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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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12.7.2007

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R.A./C.P No.
E.P./M.A No. 10/2008

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SECTION OFFICER (Judl.)

Signature
24/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

1. Original Application No. 147 / 2007

2. Miscellaneous Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) Sd/- C. L. Sait VS Union of India & Ors

Advocate for the Applicant(s) Mr. A. K. Phukan, Mr. D. K. Deka, Mr. B. Sanyal

Advocate for the Respondent(s) Mr. C. S. C. Das, Mr. D. K. Deka

Notes of the Registry	Date	Order of the Tribunal
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11.6.2007

This application is in form

is filed/C. F. for Rs 50/-

deposited vide P. BD 653525

No. 346 653525

Dated 11.6.07

By Registrar

The Applicant is working as Principal Chief Conservator of Forests (PCCF in short), Nagaland, Kohima from 2006 onwards. Now, he is sought to be transferred as Chairman, State Pollution Control Board (SPCB in short), Nagaland vide impugned order dated 7.6.2007 (Annexure-5). According to him, though Nagaland Pollution Control Board is an autonomous body, fact remains that it is subordinate organization under Principal Chief Conservator of Forests, Environment, Ecology and Wildlife and the fact that SPCB draws its salary as grant from the Department speaks about the status of SPCB vis-à-vis Forest Department. Applicant claimed that since inception of SPCB, never ever any IFS Officer in the rank of PCCF was transferred as Chairman, SPCB. Therefore, aggrieved by the transfer order

Contd.

Contd
11.6.2007

dated 7.6.2007 which will come into force w.e.f. 12.06.2007 Applicant has filed this O.A. Mr. A. K. Phookan, learned Senior counsel for the Applicant submitted that the Applicant is having a clean service records, no allegation is raised against him and he is holding a cadre post. He submits that the transfer order under challenge has been issued under Rule 6 of IFS (Cadre) Rules, 1966. The said Rule is reproduced herein below:-

"6. Deputation of cadre officers.- A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for Service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government.

(2) A cadre officer may also be deputed for service under.-

- (i) an he is borne; and
- (ii) an international organization an autonomous body not controlled by the Government or a private body by the Central Government in consultation with the State Government on whose cadre he is borne:

Provided that no cadre officer shall be deputed to any organization or body of the type referred to in Item (ii) except with his consent

It is quite evident that if the Government wanted to invoke Rule 6 of the aforesaid rules, is a condition precedent that consent of the

Contd.

Contd
11.6.2007

concerned officer has to be taken. According to the Applicant no such consent has been taken from him.

Ms.U.Das, learned Addl. C.G.S.C. is present on behalf of the Respondent No.1. Considering the urgency Applicant is directed to take immediate and emergent steps for issuing notice to the Respondents. Let the case be posted after two weeks for filing reply statement.

" Post the case on 27.6.2007. In the interest of justice by way of interim order this Court directs the Respondents not to give effect to the order dated 7.6.2007 till the next date if the Applicant is not relieved and the new incumbent has not taken over the charge of PCCF, Nagaland. To that extent only the aforesaid transfer order is stayed till the next date."



Vice-Chairman

/bb/

25.6.07

26.6.2007

Counsel appearing for the parties submitted that the matter is likely to be settled amicably. Counsel for the respondents wanted to file application for vacating the stay order.

Post on 9.7.07 for order. Interim order will continue.



Vice-Chairman

Notice & order sent to D/Section for issuing to resp. nos. 1 to 5 by Speed post with A/D. postal cost paid by learned advocate for applicant.

(Q.2) D/No-561 to 565
12/6/07 Dt= 12/6/07.

- ① Service report Awaited.
- ② No WBS has been filed.

6.6.07.
For compliance
↓

order dt. 26/6/07
issuing to learned advocate's for both parties.

26/6/07

copy received
26/6/07

22.6.07

/pg/

WBS filed by the
Nos 2 & 3. copy
served.

O-A-147/07

9.7.2007

Heard counsel for the parties.

