

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 99/2007.....

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

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SECTION OFFICER (Judl.)

Faribis
26.9.17

CENTRAL COMMISSION FOR
HUMAN RIGHTS

ORDERS SHEET

1. Original Application No. 99/07

2. Mise Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Achintya Kr. Sinha vs Union of India & Ors

Advocate for the Applicant(s) Mr. Chandrea Sekhar Sinha

Advocate for the Respondant(s) Adl. C.G.S.C. Mr. U. Das...

Notes of the Registry Date Order of the Tribunal

23.4.2007 Present: The Hon'ble Mr. G. Shanthappa
Member (J)

The Hon'ble Mr. G. Ray, Member (A)

Heard Mr. C.S. Sinha, learned counsel for the Applicant. As directed by this Tribunal in O.A. No.217/2006 Respondents have disposed of the representation against which present O.A. is filed. The impugned order at Annexure-A1 is under challenge. The Applicant has made out a case for issuing Notice to the Respondents. Accordingly, we direct the Registry to issue Notice to the Respondents.

In the meantime, Ms. U. Das, learned Addl. C.G.S.C. represented Union of India & UPSC, i.e. the Respondent Nos. 1 & 4. She is permitted to file Memo of Appearance and file

Contd.. P/2

104

Contd.

23.4.2007

reply statement after obtaining Para Wise Comments. Learned counsel for the Applicant is directed to supply necessary copies to issue Notice to the Respondents and also two copies to Ms. U. Das, Addl. C.G.S.C.

Call on 07.06.2007.

Received notice
from Respondent No. 1 & 4
Ms. Das.
Addl. C.G.S.C.
24/4/07.6.2007

Member (A)
/bb/

Member (J)

Ms. U. Das, learned Addl. C.G.S.C. requested time to file reply statement on behalf of Respondent Nos. 1 & 4. Let it be done within four weeks time.

Post the case on 9.7.2007. In the meantime other Respondents are also at liberty to file reply statement.

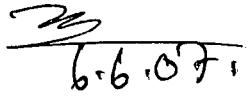

Vice-Chairman

3/5/07. D/No. 446 to 451
DT: 7/5/07 /bb/

Notice duly served
on R. 1 and 4.

9.7.07. Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 2.8.07. Registry is directed to verify and to report whether the notices are served or not for all the respondents.


Vice-Chairman


lm

WLS not bld.


WLS not bld.

3-
OA 99/07

-3-

17-7-07

verified. Notices served on R-1 & 4 through addl. C.Cr.S.C, Miss U. Das on 24/4/07.

Notices issued by regd A/D post to R-2,3,5 to 8 on 7.5.07. Service report awaited.

lm

28.9.07

yet.

Verdict
S.O.D. 17/7/07

Cess
17/7/07

WB not filed.

23
24.8.07

WB not filed.

23
27.9.07

21. 28.9.07
Pl. Comply

08.11.07.

order dt. 28/9/07
Sent to D/Section for
issuing to R-1 to 8
by speed post.

23
3/10/07. D/L No-1121 to 1128
Dt= 30/10/07.

WB not filed.

23
7.11.07.

27.8.07.

Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 28.9.07.

Vice-Chairman

No reply has been filed in this matter as

Call this matter on 8th November, 2007

awaiting reply from the Respondents.

Send copies of this order to each of the Respondents in the address given in the Original Application; so that they would come ready with the written reply in this matter by the date fixed.

Call this matter on 7.11.2007.

9
(Khushiram)
Member(A)

MO
(Manoranjan Mahanty)
Vice-Chairman

lm

Ms.U.Das, learned Addl.C.G.S.C for Respondent No.1 has filed the written statement. There is no representation for the applicant. Counsel for the Respondents wants to serve the copy of the written statement in the address given in the application. She is directed to serve the copy of the written statement to the applicant by Speed Post.

Call this matter on 1.12.2007.

1
Member(A)

O.A. No.99/2007

13.12.2007

Written statement has already been

filed in this case. Ms. U. Das, learned Addl.

Standing counsel for the Union of India

states that a copy of the written statement

has been sent to the Applicant on

08.11.2007 by Registered Post. She

undertakes to file postal receipt in course

of the day.

None appears for the Applicant nor

the Applicant is present.

Subject to question of laws to be

examined at the final hearing, this case is

put in down of trial with the cause being admitted and set for hearing on

28/01/2008.

Send a copy of this order to the

Applicant by post in the address given in

the Original Application. A copy of this

order be also sent to: Mr.C.S.Sinha,

Advocate, Agartala, Tripura by post.

(Gautam Ray)
(Gautam Ray)
Member (A)

(M.R.Mohanty)
(M.R.Mohanty)
Vice-Chairman

/bb/

Pl. send the order copies
to the Applicant.

As per order dt. 13/12/07
Copy sent to D/Section
for issuing to the applicant
and another copy issuing
to Mr.C.S.Sinha
Advocate, Agartala,
Tripura by post.

4/12/07. D/No-1796 found
1797

D/L=14/12/07

Dr. 9-1-08
Ms. U. Das, Addl. Case
has filed a ~~copy~~ copy
to the Secretary to Speed
Post and sent by her on
8-11-07. Dr. 9-1-08

28.01.2008. None appears for the Applicant nor is the Applicant present. Ms. Usha Das, learned Addl. Standing Counsel appearing for the Union of India seeks adjournment. Accordingly, call this matter on 3rd March, 2008.

33
25.1.08.


(Khushiram)
Member(A)

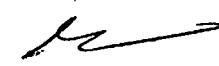

(M.R. Mohanty)
Vice-Chairman

18. 2. 08

Rejoinder submitted by Applicant to W/S by Exptt No. 1, Service Copy keeps in 'C' file.

PAJ

03.03.2008. Counsel for the applicant has sent letter of absence. Mrs U.Das, learned Addl. Standing counsel for the Respondents is also not present. Call this matter on 20.03.2008.


(Khushiram)
Member(A)

The case is ready

pg -

My
19.3.08

0.A. 99/07

20.03.2008. Call this matter for hearing on 13.05.2008.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

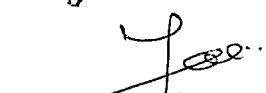
12.5.08

'bh/

13.05.2008. Mr C.S. Sinha, learned Counsel appearing for the Applicant, is present. None for the Respondents. In the said circumstances, call this matter on 17.06.2008 for hearing.

Send copies of this order to the Respondents in the addresses given in the O.A. so that they shall come ready for participating in the hearing in this case.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

Order dt. 13/5/08
Send to D/Section
for issuing to all
the respondents by
post.

Ref. D/AO-2427 to 2434
15/08. Dt. 23/5/08.

nkm

The case is ready for
hearing. 16.6.08.

O.A. 25/07

01.04.2008

Call this matter on 29.04.2008.

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

C.P. 18/07 (O.A. 25/07)

01.04.2008

Call this matter on 29.04.2008
alongwith the O.A.

17.06.2008 Mr C.S. Sinha, learned Counsel
appearing for the Applicant, is present.

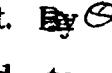
Call this matter on 22.07.2008 for
hearing.

Mr G. Baishya, learned Sr. Standing
Counsel for the Union of India, takes notice of
the next date of hearing of this case.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

nkm

22.07.08 Mr C.S. Sinha, learned counsel
appearing for the Applicant and Mr
K. Das, learned Addl. Standing counsel
for the Respondents are present. By 
consent the case is adjourned to
01.09.2008 for hearing.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

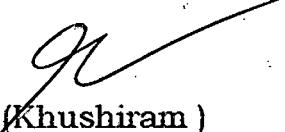
The case is ready
for hearing.

01.09.08

Mr. C.S. Sinha, learned counsel for the Applicant is present. Mr. K. Das, learned Addl. Standing counsel for the Respondents is also present.

On consent of parties call this matter on 17.09.2008.

16.9.08.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

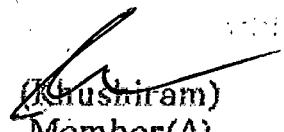
pg

17.09.2008 On the prayer of the learned Counsel for the parties, call this matter on 19.11.2008 for hearing.

The case is ready
for hearing.

18.11.08

nkm

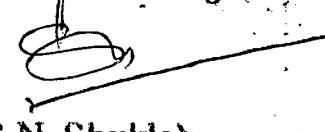

(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

16.12.08.

nkm


(S.N. Shukla)
Member (A)


(M.R. Mohanty)
Vice-Chairman

17.12.2008

On the prayer of Mr. C. S. Sinha, learned counsel for the Applicant the hearing of this part heard matter stands adjourned to be taken up on 10th February, 2008.


(S.N. Shukla)

Member(A)


(M.R. Mohanty)

Vice-Chairman

6
O.A.99/2008

10.02.2009 Call this matter on 23.03.2009 for hearing.

19.11.2008 Hon'ble Mr. M.R.Mohanty

19.11.2008 Hon'ble Member (A) Mr.S.N.Shukla

19.11.2008 Hon'ble Member (J) Mr.A.K.Gaur

19.11.2008 /bb/

✓
(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

23.03.2009

It is seen from the record that vide order
dated 19.11.2008 this matter was heard by a
Bench comprising of Hon'ble Mr.M.R.Mohanty
and Hon'ble Member (A) Mr.S.N.Shukla.

✓
23.03.09

23.03.09
/bb/

Place the record before the Hon'ble
Vice-Chairman Mr.M.R.Mohanty for constituting
the Bench.

✓
(Khushiram)
Member (A)

✓
(A.K.Gaur)
Member (J)

20.3.09

Miss U. Das
Add. CGSC. filed
Memo of Appearance
on behalf of Regd.
No.1.
20/03/09

/bb/

23/03/09
(Date) Place this matter before
the DB (Hon'ble M(A) & M(J))
on 25/03/09 for hearing.

The case is ready
for hearing.

✓
12.5.09.

✓
V.C.

25.03.2009

List on 13.05.2009 for hearing.

19.11.2008 Hon'ble Mr. M.R.Mohanty

19.11.2008 Hon'ble Member (A) Mr.S.N.Shukla

19.11.2008 Hon'ble Member (J) Mr.A.K.Gaur

✓
(Khushiram)
Member (A)

✓
(A.K. Gaur)
Member (J)

/bb/

The case is ready
for hearing.

13.05.2009 Call this matter on 30.06.2009
for hearing.

29.6.09.

M.R.Mohanty)
Vice-Chairman

1m

Khairwal

30.06.2009 Call this Division Bench matter on
20.08.2009 for hearing.

Send copy of this
order to the Applicant
and to the Respondents in
the address given in O.A.

20/8/09

/bb/

(M.R.Mohanty)
Vice-Chairman

20.08.2009

None appears for the Applicant
nor the Applicant is present. However,
Ms. Usha Das, learned Addl. Standing
counsel representing the Respondent
No.1 is present.

By way of grant of last opportunity
to the Applicant, this case stands
adjourned to be taken up on 15.10.2009.

Send copies of this order to the
Applicant and to the Respondents in the
address given in the O.A.

(M.K.Chaturvedi)
Member(A)

(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

/bb/

15.10.2009

None appears for the Applicant.
Mr.C.S.Sinha, learned counsel for the
Applicant has furnished a leave note. Ms.
U.Das, learned Addl. Standing counsel
representing the Respondents is present.

Call this matter on 02.12.2009 for
hearing.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

The case is ready
for hearing.

1.12.09

0005.00.00 no return till 11/1/09

02.12.2009.

On the written request of Shri

granted to

C.S.Sinha, learned counsel for the applicant case is adjourned to 8.1.2010.

(Madan Kr. Chaturvedi)

(Mukesh Kr. Gupta)

① W/S filed by R.No-1.
Other respondents from
Guwahati.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

27.1.2010 /pgf

08.1.2010

Ms.Usha Das, learned counsel appearing for

the Respondents state that she has received telephonic information from the learned counsel for the Applicant that due to cancellation of flight and because of climatic reasons, he is unable to come to Guwahati to attend the Court. On the other hand a written communication has been received from the learned counsel for the Applicant dated 2nd January 2010 wherein it is stated that a Writ Petition is pending before the Agartala Bench of Hon'ble Gauhati High Court on the same date. Since he is required to appear in said case and therefore, he would not be able to appear before this Tribunal.

We find that repeated adjournments have been granted to the Applicant for one reason or the other. This matter is of the year 2007 and with reluctance we adjourn the matter as a last chance.

List the matter on 29.1.2010. It is made clear that no further adjournment will be allowed.

Copy of this order be sent to the learned counsel for the Applicant by Speed Post.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

vide D.No- 165

Date:- 18-1-2010

27.1.2010

A letter dated 27.1.2010 (at flight)
(by fax) received from
Shri C.S.Sinha, advocate
for adjournment of hearing
of O.A 99/2007, the same is
placed before the Hon'ble Court
for perusal.

27.1.10

29.01.2010

Written request has been received from Mr C.S.Sinha praying for adjournment of the case on and after 3.2.2010 on medical ground. Learned counsel has further undertaken to appear before this Tribunal "on the next date so fixed without fail." In the circumstances adjourned to 8.2.2010.

The case is ready
for hearing.


5.2.2010


(Madan Kr Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

9-3-2010.

08.02.2010

Heard counsel for the parties.
Hearing concluded. Judgment pronounced in open court, kept in separate sheets. The O.A is dismissed.


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

Judgment/Final order
dated 8/2/2010 Prepared
and Sent to the S/Section
for issuing the all the
Judgements- by Post and
issued to the Advocate
for both Sides vide
No 518 to 522
dated 09-3-2010

/pg/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....
O.A. No. 99 of 2007.

DATE OF DECISION: 08-02-2010.

Shri Achintya Kumar Sinha, IFS
.....Applicant/s

Mr C. S. Sinha
.....Advocates for the
Applicant/s

-Versus -

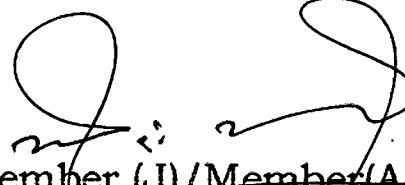
Union of India & Ors.
.....Respondent/s

Miss U. Das, Addl. C.G.S.C
.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No


Member (J)/Member (A)

14

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 99/2007.

Date of Order : This the 8th Day of February, 2010.

THE HON'BLE MR MUKESH KUMAR GUPTA, JUDICIAL MEMBER

THE HON'BLE MR M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Achintya Kumar Sinha, IFS

Managing Director,

Tripura Rehabilitation Plantation Corporation Ltd.,

Place Compound (Noeth),

Agartala - 799001.

.....Applicant

By Advocate Mr C.S.Sinha.

-Versus-

1. **Union of India**

Represented by the Secretary,

Ministry of Environment of Forests,

Government of India,

Paryavaran Bhawan, CGO Complex,

Lodi Road, New Delhi - 110 003.

2. **The State of Tripura,**

represented by the Chief Secretary,

Govt. of Tripura,

Agartala, Tripura - 799001.

3. **State of Manipur,**

represented by the Chief Secretary,

Govt. of Manipur, Imphal, Manipur.

4. **Union Public Service Commission,**

represented by the Secretary,

Dholpur House, Shahjahan Road,

New Delhi - 110001.

5. **Shri B.N.Mohanty, IFS**

C/o Principal Chief Conservator of Forests,

Manipur, Imphal.

6. **Dr A. Rastogi, IFS**

Director, Ministry of Defence,

Government of India,

South Block, New Delhi.

7. Dr. Ajay Kumar, IFS
C/o Principal Chief Conservator of Forests,
Manipur, Imphal.

8. Shri P.K. Pant, IFS
Conservator of Forsts,
Aranya Bhawan,
Pt. Nehru Complex, Kunjavan,
Agartala – 799006.Respondents

By Advocate Miss U. Das, Addl.C.G.S.C for Respondent No.1.

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER(J)

By the present O.A applicant seeks the following reliefs.

- a. To quash the MoEF order No.22012/51/2006-EFS.II dated 27.11.2006.
- b. To direct the respondent authorities to antedate the promotion w.e.f. 16.12.89 and seniority of the applicant by re-fixing '1985' as year of allotment in IFS M.T.
- c. Any other relief to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed proper by the Hon'ble Tribunal.*

Admitted facts are applicant, a State Forest Service Officer, Tripura was promoted to Indian Forest Service (IFS) with effect from 10.3.1992. Subsequently his year of allotment was determined as 1988. Vide order dated 18.5.1995, he was placed below Sri R. Das, a direct recruit officer of 1988 batch. Aggrieved by an order dated 18.5.95 he preferred O.A.276/96 before this Tribunal seeking a direction to assign him "1985", a year of allotment with all consequential benefits including correct assignment of seniority and promotion with retrospective effect. Said O.A was decided vide the order dated 24.3.1999 enabling the applicant to file representation

highlighting his all grievances and if such a representation is preferred, the same be considered and disposed of by passing a reasoned speaking order. Pursuant thereto he preferred a fresh representation dated 18.12.99, wherein he had highlighted that he became eligible for promotion/induction to IFS in 1982 as well as various other aspects. He was also afforded an opportunity of personal hearing. He made further representation dated 20.3.2000 which was ultimately disposed of vide order dated 9.8.2000 explaining that he was entitled to the benefit of officiation of cadre post with effect from 15.3.1991 and assigned him "1987", as year of allotment. Applicant being satisfied with said order did not make any representation. It is only after a judgment in O.A.15/1995, Ibobi Singh decided on 20.1.1999, he made further representation. Said judgment led to amendment in the cadre strength regulation, which was notified on 12.9.2005 and the vacancy in the Tripura segment was increased from 7 to 9, and given effect retrospectively from 29.3.1988. Thereafter, seeking extension of the benefits granted to Ibobi Singh, he preferred O.A.217/2006. Said O.A had been disposed of at the admission stage vide order dated 22.8.2006 requiring the respondents to consider his pending representation by passing a reasoned speaking order. In compliance thereto the impugned order dated 27.11.2006 (Annexure-1) had been passed with the following relevant observations.

