, the contents of which are self-explanatory for your information.

Inspite of Govt.Notification NO.FRE.1/86/Pt.1/28 dated 29.11.1986 posting him attached to the office of the undersigned. Shri Changkakati neither has reported for his duty in my office nor has submitted any leave application till to date. As reported he had continually indulged in illegal, irrational acts of occupying a charir and trying to function from a chair and in an office to which he does not have any claim. Such acts only indicate and establishes utter irresponsibility, wilful disobediance and defiance of Government orders.

The activities of Shri Changkakati do not end here. On 20.12.1986, he wrote a letter to the Branch Manager, State Bank of India, Mangaldoi not to honour any cheque issued from the Govt. cheque book NO.4594 dated 12.9.86, thus debarring the present Divisional Forest Officer, Shri T.R.Das to use the cheque book.

Such activities of Shri Changkakati not only created problem to the Department and put this department in an embarrassing position and redicule before the public but also create utter confusion and chaos breaking down all norms and fabric of discipline at a level which is vested with the responsibility of imparting and incalcating discipline to the lower ranks. If such activities are not curbed immediately, I am afraid later on, it may cause a serious problem to the Department, in running the administration.

Under the circumstances stated above, I would request you kindly to make an enquiry into the whole activities of Shri Changkaketi by appointing an enquiry officer and drastic disciplinary action that he be placed under suspension with immediate effect.

Yours faithfuyly,

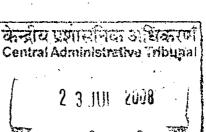
Enclor-As stated above.

(D.P.Neog), Chief Conservator of Forests, Assam:Guwahati.

cc torm the Chief Conservator of Forests, S.F. Assam.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

IN THE MATTER OF

O.A No. 47 / 2007

Shri Prasanta Pran CHangkakati 🐇

. . . Applicant

-Versus-

The Union of India & others

. . . . Respondents

AND

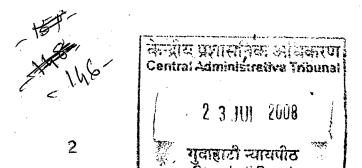
### IN THE MATTER OF

A Rejoinder filed on behalf of the Applicant against the written statement filed by the Respondent No.1, Environment and Forest, Government of India, Paryavaran Bhawan, New Delhi.

### REJOINDER / AFFIDAVIT-IN-REPLY

I, Shri Prasanta Pran Changkakati, son of Late Bishnu
Pran Changkakati, aged about 48 years, resident of Rehabari,
Guwahati – 781 008, in the District of Kamrup, Assam, do hereby
solemnly affirm and state as follows:

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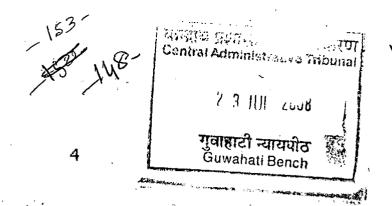
- 1. That I am the applicant in the instant case and as such I am fully acquainted and well conversant with the facts and circumstances of the instant case.
- 2. That a copy of the written statement filed on behalf of the Respondent No.1 in the aforesaid Original Application has been duly served upon me through my counsel. I have gone through the same and understood the contents thereof. The statements and averments made in the written statement, which have not been specifically admitted herein below, shall be deemed to have been denied by the deponent / applicant.
- 3. That with regard to the statements made in paragraph 3.1. of the Affidavit-in-Opposition the deponent has no comments to make but does not admit anything which is contrary to and inconsistent with the record of the case.
- 4. That with regard to the statements made in paragraph 3.2. of the Affidavit-in-Opposition the deponent states that the respondent authorities having considered the applicant fit for promotion to the I.F.S in terms of select list of 2001, the said could not be withdrawn or denied by the respondents on the plea of expiry

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of the validity of the select list or that the applicant's name was made unconditional and final by the U.P.S.C.