Hearing concluded. Judgment reserved.

① Wks filed by R.No-
2 & 3.

② Respondents No. 1,
4 & 5 not yet filed pg

Vice-Chairman

6.7.07.

12.7.07.

Post the matter on 22.8.07 for completion of
pleadings.

Vice-Chairman

9.7.07

lm

Rejoinder submitted
by the Applicant.
copy received.

The case is ready
for hearing.

21.8.07.
22.8.07.

Counsel for the applicant has
submitted that similar matter has been
challenged before the Hon'ble Gauhati High
Court, therefore he prays for adjournment.
Prayer is allowed. Post the matter on 17.9.07.

Vice-Chairman

lm

7.9.2007

Learned counsel for the Applicant
was represented and expressed his
inconvenience to be present today.

Post the case on 1.10.2007 for
hearing.

The case is ready
for hearing.

28.9.07.


Vice-Chair

/bb/

01.10.2007

On the prayer made on behalf of the learned counsel for the Applicant this matter is adjourned to be taken up on 13.11.2007.

Send copies of the order to the Applicant and all the Respondents so that they will come ready for participation in the hearing on 13.11.2007.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman


Dr. 1.10.07

Pl. send order copies.

/bb/

13.11.2007

On the request of Mr.B.Sarma, learned counsel for the Applicant, call this matter on 26th November, 2007.


(M.R. Mohanty)
Vice-Chairman

order dt. 1/10/07
Sent to D/Section for
issuing to respondents
and applicant by post.

lm

26.11.2007

Ms.U.Das, learned Addl. C.G.S.C. for the Respondent No.1 is present. Mr.S.Nath, learned counsel representing Mr.U.K.Nair, learned counsel for the Applicant, seeks an adjournment on his behalf.

The matter is adjourned to be taken up on 17.01.2008.


(Khushiram)
Member (A)


The case is ready
for hearing.

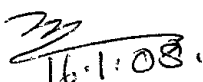
/bb/

17.01.2008

The O.A. is disposed of being withdrawn in terms of the order recorded separately.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman


16.1.08.

/bb/

14.2.08

Copy of the order
and for the office
for filing the
case to the parties
along with addl. CGSC.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

M.P. No.10 of 2008 & O.A. No.147 of 2007

DATE OF DECISION:17.01.2008

Dr.C.L.Goel

.....Applicant/s

Mr.B.Sarma

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Ms. Usha Das, Addl. C.G.S.C.

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

- | | | |
|----|---|---------|
| 4. | Whether reporters of local newspapers may be allowed to see the Judgment? | Yes/No✓ |
| 5. | Whether to be referred to the Reporter or not? | Yes/No✓ |
| 6. | Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? | Yes/No✓ |
| 7. | Whether their Lordships wish to see the fair copy of the Judgment? | Yes/No✓ |

Vice-Chairman/Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Misc. Application No. 10 of 2008

&

Original Application No. 147 of 2007

Date of Order: This, the 17th Day of January, 2008

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Dr. C.L. Goel, IFS
S/o Sri R.C.Goel
Presently posted as the Principal
Chief Conservator of Forests, Nagaland
Kohima.

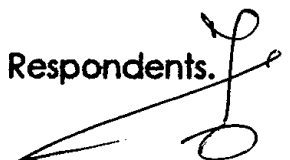
..... Applicant.

By Mr.A.K.Phookan, Sr. Advocate, Mr.U.K.Nair & Mr.B.Sarma, Advocates.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Personnel, Public Grievance
and Pension (Department of Personal and
Training), North Block, New Delhi-1.
2. The State of Nagaland represented by
the Chief Secretary, Govt. of Nagaland
Kohima.
3. The Commissioner and Secretary
to the Government of Nagaland
Department of Forest, Ecology,
Environment and Wild Life
Kohima.
4. Sri A. Rongsenwati, IFS
Additional Chief Conservator of Forest
And Chief Wild Life Warden
Department of Forest, Ecology,
Environment and Wild Life
Kohima.
5. Sri Temsuwati, IFS
Chairman
Nagaland Pollution Control Board
Kohima.