" In the present representation dated 20.12.2005 under consideration Shri Sinha is requesting for extension of similar benefits as extended to Shri Ibobi Singh. The representation of Shri Sinha in the context of the case of Shri Ibobi Singh and postponement of the cadre review notification Principal

Chief Conservator of Forests Manipur-Tripura Joint Cadre has been examined and the following facts are noted:-

- i) In the case of Shri Ibobi Singh, his name was included in the Select List of 1988 in the meeting held on 22.2.1989. However, since there was no vacancy, he could not be appointed to the IFS. Shri Ibobi Singh was subsequently appointed to the IFS on the basis of inclusion of his name in the Select List of 1990 in the meeting held on 31.12.1989, and he was appointed from 30.8.90. As the cadre review notification has been given effect to from 29th March, 1988, a clear vacancy became available consequent to the pre-ponement cadre review and Shri Ibobi Singh was allowed the benefit on the basis of inclusion of his name in the Select List 1988 meeting held on 22.2.89.
- ii) In the case of Shri A.K. Sinha, the Selection Committee in its meeting for the Tripura segment held on 31.12.88, recommended only one name of Shri A.K. Roy. Shri Sinha was not included in the Select List of 1988 and was appointed to the IFS on the basis of Select List of 1989.
- iii) The increase in the posts consequent to pre-ponement of the cadre review does not entitle an officer automatic promotion from back date unless his name is recommended by the Selection Committee and included in the relevant Select List. Therefore, Shri Sinha's seniority in the IFS cannot be pre-poned, merely because of the pre-ponement of the cadre review as his name was not included in the earlier Select List. As such Shri A.K. Sinha's claim for antedating his seniority cannot be accepted and his representation is accordingly rejected." (emphasise supplied)

Mr C.S.Sinha, learned counsel contends that as the vacancy had been increased in the year 1988 vide aforesaid amended notification dated 12.9.2005, there remains a vacancy in the year 1986 as well as 1989 against which he could have been adjusted. Therefore, he claims a parity with Ibobi Singh by antedating his promotion and seniority

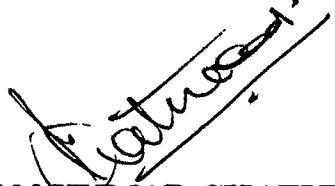
with effect from 16.12.1989, refixing his year of allotment year as 1985.

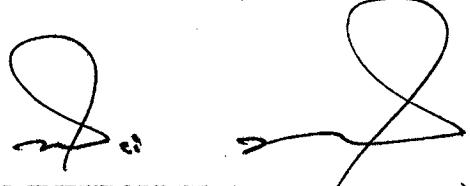
2. Contesting the claim, the respondent No.1 has filed reply and stated that in case of Ibobi Singh he was included in the select list of 1998 in the meeting held on 22.2.1989, but as there was no vacancy at the time of meeting of the Selection Committee he could not be appointed to IFS. Sri Singh was subsequently appointed to IFS on the basis of inclusion of his name in the Select List of 1990 in the meeting held on 31.12.1989 and was appointed from 30.8.1990. The facts of applicant's case is not at par with Ibobi Singh as he had not been recommended and included by Selection Committee. On the other hand, the name of Shri A.K.Roy was recommended and included in the select list of 1989 by the Committee meeting for the Tripura segment held on 31.12.1988. Thus it was emphasized that the cadre review does not entitle an officer automatic promotion from back date unless his name is recommended by the Selection Committee and included in the relevant select list. Ms U. Das, learned Addl. C.G.S.C vehemently contended that applicant seeks only to antedate his promotion and seniority without seeking appropriate relief for convening Selection Committee meeting and considering his name. Unless there is a favourable recommendation for inclusion of his name in the select list no officer is entitled to antedated promotion merely because of increase in cadre strength retrospectively because of the Cadre Review.

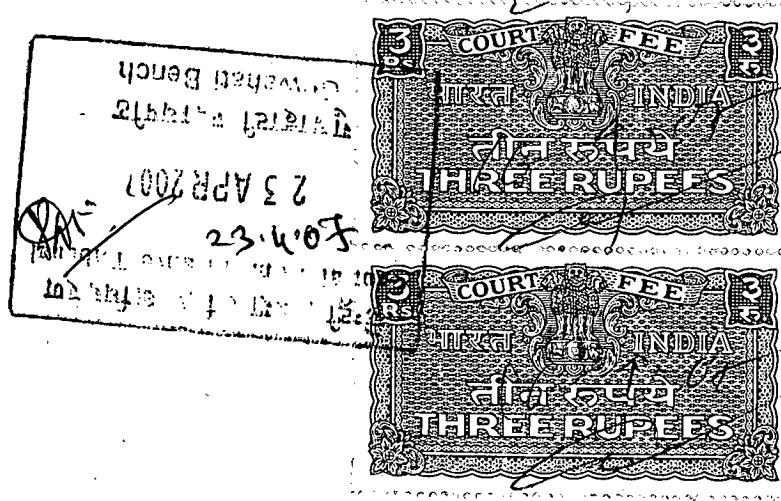
3. We have heard both sides, perused the pleadings and other material placed on record. The short question which requires consideration is whether mere increase of vacancies, by an amendment in the cadre regulation, which is given retrospective effect, would entitle the applicant for antedated seniority and promotion automatically.

4. It is not in dispute that the selection committee in its meeting held for Tripura segment on 31.12.1988 recommended only one name of Shri A.K.Roy, senior to applicant. There is no other officer who had been shown over and above the applicant. It is further not in dispute that mere increase in the vacancy position by an amendment in the regulation/cadre regulation would not make one eligible to retrospective promotion automatically. It needs to be based on review DPC/review Selection Committee. Without adopting such process i.e. Review Selection Committee, and considering the name of the officers who are eligible in the concerned year and further recommendation made by such Committee in favour of the concerned official, he is not entitled to automatic retrospective promotion. In the present case as noticed from the prayer clause, noted hereinabove, applicant has not prayed for holding/conducting review selection committee meeting. He has simply sought antedated promotion and seniority. Promotion and seniority is only consequence and is based on recommendation of the Selection Committee. Holding of Selection Committee and making favourable recommendations thus is a condition precedent for leading to passing of an order. Unless

applicant claim review Selection Committee and without crossing this hurdle he cannot claim seniority. Moreover, we may note that applicant is attaining the age of superannuation in this year as stated by Mr C.S.Sinha, learned counsel for the applicant. A position which was settled almost 20 years ago cannot be thus unsettled at this belated stage. It is well settled law that a settled service position should not be unsettled particularly when it has grave consequence and vibrant effect. The applicant at this stage seeks withdrawal of O.A with liberty to file appropriate representation. We would not be justified to grant such an opportunity, which will have a very deterrent effect particularly when we have already recorded findings on merits. In the circumstances O.A is dismissed. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
 (An application under section 19 of the Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO.

99

OF 2007 A. D.

Shri Achintya kumar Sinha:

Applicant

Versus

Union of India & others:

Respondents

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Achintya Kumar Sinha

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Submitted

Gurudas Sinha

(C. S. Sinha)
Advocate

For use by Tribunal's office

Date of filing:

Registration no.:

Registrar

Achintya Kumar Sinha

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No.

99

of 2007 A. D.

Shri Achintya kumar Sinha

... Applicant

-Versus-

Union of India and others

... Respondents

SYNOPSIS

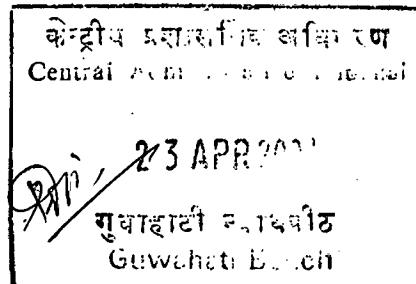
1. Applicant was promoted to Indian Forest Service (IFS) Manipur-Tripura (MT) Cadre on 31/12/1990 with '1986' year of allotment; and his earlier representation for antedating promotion from 16/12/1989, when his immediate senior Shri A. K. Roy in State Forest Service had been promoted, was not allowed by the Ministry of Environment & Forests, Govt. of India (MoEF) in its order dated 09/08/2000 (Annexure-3) on the following grounds:
 - a. Judgment in OA No. 15/95-Ibobi Singh, a member of IFS-MT, vs Union of India & others in this Honourable Tribunal was pending for review; and
 - b. Applicant's name could not be included in the Select List of 31/12/88 due to restriction on its size.
2. MoEF, on final settlement of the matter relating to OA No.15/95, corrected IFS (Fixation of Cadre Strength), Regulations, 1990 of MT cadre giving it retrospective effect from 29/03/1988 vide Notification dated 12/09/2005 (Annexure-4); and issued order dated 28/02/2006 (Annexure-7) assigning '1984' in place of earlier '1986' as year of allotment of Shri Ibobi Singh.
3. The applicant approached this Honourable Tribunal seeking relief mutatis mutandis resulting in direction dated 22/08/2006 (Annexure-12) to MoEF in OA No.217/06 to consider and dispose of applicant's representation dated 20/12/2005 within three months.

Shri Chintya Kumar Sinha

4. Applicant relied heavily up on the admitted fact vide MoEF order dated 09/08/2000 (Annexure-3) against earlier representations that his name was not included in the 1988 Select list due to restriction on its size dependent up on promotion vacancy; and the subsequent correction of wrong by the authority resulting in increase of promotion vacancy with retrospective effect from 29/03/1988. This was reflected both in his representation dated 20/12/2005 (Annexure-9) and OA No. 217/2006 (Annexure-11). MoEF failed to consider or discuss this vital issue in the context of applicant's claim for correction of 1988 Select List to include his name on the grounds as aforesaid while issuing its order dated 27/11/2006 (Annexure-1) that the applicant's "claim for antedating his seniority cannot be accepted" on the ground that he had not been included in the Select List of 1988, the very fact challenged by the applicant.
5. In view of the position explained above, the aforesaid MoEF order dated 27/11/2006 (Annexure-1) against the legitimate long pending grievance of the applicant, despite direction by this Honourable Tribunal for consideration and disposal of his representation, was arbitrary, unwarranted and unfair; resulting in failure to correct the Select List of 1988 to include applicant's name and to re-fix his year of allotment at '1985'.
6. Hence this application seeking justice.

Chintya Kumar Sinha

(C. S. Sinha)
Advocate



Achintya Kumar Sinha

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No.

99

of 2007 A. D.

Shri Achintya Kumar Sinha

... Applicant

-Versus-

Union of India and others

... Respondents

LIST OF DATES

29/03/1985 1985 Cadre review for Indian Forest Service Manipur-Tripura (IFS MT for short, herein after).

31/12/1988 Select List for promotion to Tripura part of IFS (MT) Cadre with name of Shri A. K. Roy, immediate senior to applicant in State Forest Service

16/12/1989 Shri A. K. Roy promoted to IFS

22/11/1990 1990 Cadre review for IFS (MT).

31/12/1990 Applicant promoted to IFS (MT) cadre.

09/08/2000 Disposal of applicant's representation for promotion to IFS from 16/12/89 by Ministry of Environment & Forests, Govt. of India (MoEF).

30/03/2005 Order assigning year of allotment '1986' to applicant

12/09/2005 1990 cadre review of IFS MT given retrospective effect from 29/03/88

20/12/2005 Applicant's representation in reference to Notification dated 12/09/2005 for antedating promotion to IFS from 16/12/1989.

28/02/2006 Order re-fixing 1984 year of allotment for Shri Ibobi Singh.

22/08/2006 Direction from this Honourable Tribunal in OA No. 217/2006, AK Sinha vs Union of India & others to MoEF for disposal of applicant's representation within three months.

27/11/2006 MoEF Order against applicant's representation dated 20/12/2005

C. S. Sinha
(C. S. Sinha)
Advocate

Achintya Kumar Sinha
15
B.N. Mohanty
22/26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
(An application under section 19 of the Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO.

99

OF 2007 A. D.

BETWEEN

Shri Achintya kumar Sinha, IFS, Managing Director, Tripura
Rehabilitation Plantation Corporation Ltd., Palace Compound
(North), Agartala: 799 001

... Applicant

VERSUS

1. The Union of India represented by the Secretary, Ministry of Environment and Forests, Government of India, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi: 110 003
2. The State of Tripura represented by the Chief Secretary, Govt. of Tripura, Agartala, Tripura: 799 001
3. The State of Manipur represented by the Chief Secretary, Govt. of Manipur, Imphal, Manipur
4. The Union Public Service Commission represented by the Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi: 110 001
5. Shri B.N. Mohanty, IFS care of Principal Chief Conservator of Forests, Manipur, Imphal
6. Dr. A. Rastogi, IFS, Director, Ministry of Defence, Government of India, South Block, New Delhi
7. Dr. Ajay Kumar, IFS care of Principal Chief Conservator of Forests, Manipur, Imphal
8. Shri P.K. Pant, IFS, Conservator of Forests, Aranya Bhawan, Pt. Nehru Complex, Kunjavan, Agartala: 799 006

... Respondents

Acharya Kumar Singh
S
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Manmohan Singh

DETAILS OF APPLICATION

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

The instant application is directed against the Order No. F.22012/51/2006-IFS-II dated 27th November 2006 (Annexure-1) from the Ministry of Environment and Forests, Government of India (MoEF for short, herein after) stating that the applicant's 'claim for antedating his seniority cannot be accepted'.

Copy of Order dated 27th November 2006 is annexed and marked as Annexure-1

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the application is within the jurisdiction of the Guwahati Bench of the Honourable Central Administrative Tribunal (Tribunal for short, herein after).

3. LIMITATION

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

4. FACTS OF THE CASE

4.1. That the applicant was promoted from the State Forest Service of Tripura to the Indian Forest Service Manipur-Tripura cadre (IFS- M-T for short, herein after) on the 31/12/1990, and was assigned '1986' as year of allotment as per order dated 30/03/2005 of MoEF (Annexure-2).

Copy of Order dated 30th March 2005 is annexed and marked as Annexure-2

4.2. That previous claim of the applicant for antedating his promotion with effect from 16/12/1989, when his immediate senior Shri A.K. Roy was promoted, was not considered in Order No.F.22012/10/97-IFS.II dated 09/08/2000 (Annexure-3) of MoEF on the following grounds:

- a. That the judgment rendered by the Honourable Tribunal in case of Shri Ibobi Singh, a member of Manipur part of IFS M-T joint cadre, in OA No.15/95 including inter alia the issue of number of promotion posts, was

Jehinje Kumar Singh

Manipur part

pending for review with this Honourable Tribunal against Review petition by the Union of India; and

b. That the applicant's name could not be included in the Select List prepared on 31/12/1988 due to restriction on the size of Select List dependent up on the number of promotion vacancies.

Copies of order dated 9th August 2000 annexed and marked as Annexure-3.

4.3. That in pursuance to the decision dated 20/01/1999 of the Honourable Central Administrative Tribunal, Guwahati Bench (CAT, Guwahati for short, herein after) in O.A. No.15 of 1995, Shri Ibobi Singh vs Union of India & others the Department of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions, Government of India (DoPT for short, herein after) issued Notification No.16016/6/90-AIS (II)-(A) dated 12th September 2005 (Annexure-4) for IFS (Fixation of Cadre Strength) Amendment Regulations, 2005 (Cadre Strength Amendment Regulations, 2005 for short, herein after) granting retrospective effect from 29/03/1988 to IFS (Fixation of Cadre Strength) Amendment Regulations, 1990 (Annexure-5) with eighteen posts against promotion quota in IFS M-T joint cadre; which followed that Tripura part of the said cadre had actually nine posts against promotion quota with effect from 29/03/1988 in place of seven promotion posts erroneously held as per IFS (Fixation of Cadre Strength) Third Amendment Regulations, 1985 (Annexure-6).

Copies of Notification dated 12th September 2005, Notification dated 22nd November 1990 and Notification dated 29th March 1985 are annexed and marked as Annexures 4, 5 and 6 respectively.

4.4. MoEF granted relief vide its Order No. 22012/28/04-IFS-II dated 28/02/2006 (Annexure-7) to Shri Ibobi Singh, an officer of Manipur part of the IFS M-T cadre, by re-fixing his seniority at '1984' consequent on the Cadre Strength Amendment Regulations, 2005 (Annexure-4) in place of '1986' assigned earlier.

Copies of Order dated 28th February 2006 and Notification dated 12th September 2005 annexed and marked as Annexures 7 and 4 respectively.

4.5. That following correction of wrong with retrospective effect from 29/03/1988 consequent on the Cadre Strength Amendment Regulations, 2005 vide Notification dated 12/09/2005 (Annexure-4), two clear vacancies arose in Tripura part of IFS M-T

Subhajit Kumar Saha
Date 29/01/2019

since 29/03/1988 and the position remained so on 31/12/1988, when the Select List for promotion to IFS had been prepared according to letter no.17013-12/88-IFS-II dated 09/03/1989 of MoEF (Annexure-8).

Copies of Notification dated 12th September 2005 and letter dated 9th March 1989 are annexed and marked as Annexures 4 and 8 respectively.

4.6. That the applicant submitted his representation dated 20/12/2005 (Annexure-9) to MoEF through proper channel for antedating his promotion to IFS with effect from 16/12/1989, as he had been deprived of promotion at the relevant time due to erroneous representation of number of promotion vacancies, and which wrong was subsequently corrected with retrospective effect from 29/03/1988 vide Cadre Strength Amendment Regulations, 2005 vide Notification dated 12/09/2005 (Annexure-4); and the said representation was forwarded by General Administration (Personnel & Training) Department, Government of Tripura vide letter no.F.35(74)-GA(P&T)91 dated 28/01/2006 (Annexure-10) to MoEF for antedating applicant's promotion with effect from 16/12/1989..

Copies of representation dated 20th December 2005, Notification dated 12th September 2005; letter dated 28th January 2006 are annexed and marked as Annexures 9, 4 & 10 respectively.

4.7. That according to para 4 in order dated 09/08/2000 (Annexure-3) of MoEF name of applicant could not be included in the Select List prepared on 31/12/1988 due to restriction on the size of the Select List dependent up on the promotion vacancies and the said list contained only one name, that of Shri A. K. Roy; and there being two clear vacancies on 31/12/1988 after correction of wrong with retrospective effect vide Cadre Strength Amendment Regulations, 2005 (Annexure-4); the Select List of 31/12/1988 should have been corrected by MoEF by including applicant's name next to Shri A. K. Roy, being the applicant's immediate senior in State Forest Service, and by simultaneously re-fixing his seniority at '1985' year of allotment at par with that of Shri A. K. Roy.

Copies of order dated 9th August 2000 and notification dated 12th September 2005 are annexed and marked as Annexures 3 and 4 respectively.

4.8. That the applicant submitted OA No.217/2006 (Annexure-11) before this Honourable Tribunal as his representation dated 20/12/2005 (Annexure-9) had not

Jehinly Kumar Singh

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been considered by the respondent authority; and this Honourable Tribunal issued direction thereon vide order dated 22/08/2006 (Annexure-12) to MoEF to consider and dispose of the applicant's representation within three months.

Copies of OA No.217/2006, representation dated 20/12/2005 and CAT order dated 22/08/2006 are annexed & marked as Annexures 11, 9 & 12 respectively.