- 5. That with regard to the statements made in paragraphs 3.3, 3.4, 3.5 and 3.6 of the Affidavit-in-Opposition, the deponent has no comments to make thereon.
- 6. That with regard to the statements made in paragraph 3.7 of the Affidavit-in-Opposition, the deponent states that the Proviso to Regulation 7(3) of the Promotion Regulation which envisages the procedure as to how an Officer whose name is included in the select list be promoted does not confer any power on the Respondent to deny promotional benefits due to the applicant in terms of Central Administrative Tribunal' O.A No. 260/2002 direction in as much as the Hon'ble Tribunal had already given a finding that the Respondent had acted unlawfully by withholding the promotion of the applicant in terms of the Regulation on the mere pretence of purported disciplinary proceeding which formally ended on 16-07-2002. The said direction of the Hon'ble Tribunal having attained finality on account of dismissal of the appeal by the Government of Assam in the Gauhati High Court. The contention of the respondent to deny promotion to the deponent on account of pendency of departmental proceeding and criminal case is without any justification and prima facie unlawful.

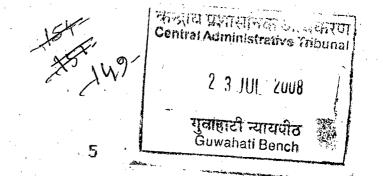
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- 7. That with regard to the statements made in paragraphs 4.1, 4.2, 4.3 and 4.4 of the Affidavit-in-Opposition, the deponent has no comments to make thereon.
- 8. That with regard to the statements made in paragraphs 4.5, 4.6, 4.7 and 4.8 of the Affidavit-in-Opposition, the deponent has no comments to offer being matters of record.
- That with regard to the statements made in paragraph 9. 4.9 of the Affidavit-in-Opposition, the deponent categorically states that the interpretation given by the Respondent No.1 that the proviso Regulation 7(3) of the I.F.S (Appointment by Promotion) Regulations does not confer any right to the deponent for promotion is misconceived and legally untenable in as much as the Apex Court in catena of judgments / decisions have held that once an officer is exonerated of the charges, but in the meantime another departmental proceeding was initiated, pendency of the later departmental enquiry, would not bar the benefits of the recommendation of the D.P.C to the employee concerned. In the case in hand since the applicant / deponent was already selected for promotion vide select list 2001 and the Respondent authorities having failed to promote him inspite of judicial direction the Respondent are now precluded from resorting to the plea of expiry of select list and subsequent pendency of

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disciplinary proceeding to deny promotional benefits to the deponent to I.F.S.

- 10. That with regard to the statements made in paragraphs 4.10 and 4.11 of the Affidavit-in-Opposition, the deponent has no comments to make but does not admit anything which is contrary to and inconsistent with the records of the case.
- 11. That with regard to the statements made in paragraph 4.12 of the Affidavit-in-opposition, the deponent submits that the Original Application is not barred by delay and laches nor the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985. The deponent asserts that the respondents by their delay and laches in not complying with the Hon'ble Tribunal's order affirmed by the Hon'ble High Court has caused grave loss and prejudice to the deponent for his promotion to the I.F.S.
- 12. That the deponent humbly submits that the instant Original Application is liable to be allowed by imposing a heavy cost on the authorities for having caused mental trauma and prejudice to the deponent.
- 13. That the statements made in this paragraph and in paragraphs 1 to 12 are true to my knowledge and those made in



being matters of record are true to my paragraphs information derived therefrom, which I believe to be true and the rest and my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this affidavit on this the 21 day of January July 2008 at Guwahati.

Identified by

Advocate

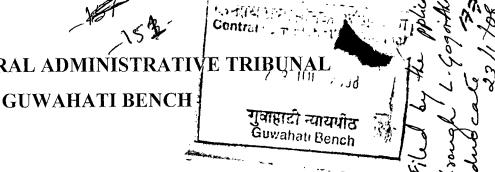
Prasanthan Chenglich

DEPONENT

Solemnly affirmed and declared before me by the deponent who is identified by L. a. lkned Advocate on this the and day of January, 2008 at Guwahati.