..... Respondents.



Ms. Usha Das, Addl. C.G.S.C.

ORDER (ORAL)

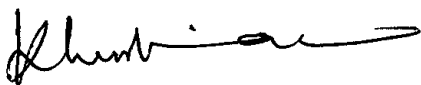
17.01.2008

MANORANJAN MOHANTY, (V.C):

By filing Misc. Application No.10 of 2008, the Applicant seeks withdrawal of the present Original Application. A copy of the Misc. Application No. 10 of 2008 has already been served on Ms. Usha Das, learned Addl. Standing counsel appearing for the Respondents; who is present today.

2. Having heard Mr.B.Sarma, learned counsel appearing for the Applicant this Misc. Application No.10 of 2008 is, hereby, allowed and the O.A. No.147/2007 is permitted to be withdrawn; because it is the case of the Applicant that during pendency of this case, his grievances have already been redressed by the Respondents.

3. As a consequence, the O.A. No.147 of 2007 is, hereby, disposed of being withdrawn.

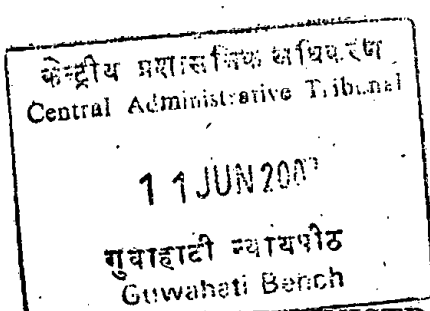


(KHUSHIRAM)
MEMBER (A)



(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/



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**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.**

ORIGINAL APPLICATION NO. 147 /2007.

Dr. C. L. Goel

.....Applicant.

VERSUS

The Union of India & Ors.

.... Respondents

SYNOPSIS

That the applicant has by way of this application has raised a grievance against the arbitrary, illegal and mala fide action on the part of the respondent authorities in issuing a notification dated 07.06.07 transferring and posting him as Chairman, Nagaland Pollution Control Board. The applicant is working as Principal Chief Conservator of Forest, Nagaland on a regular basis w.e.f. 01.03.05. The status and responsibility attached to the post of Principal Chief Conservator of Forest Nagaland also includes the duty of acting as drawing and disbursing officer for the expenditures required to be incurred by the Nagaland Pollution Control Board. The Nagaland Pollution Control Board for all intent and purpose is sub-ordinate to that of Principal Chief Conservator of Forest Nagaland.

The applicant is being sought to be transferred and posted as Chairman, Nagaland Pollution Control Board purportedly by invoking the provisions of Rule 6 of the IFS (Cadre) Rules 1966. The provisions of Rule 6 of the said Rules is not applicable in the case on hand inasmuch as it contemplates a posting made on deputation whereas in the case on hand it is a transfer. The very basis for issuance of the said notifications being admittedly illegal, the said notification cannot stand the scrutiny of law.

The respondent authorities with a view to camouflage the illegality committed in transferring and posting the applicant as Chairman, Nagaland Pollution Control Board have proceeded to declare that the post of Chairman, Nagaland Pollution Control Board to be equivalent in pay and status to that of Principal Chief Conservator of Forest Nagaland. As stated herein above the Nagaland Pollution Control Board for all intent and purpose being sub-ordinate to that of Principal Chief Conservator of Forest Nagaland, the post of Chairman, Nagaland Pollution Control Board cannot under any circumstances be held to be equivalent to that of Principal Chief Conservator of Forest Nagaland.