4.9. That MoEF failed to appreciate the direction of this Honourable Tribunal vide order dated 22/08/2006 (Annexure-12) and rejected the legitimate and long pending claim for relief by the applicant vide MoEF order dated 27/11/2006 (Annexure-1) by stating that applicant's 'claim for antedating his seniority cannot be accepted' on the ground that his name was not included in 1988 Select List without due consideration or discussion about the admitted fact as indicated in paragraph 4.2 of this application, which was relied up on by the applicant as grounds for relief both in his representation dated 20/12/2005 (Annexure-9) and subsequent OA No.217/2006 (Annexure-11); and MoEF order dated 27/11/2006 was, therefore, casual, arbitrary and unreasonable, and the applicant should have been given the relief as indicated in paragraph 4.7 of this application.

Copies of order dated 22/08/2006, MoEF order dated 27/11/2006, representation dated 20/12/2005 and OA No.217/2006 are annexed & marked as Annexures 12, 1, 9 & 11 respectively.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS

5.1. For that the respondent authority refused, against applicant's representation dated 20/12/2005 (Annexure-9), extension of legitimate relief arising out of correction of wrong vide Cadre Strength Amendment Regulations, 2005 (Annexure-4), which led to increase in promotion quota in Tripura part of IFS M-T with effect from 29/03/1988.

5.2. MoEF ignored the fact that applicant's claim had not been considered earlier vide order dated 09/08/2000 (Annexure-3) on the ground that (a) his name could not be included in the Select List prepared on 31/12/1988 due to restriction on the size of the Select List, which depended up on the number of promotion vacancies, and (b) as the judgment by the Honourable Tribunal in case of Shri Ibobi Singh in OA No. 15/95 was pending for review; and the fact that the aforesaid issue had finally been settled as

Shri Ibobi Singh
per Cadre Strength Amendment Regulations, 2005 (Annexure-4) followed by grant of consequent relief to Shri Ibobi Singh vide order dated 28/02/2006 (Annexure-7).

forwards Mr
part 3/

per Cadre Strength Amendment Regulations, 2005 (Annexure-4) followed by grant of consequent relief to Shri Ibobi Singh vide order dated 28/02/2006 (Annexure-7).

5.3. For that there were two clear vacancies against promotion posts in Tripura part of IFS M-T Joint Cadre on 31/12/1988 as per the antedated correction of cadre strength (Annexure-4) with retrospective effect from 29/03/1988, and despite that the respondent authority failed to correct the Select List prepared on 31/12/1988 by including the name of the applicant, being no. 2 in seniority next to Shri A. K. Roy in State Forest Service, and arbitrarily refused, in its order dated 27/11/2006 (Annexure-1), to antedate applicant's seniority to '1985' year of allotment consequent to correction of error committed earlier, without due consideration and discussion about the grounds for relief relied up on by the applicant.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant declares that he has no other alternative or efficacious remedy than to come under the protective hands of this Tribunal.

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT

The applicant further declares that he has not filed any application, writ petition or suit before any other court and/or any other Branch of this Honourable Tribunal in respect of the subject of the instant application or any such application or writ petition or suit is pending with any of them.

8. RELIEFS SOUGHT FOR

Under the facts and circumstances stated above, the applicant most respectfully prays that the Honourable Tribunal may be graciously pleased to admit this application, call for the records of the case and upon hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief to the applicant.

- a. To quash the MoEF order no. 22012/51/2006-IFS.II dated 27/11/2006
- b. To direct the respondent authorities to ^{*Promotion w.e.f. 16.12.89 and*} antedate the seniority of the applicant by re-fixing '1985' as year of allotment in IFS M-T.

Achintya Kumar Sinha

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Manindra
OR

c. Any other relief to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed proper by the Honourable Tribunal.

9. INTERIM ORDER PRAYED FOR

The applicant does not pray for any interim order.

10. The application is filed through learned Advocate Mr. Chandrasckhar Sinha.

11. PARTICULARS OF BANK DRAFT

i. IPO No. 28G 995539 for Rs.50/-
ii. Date: 18/04/2007

12. LIST OF ENCLOSURES

As stated in the index.

VERIFICATION

I, Achintya kumar Sinha, son of Late Nil Kanta Sinha, aged about 57 years, presently holding the post of Managing Director, Tripura Rehabilitation Plantation Corporation Limited, Agartala, West Tripura, do hereby solemnly affirm and verify that the statements made in the instant application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to the legal advice received and I have not suppressed any material facts.

And, I sign this verification on the 18th April 2007 at Agartala.

Achintya Kumar Sinha

F.No.22012/51/2006-IFS.II
 Government of India
 Ministry of Environment and Forests
 Paryavaran Bhavan, CGO Complex,
 Lodi Road, New Delhi-11003.

Dated the 27th November, 2006

ORDER

Shri A.K. Sinha, an SFS officer of Tripura was promoted to the IFS Service on 10.3.92 and allotted 1988 as year of allotment. Subsequently, on the basis of orders dated 6.9.2002 of CAT – Guwahati Bench, the date of appointment of Shri Sinha was antedated to 31.12.90 and his seniority was also re-fixed and allotting 1986 as year of allotment.

2. In his representation dated 20.12.2005, Shri A.K. Sinha has stated that the number of promotion posts in the Manipur-Tripura Joint Cadre has been increased from 14 to 16 with retrospective effect from 29th March, 1988 as per IFS (Fixation of Cadre Strength) Regulations notification dated 12th September, 2005 issued by DoPT and according to him, 50% of the vacancies are meant for Tripura and 50% for Manipur segment and hence there is one clear vacancy in the promotion quota for Tripura w.e.f. 29th March, 1988. As such the size of the Select List of Tripura was 2 and the Select List prepared on 31st December, 1988 contained only one vacancy and his immediate senior was promoted and his name was not included due to restriction on the size of the Select List. Accordingly his claim is that in view of the increase in the promotion quota vacancies he is entitled for promotion from 16th December, 1989, the date his immediate senior was appointed to the IFS.

3. Shri Sinha has based his contentions on the case arising out of the antedating the seniority of Shri Ibobi Singh, IFS officer of Manipur-Tripura Joint Cadre. IN the case of Shri Ibobi Singh, the CAT – Guwahati Bench had held that there was delay in the cadre review and ought to have been done when became due. On the basis of the directions of CAT – Guwahati Bench partly upheld by the High Court of Guwahati, the cadre review of Manipur-Tripura Joint Cadre which was actually notified on 22.11.90 was given retrospective effect w.e.f. 29th March, 1988 vide DoPT notification dated 12th September, 2005. With the antedating of the cadre review notification Shri Ibobi Singh's case for pre-ponement of his seniority was considered and his seniority/year of allotment was antedated from '1986' to '1984' in view of the fact that his name was included in the Select List of 1988 even though he was appointed on the basis of subsequent list of 1990.

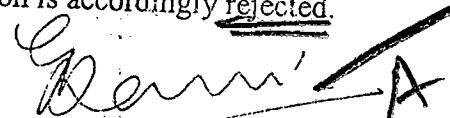
4. In the present representation dated 20.12.2005 under consideration Shri Sinha is requesting for extension of similar benefits as extended to Shri Ibobi Singh. The representation of Shri Sinha in the context of the case of Shri Ibobi Singh and pre-

*Notified
P.W.D.
Chittaranjan
P.W.D.*

G. D. Dinesh

ponement of the cadre review notification Principal Chief Conservator of Forests Manipur-Tripura Joint Cadre has been examined and the following facts are noted :-

- i) In the case of Shri Ibobi singh, his name was included in the Select List of 1988 in the meeting held on 22.2.1989. However, since there was no vacancy, he could not be appointed to the IFS. Shri Ibobi Singh was subsequently appointed to the IFS on the basis of inclusion of his name in the Select List of 1990 in the meeting held on 31.12.1989, and he was appointed from 30.8.90. As the cadre review notification has been given effect to from 29th March, 1988, a clear vacancy became available consequent to the pre-ponement cadre review and Shri Ibobi Singh was allowed the benefit on the basis of inclusion of his name in the Select List 1988 meeting held on 22.2.89.
- ii) In the case of Shri A.K. Sinha, the Selection Committee in its meeting for the Tripura segment held on 31.12.88, recommended only one name of Shri A.K. Roy. Shri Sinha was not included in the Select List of 1988 and was appointed to the IFS on the basis of Select List of 1989.
- iii) The increase in the posts consequent to pre-ponement of the cadre review does not entitle an officer automatic promotion from back date unless his name is recommended by the Selection Committee and included in the relevant Select List. Therefore, Shri Sinha's seniority in the IFS cannot be pre-poned, merely because of the pre-ponement of the cadre review as his name was not included in the earlier Select List. As such Shri A.K. Sinha's claim for antedating his seniority cannot be accepted and his representation is accordingly rejected.



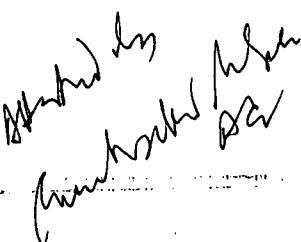
(G. Devnani)

Under Secretary to the Govt. of India

Tel : 24363983

Copy to:

1. The Chief Secretary, Govt. of Tripura, Agartala.
2. The Secretary, Forest Department, Govt. of Tripura, Agartala.
3. The Principal Chief Conservator of Forests, Govt. of Tripura, Agartala.
4. Shri Achintya Kumar Sinha, IFS, Director, Biotechnology, Department of Science, Technology & Environment, Govt. of Tripura, Vigyan Bhawan, Pandit Nehru Complex, Kunjavan, Agartala-799 006.
5. The Accountant General, Tripura, Agartala.
6. Shri Gautam Baishya, Senior Central Government Standing Counsel, Tomaskar Apartment, P.D. Chaliha Road, Silpukhuri, Guwahati-781003.
7. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110011..
8. Guard File/Spare Copies



15

ANNEXURE-2

No.F.22012/11/2002-IFS-11
Government of India
Ministry of Environment & Forests

Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi-11003.

Dated the 30th March, 2005.

ORDER

The year of allotment and seniority of Shri A..K. Sinha, IFS promotee officers of Manipur – Tripura Joint Cadre was fixed by the Ministry vide order No.17013/12/90-IFS.II dated 18th May, 1995 and Shri A.K. Sinha was given 1988 year of allotment and placed below Shri R.Das of 1988 batch. Subsequently, Shri A.K. Sinha filed an application before CAT, Guwahati in OA No.170 of 2001 challenging the date of promotion and fixation of seniority.

2. In pursuance of the directions of CAT –Guwahati Bench, the date of promotion of Shri A.K. Sinha was proposed to 31.12.90. The Government of Manipur have informed that Shri P.K. Pant, IFS (MT:86) is the junior – most direct recruit officer and Tripura Part of Manipur – Tripura Joint Cadre who was officiating as Senior Scale post from 1.4.1990 prior to the date of appointment of Shri A K. Sinha. Accordingly, in partial modification of order dated 18.5.95 and in compliance with order of CAT – Guwahati dated 6.9.2002, the seniority of Shri A.K. Sinha is refixed as under :

Sl.No.	Name of Officer	Year of allotment	Remarks
1	A.K. Sinha	1986	Below Shri P.K. Pant, IFS (Recruitment Rules 1986)

Sd/
(G. Devnani)
Under Secretary to the Govt. of India
Tele: 24363965

Distribution:

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

*Notified by
[Signature]*

Paryavaran Bhavan, CGO Complex,
Lodi road, New Delhi-110003

Dated, the 9th August, 2000.

O R D E R

Shri A.K. Sinha, a State Forest Service (SFS) officer of Tripura was promoted to the Indian Forest Service (IFS) w.e.f. 10-3-92. Subsequently, his year of allotment was determined as '1988' vide order dated 18-5-95 and he was placed below Shri R. Das, a direct recruit officer of 1988 batch. Aggrieved by the order dated 18.5.95. Shri Sinha filed OA No.276/96 before the Hon'ble Central Administrative Tribunal - Guwahati Bench seeking a direction to assign him '1985' year of allotment with all consequential benefits including correct assignment of seniority and promotion prospects etc. with retrospective effect. The OA was decided by the Hon'ble Tribunal vide order dated 24.3.99. The operative portion of Tribunal's order is extracted below: -

"On consideration of the entire facts we find that adequate materials are not available to determine for what reasons the applicant was not appointed in the year 1989-90. The contention of Mr. Sharma is that the post was available but he was not appointed. For all these we feel the entire matter needs to be considered by the authority concerned taking into consideration all the materials in the records and dispose of the representation by a reasoned order. Mr. Sharma wants to file a fresh representation giving details of his claim. If he wants to file a fresh representation he may do so within a period of fifteen days from today. If such representation is filed within the time allowed the competent authority shall also consider the same and dispose of it as early as possible, at any rate within a period of six months from the date of receipt of the representation. The counsel for the applicant and the respondent Nos.19 and 20 submit that before taking any decision by the competent authority the persons interested may be given opportunity of personal hearing. This submission is reasonable. Therefore, we direct the respondents that before taking any decision they shall give notice by giving sufficient time to all persons interested for personal hearing."

In pursuance of the directions given by the Hon'ble Tribunal, Shri Sinha submitted a fresh representation on 18. 12. 99 which was received on 22.12.99. As per Tribunal's order the representation should have been submitted by 7th April, 1999. Broadly, Shri Sinha has made following submissions: -

i) He became eligible for consideration for appointment to the IFS in 1982.

*Shri Sinha
submitted 18/12/99
ACW*

ii) He was appointed to the IFS on 10.3.92 and was assigned '1988' year of allotment whereas his immediate senior in the Tripura SFS, Shri A.K. Roy, was appointed to the IFS on 16.12.89 and was assigned '1985' year of allotment.

iii) The Central Govt. while fixing the number of promotion posts, took into account only item No.1 & 2 of the Cadre Schedule, i.e. the Senior duty posts under the State Government and the Central Deputation Reserve. But in terms of the order dated 20.1.99 passed by the Central Administrative Tribunal - Guwahati Bench in OA No.15/95: Th. Ibobi Singh Vs. Union of India and Ors, the Union of India was directed to compute the promotion vacancies by taking into consideration the State Deputation Reserve also. Therefore, he is also entitled to the benefit of the judgment rendered by the Hon'ble Tribunal in Th. Ibobi Singh's case.

iv) In terms of the above said judgment, there were 8 promotion posts in the Tripura segment of the Joint Cadre, out of which 7 posts were filled up when Shri A.K. Roy was appointed on 16.12.89. He (Shri Sinha) is entitled for consideration for promotion to the IFS against the 8th vacancy.

v) The direct recruit IFS officers of 1985 and 1986 batch were appointed to the Senior time scale w.e.f. 1.4. 1989 and 1.4.1990 respectively. Therefore, he is entitled to '1985' year of allotment.

2. In his earlier representations attached to O.A. No.276/96 the main ground urged by Shri Sinha was that he had been continuously officiating on cadre post from 15.2.91 till his appointment to the IFS and, as such, he was entitled to the benefit of such officiation and pleaded to assign him '1985' year of allotment.

3. As per directions of the Hon'ble Tribunal, Shri R. Das and Shri D.K. Sharma, the direct recruit officers (Respondent No.19 & 20), were afforded an opportunity of personal hearing. Initially, the date of personal hearing was fixed on 6th March, 2000 but neither of the two officers appeared on that date. Therefore, another date was given to them on 20th March, 2000. This time, only Shri D.K. Sharma appeared. He made the following submissions:

i) According to Shri A.K. Sinha, he was promoted to the IFS on 10.3.92 whereas he claims promotion in November, 1990. The IFS (Recruitment) Rules provides only the maximum number of posts that can be filled up.

*Substantive
Promotion
DAV*

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Mere presence of vacancy does not entitle Shri Sinha to claim promotion to the IFS. Further, it is not necessary that his name would have been considered had the Select List been prepared earlier.

- ii) Officiation of Shri Sinha on cadre post from 15.2.91 to 16.5.92 cannot be considered for seniority because his name was included in the Select List only on 25.11.91 when the list was approved by the UPSC. His officiation cannot, therefore, be counted for the purpose of fixation of his seniority before 25.11.91.
- iii) As per rule-9 of the IFS (Cadre) Rules, prior approval of the Central Government is required by the State Government in case a non-cadre officer is posted on a cadre post beyond a period of three months.
- iv) He (Shri D.K. Sharma) was entitled to Senior time scale w.e.f. 4.7.91. Therefore, he was senior to Shri Sinha whose name was included in the Select List w.e.f. 25.11.91.
- v) In view of above, the year of allotment (1988) assigned to Shri Sinha is correct and does not require any change.

Shri Sharma also asked for a copy of representation dated 18.12.89 submitted by Shri Sinha which was sent to him vide letter dated 18.04.2000. Shri Sharma furnished his comments on the said representation vide his letter dated 1.5.2000.

4. The ground urged by Shri Sinha in his earlier representations as well as the latest one as also the submissions made by Shri D.K. Sharma have been examined. As the outset, it is stated that the judgment rendered by the Hon'ble Tribunal in the case of Shri Ibobi Singh in OA. No.15/95 is pending for review with the Hon'ble Tribunal following filing of Review Petition by the Union of India. As regard the contention of Shri Sinha that his immediate senior, Shri A.K. Roy was appointed to the IFS on 16.12.89 and was assigned '1985' year of allotment, it is stated that Shri Roy's name was included in the Select List prepared on 13.12.1988 whereas Shri Sinha's name could not be included in that list due to restriction on size of the Select List which depended upon the number of promotion vacancies available on the date of preparation of the list. In fact, Shri Roy was the only officer whose name was included in the Select List prepared on 31.12.1988. The name of Shri Sinha was included in the subsequent Select List prepared on 15.3.91 and he was placed at Sl.No.1 of the list in which names of 5 other SFS officers of Tripura, who were found suitable for promotion to the IFS, were included. On the basis of

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that Select List, Shri Sinha was appointed to the IFS w.e.f. 10.3.92 and was subsequently assigned '1988' year of allotment.

5. The issue of extending the benefit of officiation to a promotee IFS officer on a cadre post prior to his promotion to the IFS was examined by the Hon'ble Supreme Court in the case titled: M.V. Krishna Rao and Ors. Vs. UOI and Ors. – JT 1994(1) SC 492. In that case, the Hon'ble Supreme Court held that for appointing a Select List officer on a cadre post prior to his induction into the all India Service, approval of the Central Government was not necessary. Such approval is required only in the case of non-Select List officer or one who is not next in order in the list. In the present case, Shri Sinha was at the top of list prepared on 15.3.91 and, as such, as per ruling of the Apex Court in the case cited above, no approval of the Central Government was necessary. Nevertheless, Central Government accorded approval to the State Government's proposal regarding officiation of Shri Sinha on cadre post w.e.f. 15.2.91 till his appointment to the IFS on 13.3.92. In a recent judgment dated 20.1.2000 delivered by the Hon'ble High Court at Allahabad in W.P. No.24393/97 : Chandra Bhushan Vs. Central Administrative Tribunal, Allahabad Bench and Ors., it has been held that Shri Bhushan was entitled to the benefit of officiation from 13.12.1984, i.e. the date when the Select List in which his name was included was drawn. While delivering the judgment, the Hon'ble High Court also relied upon the judgment rendered by the Apex Court in the case of M.V. Krishna Rao referred to above.