Notary Public; Kamrup





IN THE MATTER OF:

O.A No. 47/2007

Sri Prasanta Pran Changkakati

..... Applicant

-Vs-

Union of India & Ors.

..... Respondents

-AND-

### **IN THE MATTER OF:**

A Rejoinder filed on behalf of the Applicant against the Written Statement filed by the Respondent No.2, i.e. the Joint Secretary to the Government of Assam, Environment Forest Department, Dispur, Guwahati – 6.

### REJOINDER / AFFIDAVIT-IN-REPLY

I, Sri Prasanta Pran Changkakati, son of Late Bishnu Pran Changkakati, aged about 48 years, resident of Rehabari, Guwahati - 781 008 in the district of Kamrup, Assam do hereby solemnly affirm and state as follows:

- That, I am the Applicant in the instant case and as such, I am fully acquainted 1. and well conversant with the facts and circumstances of the instant case.
  - That, a copy of the Written Statement filed on behalf of the Respondent No.2 in the aforesaid Original Application has been duly served upon me through my Counsel. I have gone through the same and understood the contents thereof. The statements and averments made in the Written Statement, which have not been specifically admitted herein below, shall be deemed to have been denied by the Deponent/Applicant.

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- 3. That with regard to the statements made in paragraphs 1, 2 and 3 of the Written Statement, the Deponent has no comments to offer.
- 4. That, with regard to the statements made in paragraphs 4, 5 and 6 of the Written Statement, the Deponent does not admit anything, which is contrary to and/or inconsistent with the records of the case.
- 5. That, the Deponent categorically denies the statements made in paragraphs 7, 8 and 9 of the Written Statement in so far as the same are contrary to the findings of this Hon'ble Tribunal in Original Application No. 260 of 2002. Be it stated herein that the Applicant was exonerated from the charges leveled against him and on 05.11.2001 the Applicant had been duly selected by a Selection Committee for promotion to the Assam segment of the Indian Forest Services (1.F.S), Assam-Meghalaya Joint Cadre. Further, the findings of Hon'ble Tribunal in Original Application No. 260 of 2002, which were challenged before the Hon'ble Gauhati High Court by way of W.P (C) No. 1077 of 2004 (which was subsequently dismissed), have attained finality and the authorities were duty bound to act in accordance with the directions issued therein. The Respondent authorities on the one hand furnished the integrity certificate in favour of the Applicant on 18.06.2004 under the provisions of Rule 6(4) of the IFS (Appointment by promotion) Regulations, 1966 and on the other hand on 24.06.2004 in a completely malafide exercise of powers once again wrote to the U.P.S.C stating, inter-alia, that the State Government was of the considered opinion that the Applicant was not suitable for appointment to I.F.S. The Deponent humbly submits that the authorities are estopped from blowing hot and cold in the same breath by taking contrary stands in the matter, as well as by acting contrary to the Rules as well as to the directions of this Hon'ble Tribunal, thereby denying him his legitimate due.
- 6. That, with regard to the statements made in paragraph 10.1 of the Written Statement, the Deponent has no comments to offer.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal १२॥॥ १७७४

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That, the statements made in paragraph 10.2 of the Written Statement are totally irrelevant and are in no way connected to the instant case at hand. The Deponent humbly states that the State authorities, in desperate attempts to deny the Applicant his legitimate due, are resorting to narration of irrelevant and extraneous facts, which have no bearing with the grievance of the Applicant. Further, the copies of the W.T message dated 23.10.2006 and enquiry report dated 12.01.1987, which have been allegedly annexed as Annexure – 1 and 2 to the Written Statement, have not been furnished to the Applicant to enable him