The post of Chairman, Nagaland Pollution Control Board, was hitherto before being manned by an officer in the rank of ^{Chief} Conservator of Forests and it is for the first time that vide the impugned notification dated 07.06.07 that an officer in the grade of Principal Chief Conservator of Forest is being posted against the said post on substantive basis. There is no change in the status, duties and responsibility attached to the post of Chairman, Nagaland Pollution Control Board requiring its elevation to that of the rank of Principal Chief Conservator of Forest. The action of the respondents indicates that at times they have treated the post of Chairman Nagaland Pollution Control Board to the equivalent to that of ^{Chief} Conservator of Forest and thereafter without there being any change in the status and duties attached to the post of Chairman Nagaland Pollution Control Board have now equated it with that of Principal Chief Conservator of Forest Nagaland. The said exercise clearly reflects that the authorities have adjudicated the equivalence of the post of Chairman, Nagaland Pollution Control Board with that of a post figuring in the Nagaland cadre of IFS, by treating it to be equivalent to the post in the cadre, the incumbent of which is being sought to be posted as Chairman, Nagaland Pollution Control Board and there is no objective assessment involved in the matter. The objective exercise mandated under the provisions of the Rules is clearly absent in the case on hand. As such the impugned declaration of equivalence of the post of Chairman, Nagaland Pollution Control Board with that of the cadre post of Principal Chief Conservator of Forest is clearly arbitrary and reflects non-application of mind. The said declaration of equivalence is required to be interfered with by this Hon'ble Tribunal.

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The manner and method in which the transfers and postings have been ordered vide the impugned Notification dated 07.06.07 clearly reflect the non application of mind in the matter by the authorities. As such, the impugned notification does not have any legs to stand on and is required to be set aside and quashed.

The representation preferred by the applicant having failed to evoke any response, he has by way of this application approached this Hon'ble Tribunal seeking urgent and immediate relief/ reliefs.

Filed By : A.K. Nair

Advocate

11 JUN 2007

गुवाहाटी न्यायपीठ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.

ORIGINAL APPLICATION NO. 147/2007

BETWEEN

Dr. C. L. Goel, IFS, son of Sri R. C. Goel,
presently posted as the Principal Chief
Conservator of Forests, Nagaland, Kohima.

.....Applicant

AND

1. The Union of India, represented by
the Secretary to the Government of India,
Ministry of Personal, Public Grievance and
Pension (Department of Personal and
Training) North Block, New Delhi - 1.

2. The State of Nagaland represented by
the Chief Secretary, Government of
Nagaland, Kohima.

3. The Commissioner and Secretary to,
the Government of Nagaland, Department of
Forest, Ecology, Environment and Wild life,
Kohima.

4. Sri A. Rongsenwati, IFS Additional
Principal Chief Conservator of Forest and
Chief Wild Life Warden, Department of
Forest, Ecology, Environment and Wild life,
Kohima.

Filed by:-

Dr. C. L. Goel, applicant

Through,

Unni Krishnan Nair
Advocate, 11-06-07.

5. Sri Temsuwati, IFS, Chairman,
Nagaland Pollution Control Board, Kohima.

..... Respondents

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

That this application is directed against the notification bearing no. C&S (FOR) MISC- 1/ 2006 dated 07.06.07, issued by the respondent no. 3, towards transferring and posting the applicant to the post of Chairman, Nagaland Pollution Control Board in clear violation of the procedure prescribed for transfer of an officer belonging to the Indian Forest Service Cadre to a non-cadre post. The notification dated 07.06.07 came to be issued without any application of mind and in clear disregard of the provision of the law holding the field. The only reason discernable behind issuance of the impugned notification dated 07.06.07 is to somehow oust the applicant from the post of Principal Chief Conservator of Forest held by him and thereby facilitate appointment of persons close to the powers that be, against the same.

2. **JURISDICTION:**

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

3. **LIMITATION:**

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



4. **FACTS OF THE CASE:**

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

4.2 That the applicant is a direct recruit Indian Forest Service officer and on his such selection was allotted the Nagaland Cadre. The year of allotment of the applicant is 1977. The applicant since his date of his initial appointment has held various responsible positions in the service and had all along discharged his duties with upmost sincerity, dedication and with due promptness. There is nothing adverse against the applicant in his service records. The applicant as on date is the senior most officer in the Nagaland cadre of the Indian Forest Service.