6. In view of the position explained above, Shri A. K. Sinha is entitled to the benefit of officiation on cadre post w.e.f. 15.3.91, the date when his name was included in the Select List and on that date Dr. Khaizalian was the junior-most direct recruit of 1987 batch borne on the Manipur-Tripura Joint Cadre who had been officiating continuously on a senior post. Accordingly, in terms of rule 3 (2) (c) of the IFS (Regulation of Seniority) Rules, 1968, Shri Sinha is placed below Dr. Khaizalian and is hereby assigned '1987 year of allotment.'

Sd/- Mira Mehrishi
Joint Secretary to the Govt. of India

*Mira Mehrishi
Joint Secretary to the Govt. of India*

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA UNDER PART II SECTION 3 (I)]

No. 16016/6/90-AIS (II) - (A)

Government of India

Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, 12th September, 2005

NOTIFICATION

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

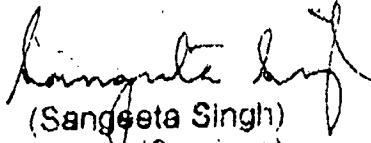
1. (1) These regulations may be called the Indian Forest Service (Fixation of Cadre Strength) Amendment Regulations, 2005.

(2) They shall come into force with effect from the 29th March, 1988.

2. In the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training's Notification No. 16016/06/1990-AIS-II (A) dated 22nd November, 1990 published as G.S.R. No. 730, dated 08/12/1990 in the Gazette of India, Part II, Section 3 (i), regarding the Indian Forest Service (Fixation of Cadre Strength) Fifth Amendment Regulations, 1990 relating to the Manipur-Tripura Cadre of the Indian Forest Service, the entries - "1. (2) They shall come into force on the date of their publication in the official Gazette" shall be substituted by the following, namely:

"1. (2) They shall come into force with effect from 29th March, 1988"

[Foot note: Antedating the date of notification has been made in implementation of the order of the Central Administrative Tribunal, Guwahati Bench, dated 20th January, 1999 in O.A. No. 15 of 1995 which has been upheld by the Guwahati High Court in their judgement dated 10th April, 2003 in WP(C) No. 4963 of 2001.]


(Sangeeta Singh)
Director (Services)

To

The Manager
Government of India Press
Mayapuri
New Delhi.

*Abdul Bhat
Thirteenth Oct
2005*

ANNEXURE-5

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART II SECTION 3(i))

No. 16016/6/90-AIS(II)-A

Government of India
Ministry of Personnel, Public Grievances & Pensions Department
of Personnel & Training.

New Delhi, the 22.11.90

NOTIFICATION

GSR No. 16016/6/90-AIS(II)-A. In exercise of the powers conferred by sub-section (1) of section 8 of the All India Services Act, 1951 (61 of 1951), read with rule 4 of the Indian Forest Service (Cadre) Rules, 1966, the Central Government, in consultation with the Governments of Manipur and Tripura, hereby makes following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, namely :-

1. (1) These regulations may be called the Indian Forest Service (Fixation of Cadre Strength) Amendment Regulations, 1990.
 (2) They shall come into force on the date of their publication in the official Gazette.
2. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength), Regulations, 1966, for the heading "Manipur-Tripura" and the entireds occurring thereunder the following shall be substituted, namely :-

Manipur-Tripura

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

AMIT BHATIA
(Under Secretary)

<u>Senior Duty Posts under the</u>	<u>Government (Tripura)</u>	23
Principal Chief Conservator of Forests		1
Chief Conservator of Forests		2
Conservator of Forests		3
Deputy Conservator of Forests		9
Deputy Conservator of Forests (Wildlife)		1
Deputy Conservator of Forests (Working Plan)		2
Deputy Conservator of Forests (Headquarters)		1
Deputy Conservator of Forests (Research)		1
Deputy Conservator of Forests (Training)		1
Deputy Conservator of Forests (Planning & Development)		1
Deputy Conservator of Forests (Planning & Social Forestry)		1
Total senior duty posts of Manipur & Tripura Cadre.		46
2. Central Deputation Reserve @20% of 1 above		9
3. Posts to be filled by promotion in accordance with rule 8 of the Indian Forests Service (Recruitment) Rules, 1966		18
4. Posts to be filled by direct recruitment		37
5. Deputation Reserve @ 25% of a 1 above		11
6. Junior posts, Leave Reserve & Training Reserve		14
Direct Recruitment		62
Posts Promotion Posts.		18
Total Authorised Strength		80

(CHANDER PRAKASH)
DFSK OFFICER

Handwritten notes
Authorised Strength
80

**PUBLISHED IN PART II SECTION III SWUBSECTION (I) OF THE GAZETTE
OF INDIA (EXTRAORDINARY) Dated 29-3-1985**

No. 16016/3/85-AIS(IV-A)

Government of India/Bharat Sarkar

**MINISTRY OF PERSONNÉL AND TRAIUNING, ADMINISTRATIVE REFORMS
AND PUBLIC GRIEVANCES AND PENSION**
**(KARMIK AUR PRASHIKSHAN, PRASHASNIK SUDHAR AUR LOK
SHIKAYAT TATHA PENSION MANTRANALAYA)**

New Delhi, the 29th March '85

NOTIFICATION

327 (E)

GSR- In exercise of the powers conferred by sub-section (1) of the Section 3 of the All India Services Act, 1951 (61 of 1951) read with sub-rule (2) of Rule 4 of the Indian Forest Services (Cadre) Rules, 1966, the Central Government in consultation with the Government of Manipur and Tripura, hereby makes the following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966.namely:-

- (1) These regulations may be called the Indian Forest Service (Fixation of Cadre Strength) Third Amendment Regulations, 1985.
- (2) They shall come into force on the date of their publication in the Official Gazette.

In the Schedule to the Indian Forest Service (Fixation of Cadre Satrenght) Regulations, 1966 for the heading 'Manipur-Tripura' and the entries occurring there under, the following shall be substituted:-

Manipur-Tripura:-

Senior posts under the State Governments	37
<u>Manipur</u>	
Chief Conservator of Forests	1
Addl. Chief Conservator of Forests	1
Conservator of Forests	3
Deputy Conservator of Forests	7
Deputy Conservator of Forests	
Resource Survey Division-	1
Deputy Conservator of Forests, Wildlife	1
Deputy Conservator of Forests, Working Plan	1
Deputy Conservator of Forests, Social Forestry	1
Deputy Conservator of Forests, Soil Conservation	2
Deputy Conservator of Forests, Headquarters	1

*Abdul Hameed
Ministry of Personnel
and Training*

44

Tripura

Chief Conservator of Forests	1
Conservator of Forests	2
Deputy Conservator of Forests	9
Deputy Conservator of Forests, Wildlife	1
Deputy Conservator of Forests, Working Plan	1
Deputy Conservator of Forests, Headquarters	1
Deputy Conservator of Forests, Forest Research	1
Deputy Conservator of Forests, Training	1
Deputy Conservator of Forests, Planning & Development	1

18 - 18

- 37

2. Central Deputation Reserve @ 20% of 1 above. 7 - 7

- 44

Manipur - 22

Tripura - 22

3. Posts to be filled by promotion in accordance

with the rule 8 of the IFS (Recruitment Rules), 1966 - 14

(M = 7, T = 7)

4. Posts to be filled by Direct Recruitment - 30
 5. Deputation Reserva @ 15% of 4 above - 5
 6. Leave Reserva @ 11% of 4 above - 3
 7. Junior posts @ 20% of 4 above - 6
 8. Training reserve @ 10% of 4 above - 3

- 3

- 6

- 3

Direct Recruitment posts - - 47

Promotion posts - - 14

Total strength - - 61

Sd/-
Desk Officer

To
 The Manager,
 Government of India Press
 Ring Road, New Delhi

*W. K. D. M.
C. S. S. & S. S.*

ANNEXURE-7

22012/28/04-IFS-II

Government of India

Ministry of Environment and Forests

Parivaran Bhavan, CGO Complex,
Lodi Road, New Delhi-11001Dated the 28th February, 2006ORDER

Shri Ibobi Singh, an IFS officer of Manipur State Forest Service was appointed to the IFS Cadre of Manipur Tripura Joint Cadre w.e.f. 30th August, 1990 vide order No.18014/12/92-IFS-II dated 8th September, 1992. Accordingly his seniority was fixed in the Indian Forest Service in terms of the provisions of IFS (Regulation of Seniority) Rules, 1968 and he was assigned '1986' as year of allotment.

Shri Ibobi Singh challenged his fixation of seniority in the Hon'ble CAT - Guwahati Bench as OA No.15 of 1995. The Hon'ble CAT - Guwahati vide its order dated 20.1.99 in OA No.15 of 1995 held that "the triennial cadre review ought to have been held at the interval of three years and as this was not done, the year of allotment should be computed relating to the year of allotment earlier than 1986". The Ministry of Environment and Forests challenged the order of Hon'ble CAT - Guwahati in the Hon'ble High Court of Guwahati. However, the Hon'ble High Court partly upheld the order of the Hon'ble CAT - Guwahati Bench requiring the Central Government to antedate the cadre review of Manipur Tripura Joint Cadre.

The matter was thereafter examined by the Ministry of Environment and Forests in consultation with the Department of Personnel and Training and the Ministry of Law and Justice, Department of Legal Affairs. The Department of Personnel and Training in the Central Government in pursuance of the decision of the CAT - Guwahati Bench upheld by the Hon'ble High Court of Guwahati issued Notifications No.16016/6/90-AIS(II)-(A) & (b) both dated 12th September, 2005 amending the IFS (Fixation of Cadre Strength) Regulations, 1966 and IFS (Pay) Rules, 1968 in respect of Manipur-Tripura Joint Cadre giving it effect from 29th March, 1988.

The State Govt. of Manipur have informed that Shri Ibobi Singh was recommended by the Selection Committee of UPSC in its meeting held on 22.2.1989. The Govt. of Manipur have also informed that the junior-most Direct Recruit officer who was holding senior post on 22.2.89 was Shri V. Ramakantha, IFS (MT: 1984). Accordingly, in pursuance of the orders of the Hon'ble CAT dated 20th January, 1999 in OA No.15 of 1995 upheld by the Guwahati High Court in their judgment dated 10th April, 2003 in WP(C) No.4963 of 2001 and in terms of notification dated 12.9.2005

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MB

amending the IFS (Fixation of Cadre Strength) Regulations, 1966, in respect of Manipur Tripura Joint Cadre, the seniority of Shri Ibobi Singh is re-fixed as under:

Name of Officer	Year of allotment	Placement
Ibobi Singh	1984	Below Shri Ramakantha, IFS (MT-1984)

This issues with the approval of the Competent Authority.

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

Copy to:-

1. The Chief Secretary, Government of Manipur
2. The Secretary, Department of Personnel & Admn. Reforms, Government Manipur, Imphal
3. The Principal Chief Conservator of Forests, Government of Manipur, Imphal
4. The Accountant Government, Manipur, Imphal
5. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi- 110 011
6. The Department of Personnel & Training, North Block, New Delhi
7. Guard File/Spare Copies
8. Shri Anup Kumar Chaudhury, Addl. Central Government Standing Counsel, 74, K.R. Chaudhury Road, Bharalumukh, Guwahati-781 009 with reference to Contempt Petition No. 22/2004 before CAT – Guwahati Bench.
9. IFS – Civil List Section

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

*AM 1/2004
Entitled to cadre*

मानव संसाधन
रण पर्व वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

17013-12/88-IFS-II.

9th March, 1989.

8 MAR 1989

दूरभाष :

Telephone No. :

सार :

Telegram : PARYAVARAN
NEW DELHI

पर्यावरण भवन, सी. जी. ओ. कॉम्प्लेक्स,
PARYAVARAN BHAWAN, C.G.O. COMPLEX
लोदी रोड, नई दिल्ली-110003
LODI ROAD, NEW DELHI-110003

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XN NEXURE-8

The Secretary,
Appointment Department,
Government of Tripura,
AGARTALA.

r.

Sub: Indian Forest Service - Tripura Cadre - promotions to.

I am directed to refer to your letter No.F.2(10)-CS/89 dated the 10th January, 1989 addressed to the Union Public Service Commission, and to say that the Commission have, vide their letter No.F.10/12/88-AIS dated the 24th February, 1989 approved a Select List of officers of the State Forest Service of Tripura for promotion to the Indian Forest Service Cadre of Tripura prepared by the Selection Committee at its meeting held at Calcutta on 31st December, 1988, consisting of the following one name.

Sl. No.	Name of the officer	Date of birth
1.	(2)	(3)
01.	Shri ASISH KUMAR ROY (SC)	04 05 1950

2. If and when the State Government propose to appoint one or more of the above officer to the Tripura cadre of the Service, the following information may kindly be sent alongwith the proposals of the State Government, viz.:

1. information prescribed vide Ministry of Home Affairs circular letter No.16/4/66-AIS(III) dt.19 3 1966 (Govt. of India instructions at pp 758-760 of the AIS Manual, Second Edition);
- ii. declaration of marital status in the prescribed form;
- iii. written consent to termination of lien in the State Forest Service, on confirmation in the Indian Forest Service;
- iv. a certificate that there has been no deterioration in the work and conduct of the officer since his inclusion in the Select List;

.....2/-

1019/Secy (725) 189

28-3-89

कृष्ण
कृष्ण
कृष्ण

- : 2 : -

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v. a certificate that there is no stay order, or any other prohibition, on promotions to the Tripura cadre of the Indian Forest Service.

3. Proposals for fixation of seniority of the officers may also be sent simultaneously (in duplicate) in terms of letter No.18014-4/76-AIS(IV) dt.24th February, 1976, from the Department of Personnel & Adm. Reforms(Ministry of Home Affairs).

Yours faithfully,

K.S.Achar

(K.S.Achar)
Desk Officer.

Copy for information to the Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110 011, w.r.t. letter No.F.10/12/88-AIS dated the 24th February, 1989.

(K.S.Achar)
Desk Officer.

*Handed by
Subashini D.S.
2/2*

From:

Achintya kumar Sinha, IFS (MT-86)
Director, Biotechnology, Government of Tripura
Kunjavan, Agartala: 799 006

To
The Secretary
Ministry of Environment & Forests
Government of India, Paryavaran Bhavan, CGO Complex
Lodi Road, New Delhi: 110 003

THROUGH PROPER CHANNEL

Subject: Request for antedating my promotion to the Indian Forest Service

Ref.: Notification no. 16016/6/90-A (II) - (A) dated 12th September 2005 of the Ministry of Personnel, Public Grievances & Pensions (DoPT), Govt. of India for IFS (Fixation of Cadre Strength) Amendment Regulations, 2005

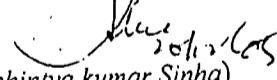
Sir,

Number of promotion posts in the Indian Forest Service (Manipur-Tripura) cadre was corrected from 14 to 16 with retrospective effect from the 29th March 1988 as per the IFS (Fixation of Cadre Strength) Amendment Regulations 2005 vide DoPT Notification dated 12th September 2005 referred above. I would, therefore, request for rightful relief arising out of the correction of wrong by the Government.

2. There was, according to the corrected position as per the amendment dated 12th September 2005, one clear vacancy (50% of '16' for Tripura part of the joint cadre) against 8 promotion posts for Tripura with effect from the 29th March 1988. Thus, the required size of the Select list for Tripura was 2 (two) as per the extant rule. The Select List prepared on the 31st December 1988, however, erroneously contained only one name, that of Shri AK Roy, my immediate senior from the same batch (1973-75) of State Forest Service. I would submit that my name had not been included due to restriction on the size of the Select List imposed by the wrong depiction of promotion vacancy. I would, therefore, pray now for inclusion of my name in the Select List of the 31st December 1988 next to that of Shri AK Roy in legitimate mitigation of the wrongful deprivation earlier.

3. Only one officer, Shri AK Roy had been promoted to IFS on the 16th December 1989 based on the erroneously held position that only one vacancy had existed against promotion posts on that date. There were actually two vacancies in Tripura part of the cadre on that date according to the cadre strength as corrected now vide notification dated 12th September 2005. I was thus deprived of my rightful opportunity for promotion due to the wrong committed (now corrected) by the Government. I would, therefore, pray now for mitigation of that injustice by antedating my promotion with effect from the 16th December 1989.

Yours faithfully,


(Achintya Kumar Sinha)

Advance copy to:
The Secretary, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi: 110 003

*Notified
Anubhav Bhattacharya*

REGD. POST

30

ANNEXURE-10A



GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (PERSONNEL & TRAINING) DEPARTMENT

No. E.35(74)-GA(P&T)/91

Dated, Agartala, the 28th January, 2006

To
The Secretary,
Ministry of Environment & Forests,
Government of India,
Parivarayan Bhavan, C.G.O. Complex, Lodhi Road,
New Delhi-110003.

Subject : Application from Shri A.K. Sinha, IFS for antedating his promotion to IFS

Ref: Notification No.16016/6/90-A(II)-(A) dated 12th September, 2005 of the
Ministry of Personnel, Public Grievances & Pension (DoPT), Government
of India, IFS (Fixation of Cadre Strength) Amendment Regulations, 2005.

Sir,

I am directed to send herewith an application (in original) of Shri A.K. Sinha, IFS (MT) for taking necessary action for antedating his promotion with effect from the 16th December, 1989 based on the amendment of IFS (MT) cadre strength with retrospective effect from the 29th March, 1988 vide Notification No.16016/6/90-A(II)-(A) dated 12th September, 2005 of the Ministry of Personnel, Public Grievances & Pension (DoPT), Government of India.

Enclo: Letter of Shri A.K. Sinha, IFS
Dated 20th December 2005.

Yours faithfully,

(Smti S. Chakraborty)
Under Secretary to the
Government of Tripura.

Copy to:

1. The Commissioner & Secretary, Govt. of Tripura, Deptt. of Science, Technology & Environment.
2. The Principal Chief Conservator of Forests, Tripura, Agartala.

(Smti S. Chakraborty)
Under Secretary to the
Government of Tripura.

Handed by
Subhadeep Mukherjee

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
 (An application under section 19 of the Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO. 217

OF 2006 A. D.