That, with regard to the statements made in paragraphs 10.3, 10.4 and 10.5 of the Written Statements, the Deponent does not admit anything which is contrary to / inconsistent with the records of the case. The Deponent, however, reiterates that the statements made in paragraph 10.4 clearly reveal that the State Respondents had been limping with the lame proceeding since 1994, though the Enquiry Officers successively exonerated the Applicant in 1997 and 1999. The inordinate, whimsical and unexplained delay on the part of the State Government of not having acted upon the Enquiry Reports submitted as far back as on 29.11.1997 and 14.10.1999, till causing grave prejudice and injustice to the Applicant, consequently his promotion to the post of I.F.S has not been given till date.

to appropriately defend his case.

That, the statements made in paragraphs 10.6 to 10.10 of the Written Statement being mere repetitions of an issue that has already been decided in favour of the Applicant by this Hon'ble Tribunal in Original Application No. 260 of 2002, the same can only be perused as "delaying tactics" by the State authorities in a malafide exercise of powers. It is interesting to note that the State Government has tried to shift the Onus of delay on the U.P.S.C, whereas a bare perusal of the Written Statement filed by the Respondent No.1 clearly reveals that the said authority, in turn, trying the shift the Onus on the State Government, to the prejudice of the Applicant.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal

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8.

That, the Applicant humbly states that considering the facts that he was fully exonerated from the charges pending against him on 16.07.2002 and the Select List in question being valid till 29.07.2002, there could not have been any justification on the part of the authorities of not granting him promotion to the Cadre of I.F.S. The contumacious attitude of the authorities is glaringly evident from the Written State itself and this Hon'ble Tribunal, in exercise of its powers, may be pleased to call upon the authorities to explain the inordinate delay in granting the relief due to him, despite having filed a compliance report before this Hon'ble Tribunal on 03.01.2005, in order to avoid the contempt proceeding so initiated by the Applicant.

11. That, the Applicant humbly submits that the instant Original Application is liable to be allowed by imposing a heavy cost on the authorities for having caused mental trauma and prejudice to the Applicant.

12. statements made this paragraph and in paragraphs <u>//</u> my knowledge and those made in being matters of record are true to my information derived therefrom, which I believe to be true and the rest are my humble submission before this Hon'ble tribunal. I have not suppressed any material facts.

And I sign this affidavit on this the day of January, 2008 at Guwahati.

Identified by me

Prasante fran Changlahd.

Advocate

DEPONENT

Solemnly affirm and declare before me by the deponent identified by

. L. Gogoi Thued, Advocate, Guwahati on this the 23rd day of January 2008 at

Guwahati.

Central Administrative Tribunal



## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

# WAHATI BENCH

### IN THE MATTER OF

O.A No. 47 / 2007

Shri Prasanta Pran Changkakati

. . . . . Applicant

गुवाहाटी न्यायपीठ Cuwahati Bench

Central Administra

-Versus-

The Union of India & others

. . Respondents

#### AND

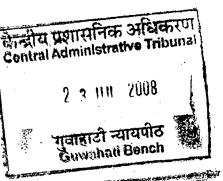
### IN THE MATTER OF

An application for acceptance before this Hon'ble Tribunal for filing rejoinder.

### <u>AFFIDAVIT</u>

- I, Shri Prasanta Pran Changkakati, son of Late Bishnu Pran Changkakati, aged about 48 years, resident of Rehabari, Guwahati 781 008, in the District of Kamrup, Assam, do hereby solemnly affirm and state as follows:
- 1. That I am the applicant in the instant case and as such I am fully acquainted and well conversant with the facts and circumstances of the instant case.