4.3 That the applicant states that riding the ladder of promotion, the applicant came to be promoted on regular basis as the Principal Chief Conservator of Forest, Nagaland w.e.f. 01.03.06. The post of Principal Chief Conservator of Forest is designated as the "Head of the Department" and the applicant has been discharging the duties against the said post to the best of his ability and without blemish to any quarter. There exists nothing adverse against the applicant with regard to the discharge of his duties as Principal Chief Conservator of Forest, Nagaland. No departmental proceedings have been initiated and/ or pending against the applicant with regard to any allegation that may have arisen during his tenure as the Principal Chief Conservator of Forest, Nagaland.

4.4 That the applicant states that in terms of Rule 4 of the IFS (Cadre) Rules 1966, the Central Government under took a review of the cadre strength of the Nagaland cadre of IFS and vide notification dated 12.04.02 published the IFS (Fixation of cadre Strength) Amendment Regulations 2002, specifying the senior posts in the Nagaland Cadre of the IFS. As gathered by the applicant the Government of Nagaland had moved the Central Government for incorporation of the post figuring in the Nagaland Pollution Control Board,



in the Nagaland Cadre of IFS. However, the central government by publishing the said notification dated 12.04.02 negated such proposal.

A copy of the notification dated 12.04.02 is annexed as Annexure – 1.

4.5 That the applicant states that amongst the various duties required to be discharged by an incumbent in the post of Principal Chief Conservator of Forest, is the duty of drawing and disbursement of the expenditures towards establishment cost, pertaining to the salaries, maintenance and other administrative expenditures of the Nagaland Pollution Control Board. The amount for meeting the said expenditure are drawn and disbursed by the Principal Chief Conservator of Forest as the Drawing & Disbursing officer. The above fact would go to show that the Nagaland Pollution Control Board is sub-ordinate to the establishment of the Principal Chief Conservator of Forest, Nagaland, for all intent and purpose.

Copies of a few communications regarding sanction of grant to the Nagaland Pollution Control Board are annexed as Annexure – 2 series.

4.6 That the applicant states that the fact that the Principal Chief Conservator of Forest Nagaland is the drawing and disbursing authority for meeting the expenditures required to be incurred in the establishment of Nagaland Pollution Control Board, including the expenditure towards the salary and other allowances attached to the post of chairman, Nagaland Pollution Control board is clear from ~~z~~ communications issued towards designating the Principal Chief Conservator of Forest as the authority for preferring claims with regard to the expenditures of the Nagaland Pollution Control Board and also for drawing and disbursal of the same.



Copies of the communications designating the Principal Chief Conservator of Forest

Nagaland as the Drawing & Disbursing Officer are annexed as Annexure – 3 series.

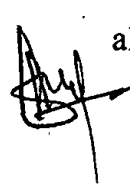
4.7 That the applicant states that the Nagaland Pollution Control Board (NPCB) on utilization of the fund sanctioned to it submits the requisite utilization certificates to the Principal Chief Conservator of Forest for his perusal and approval. This clearly reflects that the Nagaland Pollution Control Board is sub-ordinate to the Principal Chief Conservator of Forest, Nagaland.

A copy of the communication dated 05.10.06 is annexed as Annexure – 4.

4.8 That the applicant states that poised thus, he was shocked and surprised to come across a notification dated 07.06.07 by which he was transferred and posted as the Chairman of Nagaland Pollution Control Board purportedly in exercise of power under Rule 6 of the IFS (Cadre) Rules 1966. Further, the post was declared to be equivalent in pay and status to that of Principal Chief Conservator of Forest Nagaland in consonance with Rule 9 (i) of the IFS (Pay) Rules 1968. The respondent no. 4 was directed to take the current charge of the post of Principal Chief Conservator of Forest. The respondent no 5 was directed to take current charge of the post of Chief Wild Life Warden vice the respondent no. 4. The notification also required the applicant to hand over charges of the post held by him on or before 12.06.07.