Shri Achintya kumar Sinha:

Applicant

Versus

Union of India & others:

Respondents

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Submitted

(C. S. Sinha)
Advocate

For use by Tribunal's office

Date of filing:

Registration no.:

Registrar

*Subscribed at
Chandigarh on 22/2/2006*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. of 2006 A. D.

Shri Achintya kumar Sinha ... Applicant
 -Versus-
 Union of India and others ... Respondents

SYNOPSIS

1. Applicant was promoted to Indian Forest Service (Manipur-Tripura) on 31/12/90 with '1986' year of allotment (Annexure-1).
2. Previous representation of applicant for antedating promotion from 16/12/89 was rejected vide Order dated 09/08/2000 (Annexure-4) on the two grounds that (1) judgment rendered by Honourable Tribunal in case of Shri Ibobi Singh, a member of Manipur part of Indian Forest Service (Manipur-Tripura), in OA No. 15/95 including issue of number of promotion posts, was pending for review with the Honourable Tribunal; and (2) that applicant's name could not be included in the Select List of 31/12/88 due to restriction on its size.
3. Govt. of India on final settlement of the matter relating to OA No. 15/95 in the Honourable Tribunal corrected the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1990 (Annexure-3) for Manipur-Tripura cadre vide Notification dated 12/09/2005 (Annexure-2) by antedating its effect from 29/03/1988 with two more promotion posts in Tripura part of the joint cadre.
4. Applicant is aggrieved for not antedating his promotion from 16/12/1989, when his immediate senior was promoted, despite representation dated 20/12/2005 (Annexure-7), despite relief to Shri Ibobi Singh vide Order dated 28/02/06 (Annexure-5) based on the antedated Cadre review.
5. Applicant had no option under the circumstances other than to approach this Honourable Tribunal.
6. Hence this application seeking justice.

(C. S. Sinha)
 Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. of 2006 A. D.

Shri Achintya kumar Sinha ... Applicant

-Versus-

Union of India and others ... Respondents

LIST OF DATES

29/03/1985 Notification for Indian Forest Service (Fixation of Cadre Strength) Third Amendment Regulations, 1985 for Indian Forest Service (Manipur-Tripura) containing 14 promotion posts.

31/12/1988 Select List prepared for promotion to Indian Forest Service (Manipur-Tripura) Joint Cadre with only one name, that of Shri A. K. Roy, immediate senior to applicant in State Forest Service

16/12/1989 Shri A. K. Roy promoted to Indian Forest Service

22/11/1990 Notification for Indian Forest Service (Fixation of Cadre Strength) Amendment Regulations, 1990 containing 18 promotion posts.

31/12/1990 Applicant promoted to Indian Forest Service (Manipur-Tripura) cadre.

09/08/2000 Order from the Ministry of Environment and Forests disposing of previous representation of applicant claiming promotion to Indian Forest Service with effect from 16/12/1989, when Shri A. K. Roy had been promoted.

30/03/2005 Order issued assigning year of allotment '1986' to applicant

12/09/2005 Notification of Indian Forest Service (Fixation of Cadre Strength) Amendment Regulations, 2005 antedating the cadre review vide Indian Forest Service (Fixation of Cadre Strength) Third Amendment Regulations, 1990 with effect from 29/03/1988.

20/12/2005 Representation submitted by applicant in reference to Notification dated 12/09/2005 for antedating promotion to Indian Forest Service with effect from 16th December 1989

28/02/2006 Order issued re-fixing year of allotment of Shri Ibobi Singh with year of allotment '1984' in place of the previous '1986' in terms of antedated cadre review vide Notification dated 12/09/2005

*Handed by
Prakash M. S.
Advocate*

(C. S. Sinha)
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
 (An application under section 19 of the Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO.

OF 2006 A. D.

BETWEEN

Shri Achintya kumar Sinha, IFS, Director, Biotechnology,
 Department of Science, Technology & Environment, Govt.
 of Tripura, Vigyan Bhawan, Pandit Nehru Complex,
 Kunjavan, Agartala: 799 006

... Applicant

VERSUS

1. The Union of India represented by the Secretary, Ministry of Environment and Forests, Government of India, Pravaran Bhawan, CGO Complex, Lodi Road, New Delhi: 110 003
2. The State of Tripura represented by the Chief Secretary, Govt. of Tripura, Agartala, Tripura: 799 001
3. The State of Manipur represented by the Chief Secretary, Govt. of Manipur, Imphal, Manipur
4. The Union Public Service Commission represented by the Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi: 110 001
5. Shri B.N. Mohanty, IFS care of Principal Chief Conservator of Forests, Manipur, Imphal
6. Dr. A. Rastogi, IFS, Director, Ministry of Defence, Government of India, South Block, New Delhi
7. Dr. Ajay Kumar, IFS care of Principal Chief Conservator of Forests, Manipur, Imphal
8. Shri P.K. Pant, IFS care of Principal Chief Conservator of Forests, Tripura, Aranya Bhawan, Pandit Nehru Complex, Kunjavan, Agartala: 799 006

... Respondents

DETAILS OF APPLICATION

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

The instant application is directed against the Order No. F.22012/11/2002-IFS-II dated 30th March 2005 (Annexure-1) from the Ministry of Environment and Forests, Government of India (MoEF for short, herein after) assigning the year of allotment of the applicant in the Indian Forest Service as '1986'.
*Alotted by
 Environment and
 Forests*

Copy of Order dated 30th March 2005 is annexed and marked as Annexure-1

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the application is within the jurisdiction of the Guwahati Bench of the Honourable Central Administrative Tribunal (Tribunal for short, herein after).

3. LIMITATION

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

4. FACTS OF THE CASE

4.1. That the applicant was promoted from the State Forest Service of Tripura to the Indian Forest Service (IFS for short, herein after) on the 31st December 1990, and was assigned '1986' as his year of allotment as per order dated 30th March 2005 of the MoEF (Annexure-1).

Copy of Order dated 30th March 2005 is annexed and marked as Annexure-1

4.2. That the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), Government of India (DoPT for short, herein after) issued Notification No.16016/6/90-AIS (II)-(A) dated 12th September 2005 (Annexure-2), for IFS (Fixation of Cadre Strength) Amendment Regulations, 2005 (Cadre Strength Amendment Regulations, 2005 for short, herein after) giving IFS (Fixation of Cadre Strength) Amendment Regulations, 1990 vide Notification dated 22nd November 1990 (Annexure-3) effect from 29th March 1988 with eighteen posts against promotion quota in the IFS (Manipur-Tripura) joint cadre which followed that Tripura part of Manipur-Tripura cadre of IFS had nine posts against promotion quota with effect from 29th March 1988 in place of seven promotion posts as per IFS (Fixation of Cadre Strength) Third Amendment Regulations, 1985 vide Notification dated 29th March 1985 (Annexure-9).

Copies of Notification dated 12th September 2005, Notification dated 22nd November 1990 and Notification dated 29th March 1985 are annexed and marked as Annexures 2, 3 and 9 respectively.

4.3. That previous claim of the applicant for antedating his promotion with effect from 16th December 1989, when his immediate senior Shri A.K. Roy was promoted, was rejected vide Order No.F.22012/10/97-IFS.II dated 9th August 2000 (Annexure-4) of the MoEF, paragraph no. 4 on the following grounds:

*Antedating
Rejected
8/2000*

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- a. That the judgment rendered by the Honourable Tribunal in case of Shri Ibobi Singh, a member of the Manipur part of the IFS (Manipur-Tripura) joint cadre in OA No. 15/95 including inter alia the issue of number of promotion posts, was pending for review with the Honourable Tribunal following filing of Review petition by the Union of India; and
- b. That the applicant's name could not be included in the Select List prepared on 31st December 1988 due to restriction on size of Select List dependent up on the number of promotion vacancies.

Copies of order dated 9th August 2000 annexed and marked as Annexure-4.

- 4.4. That MoEF granted relief vide its Order No. 22012/28/04-IFS-II dated 28th February 2006 (Annexure-5) to Shri Ibobi Singh, an IFS officer of the Manipur part of the IFS (Manipur-Tripura) cadre, by re-fixing his seniority in accordance with the Cadre Strength Amendment Regulations, 2005 vide Notification dated 12th September 2005 (Annexure-2).

Copies of Order dated 28th February 2006 and Notification dated 12th September 2005 annexed and marked as Annexures 5 and 2 respectively.

- 4.5. That following the correction of wrong with retrospective effect from 29th March 1988 as per the Cadre Strength Amendment Regulations, 2005 vide Notification dated 12th September 2005 (Annexure-2), there arose two clear vacancies in the Tripura part of the Manipur-Tripura joint cadre of IFS since 29th March 1988 and the position continued to be so on the 31st December 1988, when the Select List for promotion to IFS had been prepared according to letter no. 17013-12/88-IFS-II dated 9th March 1989 of the MoEF (Annexure-6).

Copies of Notification dated 12th September 2005 and letter dated 9th March 1989 are annexed and marked as Annexures 2 and 6 respectively.

- 4.6. That the applicant submitted his representation dated 20th December 2005 (Annexure-7) to the MoEF through proper channel prayed for antedating his promotion to IFS with effect from 16th December 1989, as he had been deprived of promotion at the relevant time due to erroneous representation of number of promotion vacancies, and which wrong was subsequently corrected with retrospective effect from 29th March 1988 by the Government vide Cadre Strength Amendment Regulations, 2005 vide Notification dated 12th September 2005 (Annexure-2); and the said representation of the applicant was forwarded by the General Administration (Personnel & Training) Department, Government of Tripura vide their letter no.

*Shri Ibobi Singh
Anubhav Singh*

F.35(74)-GA (P&T) 91 dated 28th January 2006 (Annexure-8) to MoEF for antedating the applicant's promotion with effect from 16th December 1989 based on the Cadre Strength Amendment Regulations, 2005 with retrospective effect from the 29th March 1988 vide Notification dated 12th September 2005 (Annexure-2).

Copies of representation dated 20th December 2005, Notification dated 12th September 2005; letter dated 28th January 2006 are annexed and marked as Annexures 7, 2 and 8 respectively.

4.7. That according to para 4 of order dated 9th August 2000 (Annexure-4) of the MoEF the name of the applicant had not been included in the Select List for promotion to IFS prepared on the 31st December 1988 due to restriction on the size of the Select List dependent up on the promotion vacancies and the said list contained only one name, that of Shri A. K. Roy; and there being two clear vacancies on 31st December 1988 after correction of wrong by DoPT vide Cadre Strength Amendment Regulations, 2005 vide Notification dated 12th September 2005 (Annexure-2); the Select List of 31st December 1988 should have been corrected by MoEF by including therein the name of the applicant next to Shri A. K. Roy, being the applicant's immediate senior in State Forest Service, and by simultaneously antedating the applicant's promotion to IFS with effect from 16th December 1989, when Shri A. K. Roy had been promoted, in legitimate mitigation of denial of justice to the applicant due to error committed earlier by the respondent authority.

Copies of order dated 9th August 2000 and notification dated 12th September 2005 are annexed and marked as Annexures 4 and 2 respectively.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS

5.1. For that the respondent authority failed to extend legitimate relief, arising out of the correction of wrong vide Cadre Strength Amendment Regulations, 2005 (Annexure-2) giving retrospective effect from 29th March 1988 to increased cadre strength in the Tripura part of IFS (Manipur-Tripura) joint cadre, against representation dated 20th December 2005 (Annexure-7) from the applicant.

5.2. For that there were two clear vacancies in promotion posts in Tripura part of IFS (Manipur-Tripura) Joint Cadre on 31st December 1988 as per the Cadre Strength Amendment Regulations, 2005 (Annexure-2), and, therefore, the respondent authority failed to correct the Select List prepared on 31st December 1988 by including the name of the applicant, being no. 2 in seniority next to Shri A. K. Roy in State Forest Service, and to antedate his promotion to IFS with effect from 16th December 1989, when Shri A. K. Roy had been promoted, despite the fact that the applicant's claim had been

*Substantiated
Evidence M
S/AR*

rejected earlier by the MoEF vide order dated 9th August 2000 (Annexure-4), as indicated in para 4 of the said order, on the ground that his name could not be included in the Select List prepared on 31st December 1988 due to restriction on the size of the Select List, which depended up on the number of promotion vacancies, and as the judgment by the Honourable Tribunal in case of Shri Ibobi Singh in OA No. 15/95 was pending for review with the Honourable Tribunal following filing of Review Petition by the Union of India; and despite the fact that issue was finally settled as per Cadre Strength Amendment Regulations, 2005 (Annexure-2) followed by grant of consequent relief to Shri Ibobi Singh vide order dated 28th February 2006 (Annexure-5) of the MoEF.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant declares that he has no other alternative of efficacious remedy than to come under the protective hands of this Tribunal.

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT

The applicant further declares that he has not filed any application, writ petition or suit before any other court and/or any other Branch of this Honourable Tribunal in respect of the subject of the instant application or any such application or writ petition or suit is pending with any of them.

8. RELIEFS SOUGHT FOR

Under the facts and circumstances stated above, the applicant most respectfully prays that the Honourable Tribunal may be graciously pleased to admit this application, call for the records of the case and up on hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief to the applicant.

- i. To direct the respondent authorities to antedate the promotion of the applicant to IFS with effect from the 16th December 1989 with all consequential benefit.
- ii. Cost of the application.
- iii. Any other relief to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed proper by the Honourable Tribunal.

9. INTERIM ORDER PRAYED FOR

The applicant does not pray for any interim order.

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10. The application is filed through learned Advocate Mr. Chandrasekhar Sinha.

11. PARTICULARS OF BANK DRAFT

- i. IPO No. for Rs.50/-
- ii. Date:

12. LIST OF ENCLOSURES

As stated in the index.

VERIFICATION

I, Achintya kumar Sinha, son of Late Nil Kanta Sinha, aged about 56 years, presently holding the post of Director, Biotechnology, Department of Science, Technology and Environment, Government of Tripura, Agartala, West Tripura, do hereby solemnly affirm and verify that the statements made in the instant application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to the legal advice received and I have not suppressed any material facts.

And, I sign this verification on the 15 August 2006 at Agartala.

*Subash Kumar Sinha
published M/s*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 217/06
 2. Misc. Petition No. /
 3. Contempt Petition No. /
 4. Review Application No. /

Applicant(s) A.K. SinhaRespondent(s) Min. of S. & T.Advocate for the applicant(s). C. S. SinhaAdvocate for the Respondent(s). C.O.S.C.

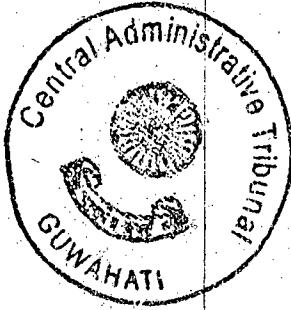
Notice of the Registry	Date	Order of the Tribunal
------------------------	------	-----------------------

22.08.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

The Applicant was promoted to Indian Forest Service (Manipur-Tripura cadre) on 31.12.1990 with 1986' year of allotment. Vide notification dated 12.09.2005 (Annexure - 2), the Respondents corrected the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1990 for Manipur-Tripura cadre by antedating its effect from 29.03.1988 with two more promotion posts in Tripura part of the joint cadre. The Applicant wants advantage of the said notification dated 12.09.2005. Hence, the Applicant stated that his year of allotment will come 1985 and he could have been promoted from 16.12.1989 instead of 1990. The Applicant submitted many representations and finally on 20.12.2005. The Applicant has filed this Application seeking the following reliefs: -

Contd/-

*Writ Petition
filed before
Guwahati P.W.D.*



Contd/-
22.08.2006

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b
i. To direct the respondent authorities to antedate the promotion of the applicant to IFS with effect from the 16th December 1989 with all consequential benefit.
ii. Cost of the application.
iii. Any other relief to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed proper by the Honourable Tribunal."

Heard Mr C.S. Sinha, learned Counsel for the Applicant and Mr G. Baishiya, learned Sr. C.G.S.C. for the Respondents.

Mr C.S. Sinha, learned Counsel for the Applicant submitted that he will be satisfied if a direction is given to the Respondent No. 1 to consider and dispose of the representation dated 20.12.2005 within a time frame. Mr G. Baishiya, learned Sr. C.G.S.C. for the Respondents submitted that he has no objection if such course is adopted.

Therefore, this Court directs the 1st respondent and/or any other competent authority to consider and dispose of the annexure -7 representation within a period of three months from the date of receipt of this order.

The O.A. is dispose of as above at the admission stage itself. No order as to

Sd/-

Hon'ble V. L.

TRUE COPY
प्रधिकृति
N. 22.8.06

शास्त्री लिपिराख
Secretary (Judge)
Central Administrative Tribunal
गुवाहाटी न्यायपाल
GUWAHATI BENCH
गुवाहाटी, Guwahati-5
22.8.06 G.

With thanks
Anubhav Jha

File in Court on *11/11/09*

Court Officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATIIN THE MATTER OF

O.A.No.99 of 2007

Shri A.K. Sinha.....

Applicant

Vs.

Union of India & Others

Respondents

- AND -

IN THE MATTER OF

Written Statement submitted by the Respondent 1.

WRITTEN STATEMENT:

The humble answering respondent submit the written statement as follows:-

1(a) That I, B.C. Behera S/o Shri J. Behera, working as Under Secretary in the Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi-110003 and respondent No.1 in the above case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statements made in the application and authorized to file the written statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both facts and in law.

(c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.

Behera
B.C. BEHERA
Under Secretary
Ministry of Env. & Forests
Govt. of India / New Delhi

43-

Filed by
the Respondent No.1 through
Lokha Das-63
Addl. Chse
08/11/09

13 NOV 1994

Guwahati Bench

2

(d) That the application is also hit by the principles of waiver estoppels and acquiescence and liable to be dismissed.

(e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicants had suffered from vice of illegality.

2) That with regard to the statement made in paragraph 1, 2, 3 and 4.1 of the OA, the respondents do not offer any comment.

That with regard to the statement made in paragraph 4.2 of the OA, the answering respondents state that the averments made by the applicant is not factually correct. In the case of Shri Ibobi Singh, he was included in the select List of 1998 in the meeting held on 22.2.1989, as there was no vacancy at the time of meeting of the Selection Committee, he could not be appointed to the Indian Forest Service. Shri Ibobi Singh was subsequently appointed to the IFS on the basis of inclusion of his name in the Select List of 1990 in the meeting held on 31.12.1989 and appointed from 30.8.1990.

3) That with regard to the statement made in paragraphs 4.3 and 4.4 of the OA, the answering respondents do not admit anything contrary to the records of the case.