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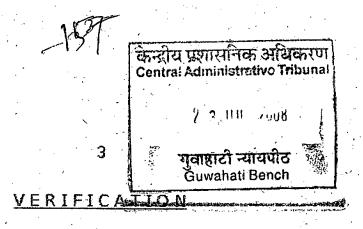


- That the instant case was fixed for hearing on 23-01-2008.
- 3. That presently the aforesaid matter is fixed for hearing before this Hon'ble Tribunal.
- That the applicant wants to file a rejoinder to the affidavit-in-opposition filed by the Respondent No. 1 and 2 and as such craves leave of the same.
- That the application is filed bonafide and for the ends of 5. justice.

In the premises aforesaid it is therefore prayed that Your Honour would be pleased to accept the rejoinder filed by the applicant for the ends of justice.

And for this act of kindness, the applicant as in duty bound shall ever pray.

Verification __ page/3



I, Shri Prasanta Pran Changkakati, son of Late Bishnu Pran Changkakati, aged about 48 years, resident of Rehabari, Guwahati – 781 008, in the District of Kamrup, Assam, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraphs ______ are true to my knowledge, those made in paragraphs ______ are true to my information derived from the records and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this the  $2l^{Sl}$  day of January July 2008 at Guwahati.

DEPONENT

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## BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH GUWAHATI

IN THE MATTER OF:

O.A.No. 47/07

Sri P.P.Changkatkoti

..Applica

-Vs-

Union of India & ors.

.....Respondents विहारी न्यायपी है

-AND-

#### IN THE MATTER OF:

Order dated 04.03.10 and 29.03.10 passed in O.A.No. 47/07 whereby this Hon'ble Tribunal was pleased to direct the Respondents No. 2, 4 and 5 to move a specific self contained proposal to the Respondent no.1 highlighting all aspects on the case including the latest development.

-AND-

#### IN THE MATTER OF:

An Affidavit filed on behalf of Respondent No.2 in compliance with the Hon'ble Tribunal's order dated 04.03.0 and 29.03.10 passed in O.A.No. 47/07.

The humble affidavit on behalf of Respondent No.2 mentioned above.

### **MOST RESPECTFULLY SHEWETH:**

- 1. That I am the Commissioner and Secretary to the Govt. of Assam, Environment and Forest Department, Dispur. I have been impleaded as Respondent No.2 in the instant Original Application. I have been authorized to file this Affidavit on behalf of Respondent No.4
- 2. That in the said O.A. the humble deponent filed a Written Statement.
- 3. That during the course of hearing the Hon'ble Tribunal was pleased to pass orders dated 04.03.10 and subsequently on 29.03.10 directing the Respondents No. 2, 4 and 5 to move a specific self contained proposal to Respondent No.1 highlighting all aspects of the case including the latest development.

Further, ordered vide 29.03.10 to file the same within two (2) weeks by fixing the matter on 19.04.10.

4. That the humble deponent in compliance with the above orders passed by this Hon'ble Tribunal, forwarded a proposal vide letter dated 05.04.10 under no. FRE.62/2007/31 to Respondent No.1 to the O.A. on the subject of Control Administrative Tribunel न्त्रीय प्रशासनिक न्यायालव

" Nomination of IFS to Sri P.P.Changkakoti - Prposal".

5. That in the said proposal it was specifically mentioned as : -

"The vacancies available in 2010 are two nos. following the retirement of Sri Shaharul Islam on 30.09.09 and Sri Hari Prasad Pukhan on 30.11.09 in View Bench of Sri P.P.Changkakoti exonerated vide order no. FRE.127/81/368 dated 16.07.02 and Integrity Certificate in respect of the relevant period for the said meeting of Selection Committee held on 05.11.01 issued by the then Chief Secretary, the Ministry of Environment and Forest is requested to take appropriate action in respect of nomination of Sri P.P.Changkakoti to the IFS".

A copy of the said proposal is enclosed herewith and marked as ENCLOSURE-1

- That the humble deponent begs to state that the Govt. of India is the Appropriate Authority to appoint the applicant to the IFS as the Govt. of Assam has already issued the Integrity Certificate on 16.06.04 for the relevant period of the meeting of Selection Committee held on 05.11.01.
- 7. That the humble deponent begs to state that at present there are subsequent Departmental Proceedings pending against the present applicant and hence the State Govt. is not in a position to issue the Integrity Certificate for subsequent period.
- 8. That this affidavit has been filed bonafide with due regard to comply with the Hon'ble Tribunal's orders.