4) That with regard to the statement made in paragraphs 4.5 to 4.9 of the OA, the answering respondents state that the averment made by the applicant that two vacancies were available is denied. In the case of the applicant the Selection Committee for Tripura segment was held on 31.12.1988. The Selection Committee recommended only the name of Shri A.K. Roy for

Debn
B.C. BEHERA
Under Secretary
Ministry of Env. & Forests
Govt. of India / New Delhi

inclusion in the Select List. The applicant's name was not included in the Select List of 1988. The applicant was appointed to the Indian Forest Service on the basis of Select List of 1989. The directions of the Hon'ble Tribunal vide order dated 22.8.2006 were considered by the Ministry taking into account the available vacancies in the year 1988 and accordingly the representations were considered and suitable orders were issued.

- 5) That with regard to the statements made in paragraphs 5.1 to 5.3 of the OA, the respondents deny the averments made therein. The increase in the posts consequent to pre-ponement of Cadre Review does not entitle an officer automatic promotion from back date unless his name is recommended by the Selection Committee and included in the relevant Select List. The applicant's seniority in the Indian Forest Service cannot be pre-poned merely because of pre-ponement of the Cadre Review as his name was not included in the Select List.
- 6) That with regard to the statements made in paragraphs 6 and 7 of the OA, the respondents offer no comment.
- 7) That in view of the submissions made above, the Original Application filed by the applicant is not maintainable. None of the reliefs sought by the applicant are tenable in the eye of law. The Original Application is devoid of any merits and the same may be dismissed.



B.C. BEHERA
Under Secretary
Ministry of Env. & Forests
Govt. of India / New Delhi

13 NOV

গুৱাহাটী ৩০০৪৯৮
Guwahati 6

6

VERIFICATION

I, B.C. Behera S/o Shri J. Behera, aged about 49 years at present working as Under Secretary in the Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi-110003, who is one of the respondents, being duly authorized and competent to sign this verification for the respondent No.1, do hereby solemnly affirm and state that the statement made in paragraphs 1 to 7 are true to my knowledge and belief, derived from official records and are my humble submission before this Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this 26th day of September, 2007 at New Delhi.



DEPONENT

B.C. BEHERA
Under Secretary
Ministry of Env. & Forests
Govt. of India / New Delhi
GOV. OF INDIA

Notice

Date - 08/11/07

6X

From,

Usha Das

Addl. Cuse

To, Mr. C.S. Sinha

Advocate

Sub: OA No. 99/07 filed by

Sri A. K. Sinha

Sir,

Please find herewith a copy of
WS filed by The Respondent No. 1.
Kindly acknowledge the receipt
thereof.

Thanking You

Received copy

Sincerely Yours

Usha Das

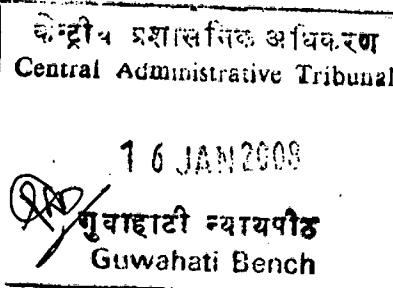
Addl. Cuse

Advocate

I undertake to send a
copy of WS on Mr. C.S.
Sinha ^{Advocate} for the applicant

Usha Das

08/11/07



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
 (An application under section 19 of the Administrative Tribunals Act, 1985)

IN THE MATTER OF

OA NO. 99 OF 2007

Shri A. K. Sinha

Applicant

Vs.

Union of India & others

Respondents

INDEX

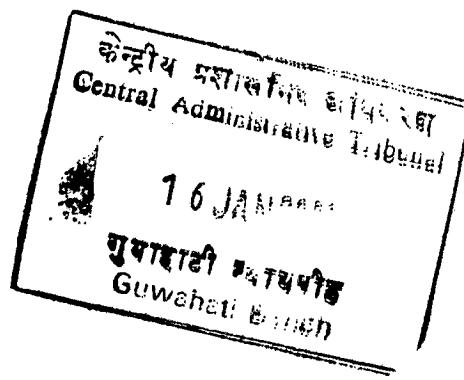
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Submitted

Renu

Adv. - P.S.

C. S. Sinha
(C. S. Sinha)
Advocate



Achintya Kumar Sinha
2
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Guwahati Bench
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
(An application under section 19 of the Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO. 99 OF 2007 A. D.

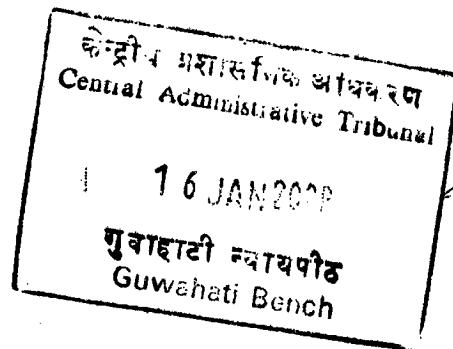
BETWEEN

Shri Achintya kumar Sinha, IFS, Managing Director, Tripura
Rehabilitation Plantation Corporation Ltd., Palace Compound
(North), Agartala: 799 001 ... Applicant

VERSUS

1. The Union of India represented by the Secretary, Ministry of Environment and Forests, Government of India, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi: 110 003
2. The State of Tripura represented by the Chief Secretary, Govt. of Tripura, Agartala, Tripura: 799 001
3. The State of Manipur represented by the Chief Secretary, Govt. of Manipur, Imphal, Manipur
4. The Union Public Service Commission represented by the Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi: 110 001
5. Shri B.N. Mohanty, IFS care of Principal Chief Conservator of Forests, Manipur, Imphal
6. Dr. A. Rastogi, IFS, Director, Ministry of Defence, Government of India, South Block, New Delhi
7. Dr. Ajay Kumar, IFS care of Principal Chief Conservator of Forests, Manipur, Imphal
8. Shri P.K. Pant, IFS, Conservator of Forests, Aranya Bhawan, Pt. Nehru Complex, Kunjavan, Agartala: 799 006 ... Respondents

IN THE MATTER OF



Achintya Kumar Singh
5
Lokeshwar Mitra
20

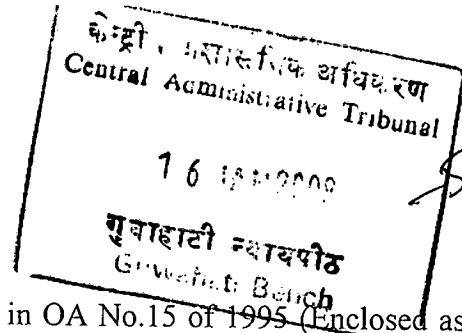
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Rejoinder by the applicant to the written statement by the Respondent 1

The humble applicant submits rejoinder to the written statement by the respondent 1 as follows:

1. That with regard to paragraph 1(a) of the written statement, the applicant does not offer any comment.
2. That with regard to paragraph 1(b) of the written statement, the applicant reiterates that the application filed was just and sustainable both in facts and in law.
3. That with regard to paragraph 1(c) of the written statement, the applicant submits that the application was not bad for non-joinder of necessary parties and misjoinder of unnecessary parties. The applicant submits further that his seniority was fixed by the Annexure-2 order dated 30/03/2005 with year of allotment '1986' below Shri P. K. Pant, IFS; and all the four officers of '1986' year of allotment above in the Manipur-Tripura Joint Cadre and including Shri P. K. Pant were made parties in the instant O. A. In this regard an extract from the Indian Forest Service Civil List 2006 for Manipur-Tripura Joint cadre is enclosed as **Annexure – A**.
4. That with regard to paragraph 1(d) of the written statement, the applicant reiterates that respondent 1 at paragraph 4 in Annexure-3 order dated 09/08/2000 did not allow the applicant's claim for promotion with effect from 16/12/1989 for reasons and grounds as below:
 - (i) the judgment rendered by the Hon'ble Tribunal in the case of Shri Ibobi Singh in OA No.15/95 was pending for review; and
 - (ii) the applicant's name was not included in 1988 Select List "due to restriction on the size of the Select List which depended upon the number of promotion vacancies available on the date of preparation of the list."

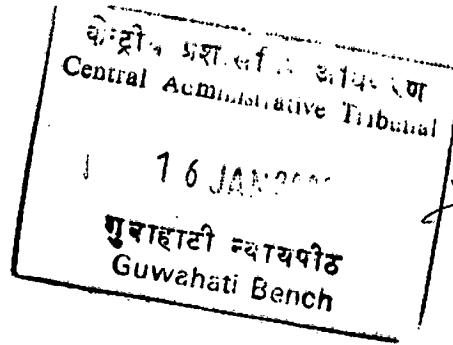
Annexure-4 Notification dated 12/09/2005 of the Department of Personnel and Training, Ministry of Personnel, Public Grievances & Pensions, Government of India granted retrospective effect from 29/03/1988 to Annexure-5 Notification dated 22/11/1990 for IFS (Fixation of Cadre Strength) Regulations, 1990 in implementation of the Hon'ble Tribunal's



order dated 20/01/1999 in OA No.15 of 1995 (Enclosed as **Annexure-B**) as upheld by the Hon'ble Gauhati High Court in their judgment dated 10/04/2003 (Enclosed as **Annexure-C**) in WP (C) No.4963 of 2001. The applicant accordingly submitted Annexure-9 representation dated 20/12/2005 praying for antedating his promotion with effect from the 16th December 1989. The respondent 1 considered the aforesaid representation as required by Annexure 12 order dated 22/08/2006 of the Hon'ble Tribunal in OA No. 217/2006 and disposed of the aforesaid representation by Annexure-1 order dated 27/11/2006 rejecting the applicant's claim.

The instant OA No.99 of 2007 challenges the Annexure-1 order dated 27/11/2006 of respondent 1. Hence the instant O.A. is not hit by the principle of waiver estoppels and acquiescence.

5. That with regard to paragraph 1(e) of the written statement, the applicant reiterates that Annexure-1 order dated 27/11/2006 of the respondent 1 rejecting the applicant's long pending legitimate claim for antedating his promotion to IFS, despite correction of its own wrong by Annexure-4 Notification dated 12/09/2005 granting retrospective effect from 29/03/1988 to the IFS Cadre Strength Amendment Regulations, 1990; was patently arbitrary and unfair resulting in blatant miscarriage of justice.
6. That with regard to paragraph 2 of the written statement it is denied that the statement in paragraph 4.2 of the OA was not factually correct.
7. That with regard to paragraph 3 of the written statement, the applicant does not offer any comment.
8. That with regard to paragraph 4 of the written statement, the applicant reiterates that two clear promotion vacancies arose in Tripura part of the IFS Manipur-Tripura Joint Cadre with retrospective effect from 29/03/1988 consequent on the antedating of Annexure 5 Notification dated 22/11/1990 of IFS Cadre Strength Regulations, 1990 as per Annexure-4 Notification dated 12/09/2005; and the denial of this fact on record by respondent 1 was not correct. The respondent 1 failed to appreciate the facts and circumstances of the case and rejected the claim for relief by the applicant in Annexure-1 order dated 27/11/2006 without due consideration of its own admission in Annexure-3 order dated 09/08/2000 as elaborated in paragraph 4.2 of the OA.



9. That with regard to paragraph 5 of the written statement submitting inter alia that the applicant had claimed in paragraph 5.1 to 5.3 of the OA that his seniority be pre-poned merely on the ground of antedating the cadre review was incorrect and not in conformity to the averments presented in paragraphs 5.1 to 5.3 of the OA and the facts on record on the own admission of the respondent 1 as presented in paragraph 4 of this rejoinder.
10. That with regard to paragraph 6 of the written statement, the applicant does not offer any comment.
11. That with regard to paragraph 7 of the written statement, it is reiterated that the OA is maintainable on merit and law; and that the prayer on legitimate grounds deserves consideration of the Hon'ble Tribunal for grant of relief.
12. Under the facts and circumstances stated above, the applicant most respectfully prays that the Honourable Tribunal may be graciously pleased to dismiss the written statement of the respondent 1 in the instant case.

VERIFICATION

I, Achintya Kumar Sinha, son of Late Nil Kanta Sinha, aged about 58 years at present working as the Managing Director, Tripura Rehabilitation Plantation Corporation Limited, Palace Compound (North), Agartala: 799 006, do hereby solemnly affirm and state that the statements made in paragraphs 1 to 12 are true to my knowledge and belief, derived from official records and are my submission before the Honourable Tribunal. I have not suppressed any material fact.

And, I sign this verification on the 5th day of January 2008, at Agartala.

Achintya Kumar Sinha

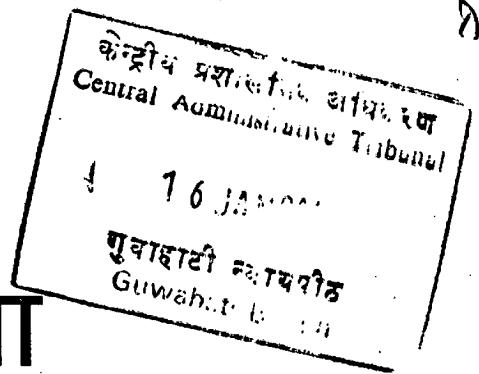
Please use your
Email IDs
(see instructions
on page i-iii)



ANNEXURE-A

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भारतीय वन सेवा

INDIAN FOREST SERVICE

सिविल सूची

2006

भारत सरकार
पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

certified to be true copy
dated 10th Jan 2006
Subhankar Deka

मणिपुर-त्रिपुरा
MANIPUR & TRIPURA

58
16 JAP 2005
गुवाहाटी न्यू यॉर्क
Guwahati Berch

राज्य छ. सं.	अधिकारी का नाम जन्म तिथि भर्ती स्रोत कॉड. सं.	आवंटन वर्ष भा. व. से. वै नि. की सारीख शैक्षिक अर्हता	वर्तमान वेतनमान में नियुक्ति की सारीख टिप्पणी	वर्तमान पद वर्तमान पद में नियुक्ति की सारीख	दूरधारा (लाइनर) (मोबाइल) ई-मेल
STATE S.NO.	OFFICER'S NAME DATE OF BIRTH RECTT. SOURCE	YEAR OF ALLOTMENT	PRESENT SCALE OF PAY DATE OF APPTT. TO SCALE	PRESENT POST DATE OF APPOINTMENT TO PRESENT POST	TEL. (OFFICE) (MOBIL) E-MAIL
OFFICER CODE NO.	EDUCATIONAL QUALIFICATION	DATE OF APPOINT. TO IFS	REMARKS		
0025 MT/041	ए. के. रोय A.K. ROY 04/05/1950 SFS B.Sc.	1985 02/02/1990	16400-20000 27/03/2000	CF, M&E, O/O PCCF, TRIPURA 17/05/2004	mt041@ifs.nic.in
0026 MT/045	बी. एन. मोहन्ती B.N. MOHANTY 10/08/1959 RR M.Sc.	1986 10/06/1986	16400-20000 05/07/2003	CF, REGIONAL OFFICE, NOEL, BHOPAL 12/09/2005	2225508 mt045@ifs.nic.in
0027 MT/043	डा. ए. रस्तोगी DR. A. RASTOGI 26/06/1961 RR M.Sc.	1986 16/06/1986	16400-20000 21/09/2001 AGAINST CDR	DIRECTOR, MINISTRY OF DEFENCE NEW DELHI 18/12/2004	mt043@ifs.nic.in
0028 MT/042	अजय कुमार AJAI KUMAR 28/01/1962 RR M.Sc.	1986 02/06/1986	14300-18300 01/01/1999 AGAINST CDR	DIRECTOR, M/O DEFENCE 31/05/2005	mt042@ifs.nic.in
0029 MT/044	पी. के. पन्त P.K. PANT 04/02/1961 RR M.A.	1986 02/06/1986	16400-20000 18/04/2002 AGAINST CDR	STATE DEPUTATION TO UTTARAKHAND	mt044@ifs.nic.in
0030 MT/046	डी.जे.एन. आनन्द D.J.N. ANAND 25/06/1960 RR M.Sc.	1986 02/06/1986	16400-20000 31/05/2002 AGAINST CDR	DIRECTOR, NATIONAL COMMISSION, BANGALORE 30/04/2001	mt046@ifs.nic.in
0031 MT/047	थ. इबोदी सिंह TH.IBOBI SINGH 01/03/1954 SFS M.Sc.	1986 30/08/1990	16400-20000 04/02/2002 31/08/2005	CF, SOCIAL FORESTRY CIRCLE, 31/08/2005	mt047@ifs.nic.in
0032 MT/051	जगदीश सिंह JAGDISH SINGH 31/07/1958 RR M.Sc. L.L.B.	1987 06/07/1987	16400-20000 18/04/2002 17/10/2005	CF, NORTH, KUMARGHAT	mt051@ifs.nic.in

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(Autograph to be done up)

Original Application No. 15 of 1995.

Date of decision : This the 20th day of January 1999.

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

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

Th. Ibobi Singh,
Divisional Forest Officer,
Northern Forest Division,
Kangpokpi, Manipur

Applicant.

By Advocate Mr. B.K.Sharma.

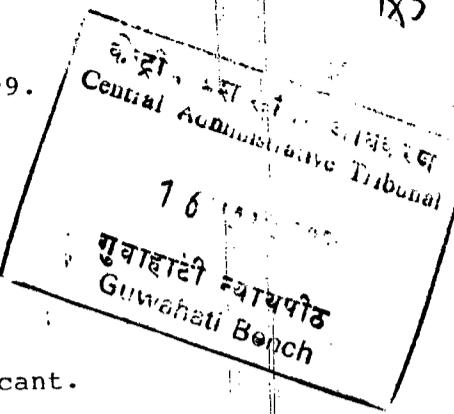
-versus-

1. Union of India, represented by the Secretary to the Government of India, Ministry of Environment and Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
2. Union Public Service Commission, represented by the Chairman, U.P.S.C. Dholpur House, Shahjahan Road, New Delhi.
3. The State of Manipur, represented by the Secretary, Department of Forests, Government of Manipur, Imphal, Manipur.
4. The State of Tripura, represented by the Secretary, Department of Forests, Government of Tripura, Agartala, Tripura.
5. V. Ramkanta, Dy. Conservator of Forests (Presently on Deputation to the State of Karnataka), C/o Principal Chief Conservator of Forests, Karnataka, Bangalore.
6. A Kumar, Dy. Conservator of Forests, (Presently on deputation to the Govt. of India), C/o Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
7. G.Krishnan, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.

Contd....

[Signature]

*entitled to the due date
Court seal fixed*



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BP

8. Balbir Singh, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.

9. G.S. Kadu, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.

10. Surender Kumar, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.

11. P.N. Prasad, Divisional Forest Officer, Chandel, Manipur.

12. R.K. Srivastava (Presently on deputation to the Govt. of India), Asstt. Inspector General of Forests, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.

13. Jagabandhu Mishra, Divisional Forest Officer, Tamanglong, Manipur.

14. Koroilhouvi, Divisional Forest Officer, Social Forestry Division I, Manipur, Imphal.

15. A.K. Roy, Divisional Forest Officer, on deputation to the TFDPC Ltd., Tripura, C/o PCCF, Tripura, Agartala.

16. A. Rastogi, Divisional Forest Officer, Tripura, on deputation to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.

17. P.K. Pant, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.

18. B.N. Mohanty, Divisional Forest Officer, Manipur, presently on deputation to Orissa as DCG, Office of the Regional CCF, Bhubaneswar.

19. D.J.N. Anand, Divisional Forest Officer, Jaribam, Manipur.

Respondents.

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

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BARUAH J.(V.C.)

The applicant at the material time was a member of Manipur Forest Service and was holding the post of Assistant Conservator of Forests. In the year 1985 he became eligible for consideration for promotion to Indian Forest Service (for short the IFS). However he was not considered for promotion due to the non-availability of post in that year. For the subsequent years namely for the years 1986, 1987, 1988 and 1989 he was not recruited. In the year 1989 the applicant was a lone member selected for appointment to the IFS by way of promotion. This year also he could not be appointed due to non-availability of post. In the next year he was selected and promoted to IFS by Annexure-IV Notification dated 30.8.1990. By Annexure VI Order dated 6.9.1992 his year of allotment was given as 1986 and the same was communicated to the applicant on 29.8.1993. Prior to that the applicant submitted a representation in the year 1991 apprehending that the authority might give incorrect year of allotment. He claimed that his year of allotment ought to be 1984. After the Annexure-VI order the applicant submitted yet another representation (Annexure-VII A) dated 16.3.1993. This representation was not disposed of. Thereafter in the month of

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Central Administrative Tribunal
76 JAH 1994
Guwahati Bench

November/December 1993 he visited Delhi Office and he came to know that his said representations had not yet been forwarded to the Head Office for taking step in the matter. Accordingly Delhi Office advised the applicant to file a fresh representation. On being so advised he submitted a fresh Annexure-VIII representation dated 17.1.1994. Even after submission of Annexure-VIII representation nothing had been done. Hence the present application.

2. In due course respondens have entered appearance. Union of India, respondent No.1 has filed written statement. In the written statement respondent No.1 has refuted the claim of the applicant. According to the respondent No. 1 the year of allotment was rightly assigned in strict compliance with the provision of Rule 3(2) (6) of IFS Regulation of Seniority Rules 1968. In paragraph 10 of the written statement respondent No.1 has stated regarding the Triennial Cadre Review. We quote the relevant portion of the paragraph 10 :

"10. After the proposals have been received, these are examined by the Cadre Review Committee which, among others, is represented by State officials also. Based on the recommendations of the Cadre Review Committee, necessary changes are made in the strength and composition of a particular cadre. It is admitted that the last Review of the strength and composition of the Manipur-Tripura cadre of the IFS was notified on 22.11.90. It is submitted that the issue of Triennial Cadre Review having not been held during 1985-1990, cannot be agitated by the applicant at this belated stage."

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In paragraph 14 of the said written statement it is stated that there could be some reasons beyond the control of the State Government for not holding meetings in consultation with the Union Public Service Commission on regular yearly basis. In any case, this matter could not be agitated at this belated stage.

The other respondents including the State of Manipur have not filed any written statement. Besides these, the applicant also claimed about the 33.33% deputation reserve quota. This was however not done in spite of the claim of the applicant. A specific averment has been made in the Original Application but there has been no reply to the same. The respondent No.1 in its written statement remained silent in the matter. The other respondents as stated hereinbefore have not filed any written statement.

3. We have heard Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C.

4. Mr. Sharma submits that it has not been explained as to why after 1985 when the applicant became eligible for promotion he had not been considered for promotion to IFS for the subsequent years viz. 1986, 1987, 1988 and 1989. The written statement filed by the respondent No.1 has not dealt with

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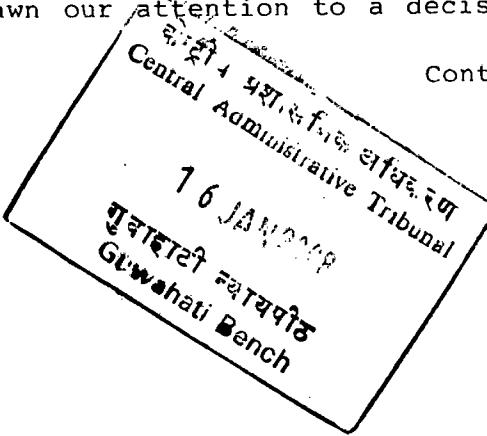


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this matter. Only in paragraph 14 of the written statement the respondent No.1 has stated that there could be some reasons beyond control of the State Government for not holding meetings for selection during those years as quoted above. The respondent No.1 may not have proper knowledge in the matter. It is the State Government who have such knowledge. Unfortunately the State Government has not taken steps for filing any written statement. Except that nothing has been mentioned. Mr. Sharma on this point submits that because of non-selection in those years the applicant was deprived of his promotion. The second submission of Mr. Sharma that last Triennial Cadre Review was held on 29.3.85 and the next Cadre Review ought to have been on 29.3.88 i.e. after 3 years as contemplated in Rule 4(2) of IFS Cadre Rules but no proper reason has been assigned for not doing so thereby the applicant was deprived of his legitimate due. On this ground Mr. Sharma submits that at least as per the above Rule 4(2) of the IFS Cadre Rule, Cadre Review ought to have been in March, 1988. The State Government had in fact sent proposals on 7.4.1987. The third submission of Mr. Sharma is that the promotion quota was not fixed as required against the 33.33% on deputation reserve against item 5 of IFS (Fixation of Cadre Strength) Regulations, 1966. In this connection Mr. Sharma has drawn our attention to a decision

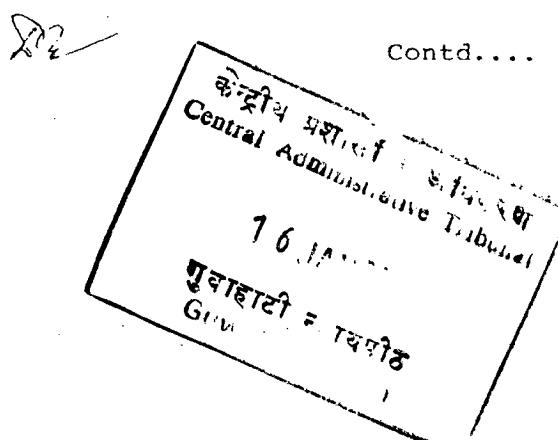
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reported in 1987 (4) SLJ (CAT) (K.K.Goswami vs. Union of India & Ors.). and another decision of Calcutta Bench of the Tribunal (Dhuti Kr. Basu & Anr. vs. Union of India & Ors.). Mr. Sharma submits that against both the judgements SLPs had been filed before the Apex Court and both the SLPs were dismissed by the Apex Court by Annexure-XI and XII orders dated 24.8.95 and 18.4.88. Mr. Sharma therefore submits that the decision of those Benches of the Tribunal have become final. As per the decisions of the Calcutta and Jabalpur Bench of the Tribunal, 33.33% promotion quota against deputation was required to be fixed. By the aforesaid two decisions the Tribunal gave direction to the respondents to compute the promotion quota in the State Forest Service. As this was not done according to Mr. Sharma the applicant was made to suffer. Had this been done the applicant would have been promoted much earlier.

5. Mr. Deb Roy on the other hand tries to support the action of the respondents. According to him the year of allotment has been rightly fixed. Regarding Cadre Review, Mr. Deb Roy submits that this could not be done by the State Government because the reasons beyond control of the State Government.

On the rival contention of the parties now it is to be seen whether the applicant is entitled to relief as claimed for as per the provision of



Rule 4(2) of Indian Forest Service (Cadre) Rules

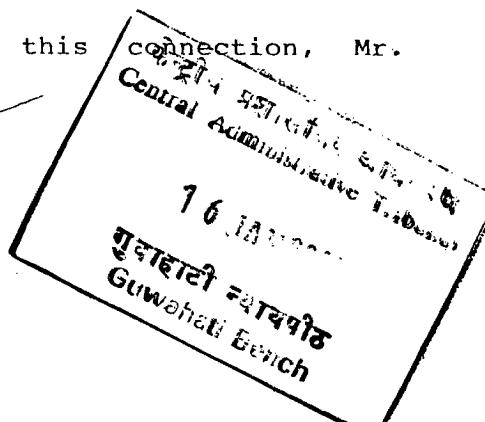
1966. Under the said Rules, the Central Government is required to re-examine the strength and composition of each such cadre in consultation with the State Government concerned and may make such alterations therein as it deems fit. This must be done at the interval of 3 years. The sub-Rule (2) of Rule 4 of IFS (Cadre) Rules, 1966 is quoted below :

" (2) The Central Government shall at the interval of every three years, re-examine the strength and composition of each such cadre in consultation with the State Government concerned and may make such alterations therein as it deems fit :

Provided that nothing in this sub-rule shall be deemed to effect the power of the Central Government to alter the strength and composition of any cadre at any other time :

Provided further that the State Government concerned may add for a period not exceeding one year, and with the approval of the Central Government for a further period not exceeding two years, to a State or Joint Cadre one or more posts carrying duties of responsibilities of a like nature to a cadre posts."

A mere reading of sub-Rule (2) of Rule 4 of IFS (Cadre) Rules, 1966 it appears that Central Government is required to re-examine the strength and composition of each such cadre in consultation with the State Government at an interval of 3 years and may make alteration therein. The word 'shall' has been used in the said sub-Rule. This suggests that the provision is mandatory in nature. In this connection, Mr.



Sharma has drawn our attention to a decision of Ernakulam Bench of this Tribunal in the case of Jacob P. Thomas Vs. Union of India & Ors. reported in SLJ (CAT) 1992 (3) 85. In the said judgement in para 14 the Tribunal observed as follows :

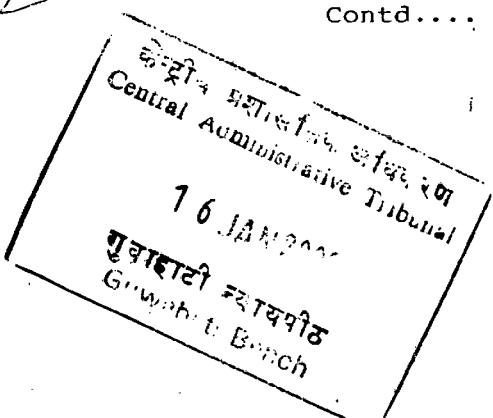
"14. Having considered the instructions of Government of India, one has now to consider whether the language used in Rule 4(2) compels one to reach a conclusion that the notification as a result of the triennial review should be effective from the third anniversary of the earlier notification. The expression used in Rule 4(2) is "at intervals of every three years" which mean that the interval between one fixation of cadre strength and another shall be three years, no more or no less. This is due to the fact that the expression "interval" is defined to mean intervening time or space in Concise Oxford Dictionary."

From the reading of this sub-rule 2 of Rule 4 of the Cadre Rules we also feel that the Rule suggests that it should be done immediately at the interval of 3 years and it is of mandatory nature. In that matter we are in respectful agreement with the decision of the Ernakulam Bench in this regard.

Regarding the computation of the deputation reserve quota as has been held by the Jabalpur and Calacutta Bench the deputation reserve quota are to be computed for the purpose of determining the strength of the promotion quota. Unfortunately this has not been done. We are also of the same

Therefore in view of the above, we find sufficient force on the contention of Mr. Sharma

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and we are of the opinion that the Triennial Cadre Review ought to have been held at the interval of 3 years as this was not done as held by the Ernakulam Bench the year of allotment should be computed relating to the year of allotment earlier than 1986. Regarding deputation reserve quota as this was not done we give direction to the respondents to compute the cadre strength promotional quota after giving deputation reserve quota and give the benefit of promotion quota to the applicant in the manner he is entitled to.

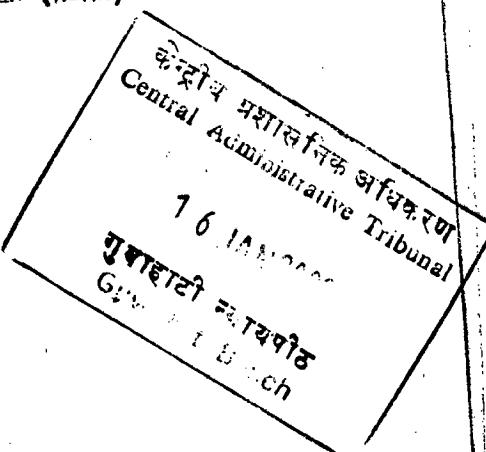
With the above direction the Original Application is allowed. Considering the facts and circumstances of the case we, however make no order as to costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (ADMN)

Certified to be true
प्रशासित प्रविलिपि

Section Officer (S)
आनुमानिक अधिकारी (प्राप्तिकर्ता)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकारी
Guwahati Bench, Guwahati
गুৱাহাটী ন্যায়পীঠ, গুৱাহাটী



certified to be true
(Anubhav Pathak)

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THE GAUHATI HIGH COURT
(High Court of Assam Nagaland Meghalaya Manipur Tripura Mizoram and Arunachal Pradesh)

WP(C) NO 4963 OF 2001

The 10th day of April, 2003

P R E S E N T

THE HON'BLE THE CHIEF JUSTICE MR PP NAOLEKAR
THE HON'BLE MR JUSTICE AMITAVA ROY

Petitioner

The Union of India,
Represented by the Secretary to the Government of India, Environment &Forests, New Delhi.

By Advocate:

Mr C Choudhury, Sr CGSC.

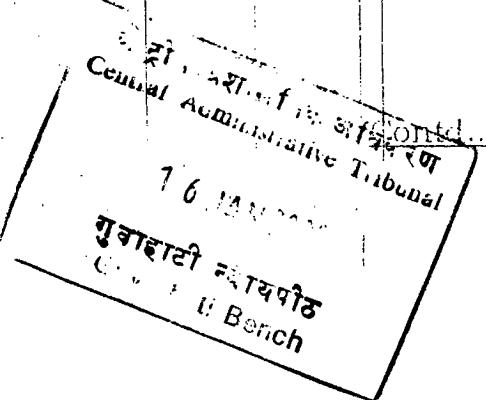
Respondents:

1. Shri Ibobi Singh,
Divisional Forest Officer,
Northern Forest Division,
Kangpokpi, Manipur.
2. The Central Administrative Tribunal,
Gauhati Bench, Guwahati.

By Advocate:

Mr. BK Sharma,

THIS WRIT PETITION HAVING BEEN HEARD ON 31ST DAY OF MARCH, 2003, THE COURT PASSED THE FOLLOWING:-



党中央
7/6/2003
Gauhati Bench

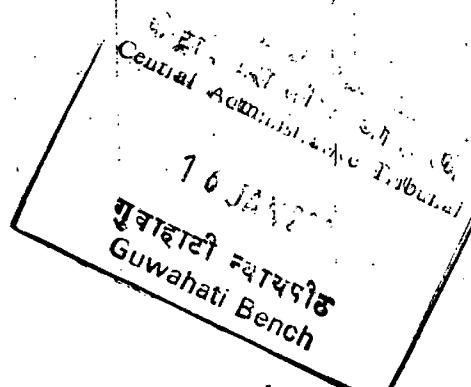
JUDGEMENT

The petitioner herein, the Union of India, through its Secretary, Ministry of Environment and Forests, has challenged the judgments and orders dated 21.1.2000 and 22.1.2001 passed by the learned Central Administrative Tribunal, Gauhati Bench, in OA 15/95 and RA 15/99 thereby directing that the year of allotment of the respondent/applicant be computed earlier than 1986 and further he be granted the benefit of the promotion quota after working out the deputation reserve posts in the concerned cadre.

2. We have heard Mr C Choudhury, Sr CGSC, for the petitioner and Mr BK Sharma, senior counsel assisted by Mr HP Das for the respondents.

3. A brief sketch of the relevant facts would be necessary. The respondent/applicant was appointed as Assistant Conservator of Forest in the State Forest Service of Manipur on 2.5.78 and was thereafter confirmed in the said post with effect from 2.5.80. He became eligible for promotion to the IFS with effect from 1.1.85 under the Indian Forest Service (Appointment by Promotion) Regulation, 1966, on having completed eight years of continuous service in the substantive capacity in the State Forest Service. He was given officiating appointment as Deputy Chief Conservator of Forest against IFS cadre post with effect from 4.9.86 and he continued to hold the cadre post under Rule 9 of Indian Forest Service (Cadre) Rules, 1966. The officiation of the respondent / applicant in the cadre post was duly ^{approved} by the Central Government and the

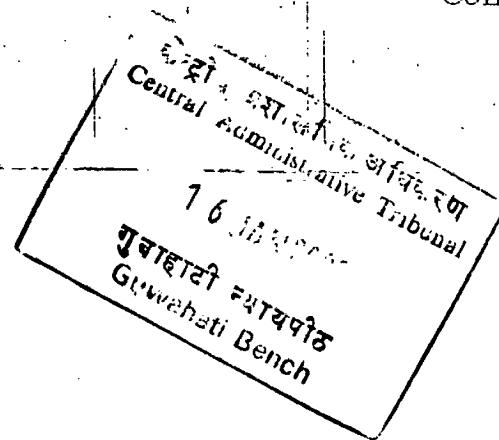
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3. *B6*
 Union Public Service Commission for the period 4.8.86 to 30.6.89. The Government of Manipur, however, approved his officiating appointment with effect from 4.9.86 to 3.1.3.89. The further case of the respondent/applicant is that no meeting of the Selection Committee for the Manipur part of the Manipur-Tripura cadre was held in time as prescribed, to consider the cases of the eligible candidates of the State Forest Service Officers for appointment to the IFS by promotion in terms of Regulation (5) of the Indian Forest Service (Appointment by Promotion) Regulations, 1966. The triennial review of the cadre strength as required under the Indian Forest Service (Cadre) Rules, 1966 and the Indian Forest Service (Fixation of Cadre Strength) Regulation, 1966, for Manipur-Tripura was also due in the year 1988. The last triennial cadre review for the Manipur-Tripura cadre was done on 29.3.85 fixing the number of senior scale posts in the Manipur cadre at 19. The next cadre review was due after three years on 29.3.88 in terms of Rule 4(2) of the Indian Forest Service (Cadre) Rules, 1966. But it was not done inspite of the fact that a proposal to the said effect had already been submitted to the Government of India, Ministry of Environment and Forest on 7.4.87 vide Government of Manipur, Department of Personnel letter No 2/14/29-IFS/DP, dated 7.4.87. It was only on 22.11.90, the triennial review was done vide notification dated 22.11.90, ie, after a lapse of five years and eight months from the last review in the year, 1985. By the said cadre review the total number of senior scale posts in the Manipur part of the cadre was raised to 23 resulting in addition of two senior scale posts for promotion to the IFS.