9.	That	the	statements	made	in	this	Affidavit	and	in	Paragraphs
paragraphs case derived submission be	theref	rom	which I beli	eve to	ar	a hai	na mak-			_

And I sign this Affidavit on this 13th day of April, 2010 at Guwahati.

Identified By:

Monalisa Deka

(Advocate)

Bir Bhadra Hoggu

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### GOVERNMENT OF ASSAM ENVIRONMENT AND FORESTS DEPARTMENT DISPUR, GUWAHATI.

No. FRE.62/2007/31

Dated Dispur, the 5th April, 2010

From

Shri B.B. Hagjer, IAS

Commissioner & Secretary to the Govt. of Assam,

Environment and Forests Department,

Dispur, Guwahati-6

To

The Secretary,

Government of India, Ministry of Environment & Forests.

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

Sub

Nomination of IFS to Shri P. P. Changkakoti - proposal.

Ref. :

Hon ble CATS order dtd. 4/3/2010 passed in the O.A. No. 47/2010.

Sir,

With reference to the above, I have the honour to inform you that in compliance of the Hon ble Central Administrative Tribunal in its order dated 04.03.2010 in O.A. No. 47/2007 (Sri P.P. Changkakoti - Vs - Union of India and Others) directed the Respondents No. 2, 4 & 5 to move a specific self-contained proposal to the Respondent No. 5 on the said aspect highlighting all aspects of the case including the latest development. The following details are brought to your kind attention:-

1. Sri P.P. Changkakoti, A.F.S. filed an O.A. No. 260/2002 before the Hon'ble Central Administrative Tribunal. The Hon'ble Tribunal vide its order dated 21:02.2003 directed as follows:

"The respondents are accordingly directed to take up the matter with right earnest for appointing the applicant to the Indian Forest Service in terms of regulation on the basis of recommendation made by the Selection Committee held on 05.11.2001 and pass appropriate orders forthwith in accordance with law keeping in mind the observations and directions made in the OA".

2. Thereafter, St. P.P. Changkakoti filed a contempt petition before the Hon'ble Tribunal against non-implementation of their order dated 21.02.2003. The Hon'ble Tribunal vide its order dated 10.03.2005 have disposed of the said contempt petition with a direction to pass appropriate orders in compliance with the directions contained in the said Order. The operative portion of the said Order of the Hon'ble Tribunal is extracted below:

"From what is stated above, it would appear that the Government of Assam has done everything which is required for compliance of the direction issued in the Order of this Tribunal dated 21.03.2003 in OA No. 260/2002 and that it is only because of the unhelpful attitude of the UPSC, there is delay in complying with the direction issued by the Tribunal. Taking into account all the circumstances of the case and in view of the inordinate delay of more than two years in the matter of compliance of the directions issued in the OA, we direct the contemners to send a copy of this order to the UPSC within two weeks from the date of receipt of the same from this Tribunal to enable the UPSC to proceed with the matter and to include the name of the petitioner in the Select List for the year 2001 without any further delay. We make it clear that in view of what is stated above.

Central Administrative Informed केन्स्रीय प्रशासिक स्थायालय

19 APR 2010

Guwahati Bench

it is not necessary for the respondents to have further correspondence with UPSC in the matter for including the name of the petitioner in the Select List for the year 2001 for promotion to the IFS-in other than forwarding a copy of this Order to UPSC. We hope that the UPSC in compliance of the directions contained in this order, within a period of two months from the date of receipt of copy of the judgement."