4. The meeting of the selection committee was eventually held on 22.2.89 for consideration of the cases of

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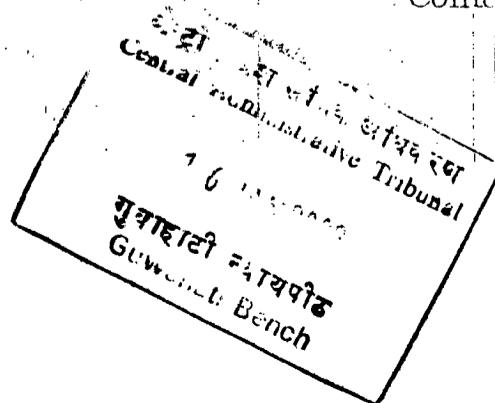
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the eligible State Forest Service Officers for promotion to the IFS. The name of the respondent was included in the select list. According to the respondent out of the eligible officers of the Manipur State Forest Service only his name appeared in the select list but he was not promoted. The selection committee met again on 7.4.1990 and the respondent was again selected. In the meanwhile, the respondent was officiating in the IFS cadre post as above. He was eventually promoted to the IFS on 30.8.90. The appointment to the IFS was in terms of Rule 8(1) of the Indian Forest Service (Recruitment) Rules, 1968 and Regulation 9(1) of the Indian Forest Service (Appointment by Promotion) Regulations 1966. Thereby the respondent was allotted Manipur-Tripura cadre in the IFS under Rule 5(1) of the Indian Forest Service (Cadre) Rules, 1966. After his promotion, the respondent apprehending that while fixing his seniority his officiating services in the cadre would not be taken into consideration, submitted a representation dated 30.12.91 pointing out that having regard to his officiating services in the cadre post, he is entitled to be granted "1984" as the year of allotment. The respondent, however, was sanctioned "1986" as the year of allotment. The respondent being aggrieved submitted representations but to no avail. He, therefore, in the said circumstances approached the learned Central Administrative Tribunal, Gauhati Bench, for redress. He prayed for an appropriate order to quash the decision of the Government of India granting "1986" as the year of allotment to him and sought for further directions for assigning "1984" as the year of allotment. The said application was registered as OA 15/95.

5. In its written statement, the Union of India maintained that the respondent was rightly assigned "1986".

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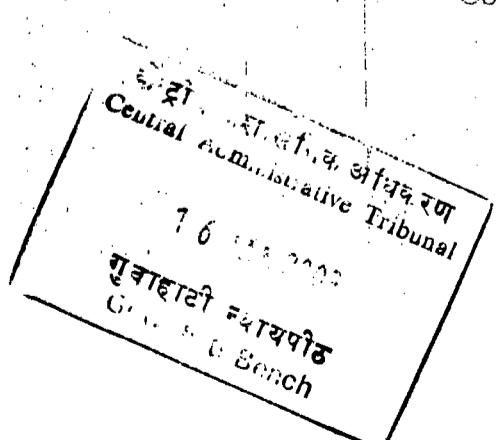
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as the year of allotment in accordance with the provisions of Rule 3(2)(c) of the Indian Forest Service (Seniority) Regulation 1968. It was admitted that the respondent/applicant was given officiating appointment in the cadre post from 4.9.86. With regard to holding of meeting of the Selection Committee, it was pointed out that under the Indian Forest Service (Appointment by Promotion) Regulation, 1966, the meeting of the Selection Committee is required to be held ordinarily at the interval of not exceeding one year but there can be reasons beyond the control of the State Government for which the meeting of the Selection Committee may not be held annually. It took a stand that the respondent/applicant should not be permitted to agitate this issue relating to the year, 1988 at such a belated stage.

So far as the cadre review was concerned, it was contended that under Rule 4 of the Indian Forest Service (Cadre) Rules, 1966, though the strength and composition of each of the cadre of the Indian Forest Service is to be reviewed at an interval of three years in consultation with the State Government concerned, the proposal for such review has to come from the said State Government. It was admitted that the cadre review of Manipur - Tripura cadre of the IFS was notified on 22.11.90. The Union India, however, maintained that the issue pertaining to non-holding of the triennial cadre during 1985 to 1999 should not be allowed to be raised after a lapse of so many years.

6. On the basis of the pleadings of the parties and after considering the materials available on record, the learned Tribunal by its judgment dated 20.1.99, held that as the triennial cadre review ought to have been held at the

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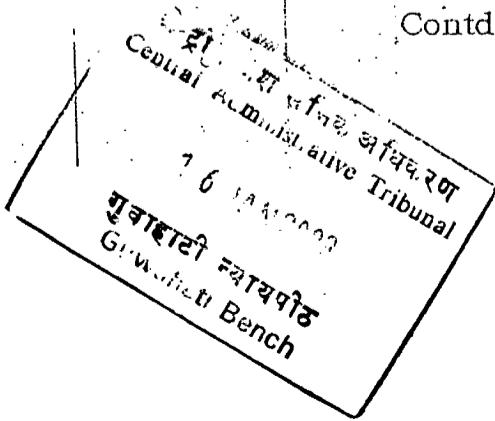
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interval of three years and as this was not done, the year of allotment of the respondent/applicant should be earlier than 1986 and further after providing the deputation reserve quota, the promotional quota be computed and the respondent/applicant be granted the benefit thereof in the manner in which he is entitled under the law.

7. Being aggrieved, the Union of India presented an application before the learned Tribunal for review of the judgement and order and the application was registered as RA 15/99. It was, inter alia, contended therein that no grievance was expressed in the original application by the respondent/applicant with regard to the State deputation reserve and, therefore, the learned Tribunal ought not have granted any relief pertaining thereto. It was further urged that a reading of the language of Rule 4(2) of the Indian Forest Service (Cadre) Rules, 1966, it could not be construed that the cadre review should be done before the expiry of three years and in the facts and circumstances of the case, though there has been some delay in holding the cadre review, the directions of the learned Tribunal implemented would result in far reaching and wide spread consequences. Further the cadre review if given a retrospective effect, the same would result in additional vacancies in the promotional quota thus upsetting the process of promotion already undertaken. By its order dated 22.1.2001, the learned Tribunal dismissed the review application.

8. Mr Choudhury has argued that the learned Tribunal has erred on a fundamental principle of law in directing that State deputation reserve posts be provided to the Manipur - Tripura cadre and for computing the

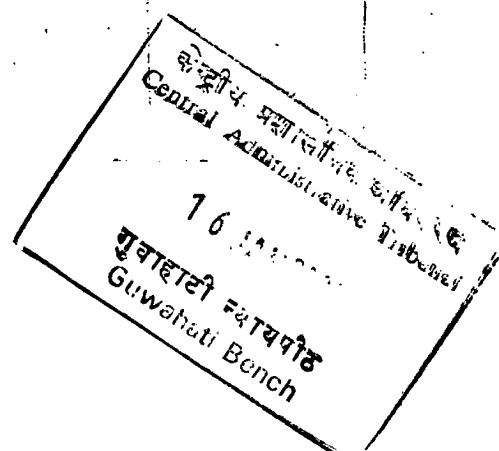
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promotional quota therein on the basis thereof and to grant the benefit in connection therewith to the respondent/applicant, inasmuch as, no such grievance was either expressed by him in the original application nor any relief was prayed for in that regard. He has further urged that though under Rule 4(2) of the Indian Forest Service (Cadre) Rules, 1966, the triennial cadre review has to be held ordinarily at the interval of every three years it cannot be interpreted that such review has to be made before the expiry of every three years and that under no circumstances the exercise can be delayed beyond that period. He argued that merely because following the triennial cadre review in the year 1990 the cadre strength was raised, it did not follow that the respondent/applicant was automatically entitled to promotion to the IFS on the basis thereof with retrospective effect. According to him, the claim of the respondent/applicant for year of allotment before 1986 on the basis of such retrospective promotion was untenable and the learned Tribunal in granting relief in that regard totally misconstrued the relevant Rules and Regulations. He argued that in the attending facts and circumstances, the petitioner, Union of India be allowed to ascertain as to whether the triennial cadre review if undertaken in the year 1988 would have resulted in increase in the cadre strength before being required to provide the benefit of retrospective promotion to the respondent/applicant and the consequential seniority on the basis thereof.

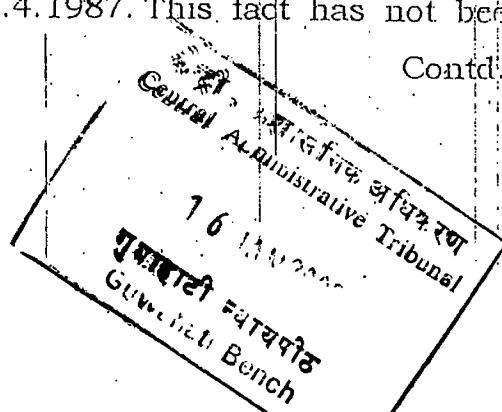
9. In reply, Mr. Sharma, learned senior counsel for the respondent / applicant, has argued that it being incumbent upon the Central Government under Rule 4(2) of the Indian Forest Service (Cadre) Rules 1966 to reexamine the strength and composition of each cadre in the service at the interval of every three years in consultation with the State



Government concerned and the Central Government having admittedly failed to act in terms of the mandate of the said Rules for no fault of the respondent/applicant, he cannot be denied the benefit of the increase in the cadre strength though made belatedly. He has argued that there is nothing on record to indicate there was any compelling circumstance for which the delay in the cadre review had occurred and, therefore, the learned Tribunal was perfectly justified in directing grant of the year of allotment to the respondent/applicant prior to 1986. With regard to the aspect of State deputation reserve, the learned senior counsel argued that in the facts and circumstances of the case, an appropriate direction permitting the respondent to submit a proper representation before the concerned authorities for consideration thereof in terms of the relevant Rules and Regulations would meet the ends of justice. In support of his submissions, Mr Sharma placed reliance on the decisions of the Apex court in *TN Administrative Service Officers Association and another Vs Union of India and others, (2000) 5 SCC 728* and *S Ramanathan Vs Union of India and others, (2001) 2 SCC 118*.

10. We have considered the rival contentions of the parties. The pleadings of the parties along with the supporting documents as well as impugned judgments and orders have been perused. In the instant case, except the Central Government, other respondents have not filed their written statement. It is the pleaded case of the respondent/applicant that the necessary proposal for review of the cadre strength of the Manipur-Tripura cadre was duly submitted before the Central Government by the state Government vide its Department of Personnel's letter No 2 / 14 / 79 / IFS-DP, dated 7.4.1987. This fact has not been

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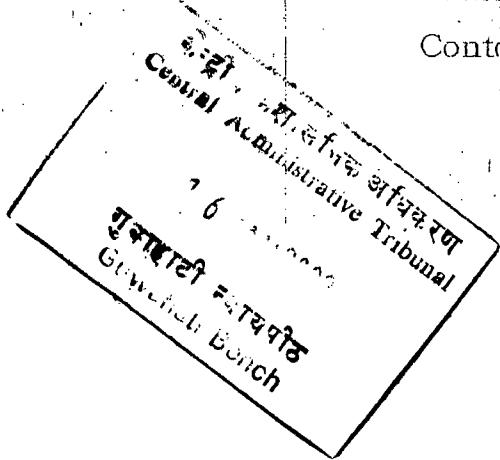
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disputed by the Central Government, in its written statement. It has also not cited any exceptional circumstance, which had contributed to the delay in conducting the review of the cadre strength as proposed. In other words, there is no material on record to justify the delay of the cadre review which otherwise is to be done mandatorily at the interval of every three years under Rule 4(2) of the Indian Forest Service (Cadre) Rules, 1966. Our attention has not been drawn to any fact that there has been any material alteration in the circumstances between 1988 and 1990 to suggest that if cadre review had been conducted in 1988, the strength of the cadre would not have been increased. It is also not in dispute that the respondent has been selected for being promoted to IFS since 1989.

11. In S Ramanathan (supra) a similar grievance resulting from delay in the cadre review was raised before the Apex court. It, while holding that the language of Rule 4(2) is peremptory in nature, ruled that if there is any infraction thereof and no explanation is forthcoming from the Central Government indicating circumstances under which the exercise could not be undertaken, the aggrieved party may approach the Court which in its turn would be well within its jurisdiction to issue appropriate direction depending upon the circumstances of the case. In that case, the triennial review was due in the year 1987 but the exercise was initiated in the year 1989 and finally the cadre strength was reviewed in the year 1991 increasing the same. In the said backdrop of facts, the Apex court, therefore, directed the Central Government as well as the State Government to consider promotion of the State cadre officers on the basis of re-determined strength of the cadre treating the same to be in the year 1989 and further that if on such

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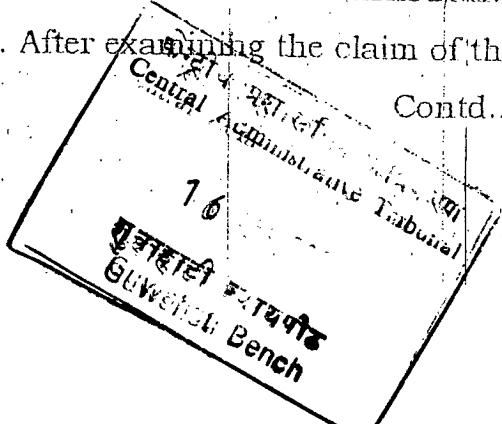


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reconsideration they were entitled to any relief by way of promotion on the basis of the quota available to them in the cadre the same be accorded. In the instant case, the grievance of the respondent/applicant is that due to the failure on the part of the Central government to conduct the triennial cadre review in time his promotion to IFS was delayed thus resulting in loss of seniority in service. As observed herein above, the Central Government has failed to satisfactorily explain the delay in conducting the cadre review which otherwise in terms of the mandate of Rule 1(2) of the Indian Forest service(Cadre) Rules, 1966, it was obligated to do at an interval of three years from the date of the last review, ie, 25.3.85, more particularly, when a proposal to that effect had already been submitted by the concerned State Government in the year 1987. The law having prescribed a thing to be done in a particular way has to be performed in the manner prescribed. No departure, therefore, can be approved in absence of any cogent and compelling reason. There is none in the instant case. We have examined the reasonings recorded by the learned Tribunal in this regard. We are of the considered view that the learned Tribunal did not commit any error in arriving at its conclusion relating to this aspect of the matter and we concur with the same.

12. With regard to the aspect of State deputation reserve, we feel guided by the observations of the Apex court in TN Administrative Officers Association and another(supra). The petitioner Association therein had sought for a direction to the respondents to encadre of State deputation reserve posts, ex-cadre posts and temporary posts manned by the members of the Indian Administrative Service in the IAS cadre. After examining the claim of the

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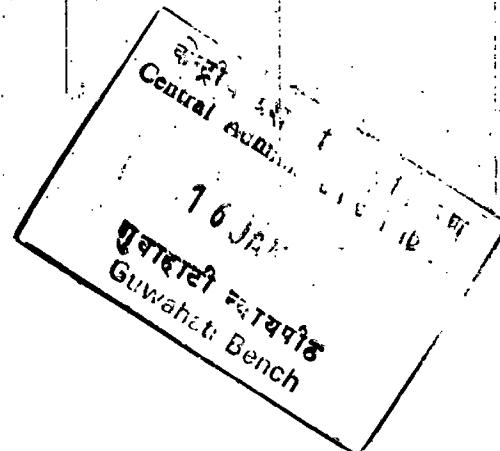
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Association, the Rules and Regulations pertaining thereto, the Apex Court held that only because the State Government had created some posts and had allowed the same to be manned by IAS officers, a mandamus should not be issued to the Central Government to encadre the said posts as the same would run counter to the statutory provisions governing the creation of cadre and fixation of cadre strength. Liberty was, however, granted to the petitioner Association to submit a representation before the Central government furnishing the particulars of the posts which according to them were fit to be encadred and it was directed that if such a representation was filed, the Central Government would consider the same in consultation with the State Government and take appropriate decision thereon.

13: Considering the pleadings of the parties and the state of law as above, in the instant case, we too are of the view that the respondent is not entitled to an order directing the Central Government to compute the deputation reserve posts and provide the benefit of promotion to him after working out the promotion quota based thereon. The respondent/applicant may submit a representation before the Central government with regard to the State deputation reserve posts and his claim in connection therewith under the Rules and Regulation governing his service and if such a representation is filed, the Central Government in consultation with the State Government concerned would consider and dispose of the same in accordance with the relevant Rules and Regulations. In view of the above, direction issued by the learned Tribunal in the impugned judgment concerning State deputation reserve is set aside.

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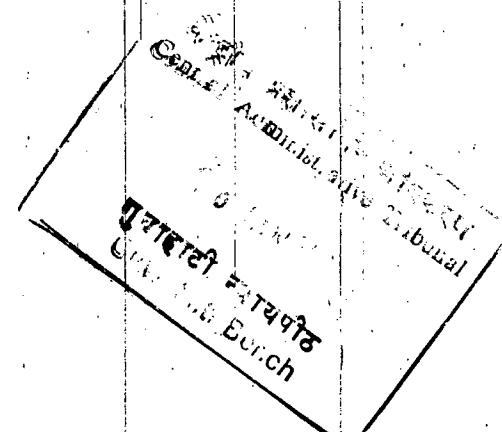
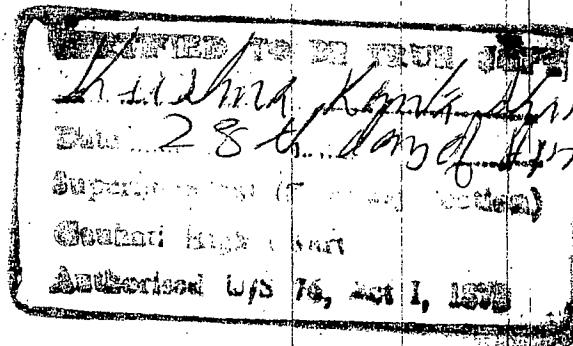
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In the light of the above discussion, the petition is, therefore, partly allowed to the extent indicated hereinabove. There would be no order as to costs.

Sd/- A. Ray
the 29.

Sd/- P. P. Naikkar
Chief Justice

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24/4/03



Certified to be true copy
Contractor P. P. Naikkar