3. The UPSC (Respondent No. 3) also vide their affidavit filed before the Hon'ble Chillen Banch Guwahati Bench, on OA No.47/2007, stated in Para - 8.1 that the UPSC vide their letter tated a required and a republic stated in Para - 8.1 that the UPSC vide their letter tated a republic stated in Para - 8.1 that the UPSC vide their letter tated a republic stated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8.1 that the UPSC vide their letter tated in Para - 8. 28/04/2005 declared inclusion of the name of Shri P. P. Chankakoti in the Select List of 2001 as unconditional and final and that the appointment of officers included in the Select List to Indian

Forest comes under the purview of Government of India, Ministry of Environment and Forest.

The vacancies available in 2010 are two nos. following the retirement of shri Shaharul Islam on 30/09/2009 and Shri Hari Prasad Pukhan On 30/11/2009. In view of Shri P. P. Changkakoti being exonerated vide order no FRE 127/81/368 dated 16/07/2002 and integrity certificate in respect of the relevant period for the said meeting of selection Committee held on 05/11/2001 issued by the then Chief Secretary, the Minister of Environment and Forest is requested to take appropriate action in respect of nomination of Shri P. P. Changkakoti to the IFS.

Your faithfully.

3d1-

Commissioner & Secretary to the Govt. of Assam, Environment and Forests Department,

Memo. No. FRE.62/2007/31-A

Dated Dispur, the 5th April, 2010

APR 2010

- Mrs. Manjula Das, Senior Government Advocate, Central Administrative Tribunal, Guwahati - 5, for favour of kind information and necessary action. She is requested kindly to prepare an additional Affidavit for appraising the Hon'ble Central administrative Tribunal on the compliance of the orders. Dtd.4/3/2010.

By order etc.,

Commissioner & secretary to the Govt. of Assam, Environment and Forests Department...

Verdict of Hon, ble CAT, Guwahati, Bench on OA.No.260 of 2002, Dtd.21/2/2003

Verdict of Hon'ble CAT on Contempt Petition No.35/03 in OA. No. 260/02, dtd.26/5/2003.

- Copy of show cause notice issued to P.P. Chnagkakoti vide letter No.FRE.1/2002/72 dtd.16/8/2002
- Copy of Suspension order of Shri P.P. Changkakoti issued vide notification No.FRE.92/2002/Pt-I/59 dtd, 6/10/2003.
- Vacancy Position as on 01/01/2010.
- Personal data of eligible SFS officer.
- Copy of inter-se-seniority list.
- Copy of Integrity Certificate issued on 16-6-2004
- Copy of dropping Departmental Proceedings in 16-7-2002.
- 10. Annexuré 4.1 (A).
- 11. Annexure 4.1 (B).
- Statement of Annual Confidential Report.
- 13. Withholding of Integrity Certificate.
- 14. Draft Charge issued to Shri P. P. Changkakoti vide letter No.ERE.92/2002/Pt-I/115, dtd. 23.12.2003.
- 15. Copy of re-instate order of Shri P. P. Changkakoti issued vide notification No.FRE.92/2002/Pt-I/210, dtd.25/4/2007.

16. Copy of posting ion respect of Shri P. P. Changkakoti issued vide notification No.FRE.30/2007/Pt/5-B, 28-6-07.

17. Copy of modified posting order in respect Shri P.P. Changkakoti issued vide notification No.FRE 19/2000/pt/63-A, dated 1/3/08

18. Copy of notification for appointing enquiry officer issued vide letter No.FRE.92/2002/pt.1/236 dated 25th January, 2010

19. Copy of Prosecution sanction issued vide order No.FRE.92/2002/pt/208 dated 25th April,

20. Copy of interim order issued by Hon'ble CAT on O.A. No.47/07 dated 4/3/2010.

21. Service profile.

22. Other details.

ेकाम्ब Administrative Tribundi क्रान्द्रीय प्रशासनिक न्यायालय

1 9 APR 2010

Guwahati Bench गुबाहारी न्यायपीठ