A copy of the notification dated 07.06.07 is annexed as Annexure – 5.

4.9 That the applicant states that on receipt of the copy of the notification dated 07.06.07, the applicant vide his representation dated 08.06.07 prayed for revocation of the notification dated 07.06.07 specifically on the ground that the status, duties and responsibilities as attached to the post of Chairman, Nagaland Pollution Control Board is not similar to that of Principal Chief Conservator of Forest and efforts to equate the same has been already negated in the past.

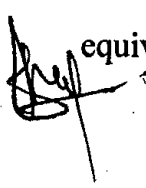


A copy of the representation dated 08.06.07
is annexed as Annexure – 6.

4.10 That the applicant states that the notification dated 07.06.07 indicates that the provisions of Rule 6 of the IFS (Cadre) Rules 1966, have been invoked for the purpose of transferring the applicant to the post of Chairman, Nagaland Pollution Control Board. The provisions of Rule 6 of the said rules of 1966 speaks of deputation of cadre officers and in the case on hand there is no deputation involved in the posting of the applicant as Chairman, Nagaland Pollution Control Board. Rule 6 of the said rules does not contemplate posting of a cadre officer, in a company, association or body of individuals, autonomous body controlled by the State Government in whose cadre the officer is borne. Further, the requirement of an approval by the Central Government is also absent in the case on hand. It is also stated that no consent was obtained from the applicant prior to issuance of the impugned notification.

4.11 That the applicant states that the Nagaland Pollution Control Board in view of the scheme of the Water (Prevention & Control of Pollution) Act 1974 is an autonomous organizations with well defined powers and functions. As such, posting of cadre officers to such autonomous Bodies can be made only by way of deputation and that too by the Central Government. The Central Government having not issued the notification dated 07.06.07 as required under the provisions of Rule 6 of the Rules of 1966, the said notification is void ab-initio and cannot be acted upon.

4.12 That the applicant states that with regard to the declaration made in the notification dated 07.06.07, that the post of Nagaland Pollution Control Board is equivalent in pay and status to that of Principal Chief Conservator of Forest in connosance with Rule 9 (i) of the IFS (Pay) Rules, it is stated that the same is a mere eye wash and has been so done with a view to camouflage the illegality committed in posting the applicant as Chairman Nagaland Pollution Control Board. Rule 9 (i) mandates a declaration that any post other than a post mentioned in schedule (iii) of the IFS (Pay) Rules, 1968 must be declared to be equivalent in status and responsibility to a post figuring in the said schedule.

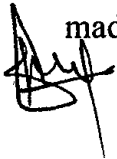


This requirement is not an idle formality. The State Government cannot artificially create equivalence and a proper exercise in this connection is required to be undertaken. In the case of on hand no such exercise has been undertaken.

4.13 That the applicant states that on a mere perusal of the notification dated 07.06.07, it would be revealed that the post of Chairman, Nagaland Pollution Control Board was held by the respondent no. 5, who is in the rank of Chief Conservator of Forest and is much junior in service to the applicant. The respondent no. 5 had held the said post on regular basis. Further, the designation of the Principal Chief Conservator of Forest, Nagaland as the Drawing and disbursing officer would go to show that the establishment of the Nagaland Pollution Control Board is sub-ordinate to the Principal Chief Conservator of Forest, Nagaland and as such under no circumstances a declaration could be made that the post of Chairman Nagaland Pollution Control Board is equivalent in status and responsibility to that of the post of Principal Chief Conservator of Forest. It is for these reason that in the notification dated 07.06.07 it has not been declared that the responsibility attached to the post of Chairman Nagaland Pollution Control Board is equivalent to that attached to the post of Principal Chief Conservator of Forest, Nagaland.

4.14 That the applicant states that the purported declaration of equivalence made between the posts of Chairman Nagaland Pollution Control Board and that of Principal Chief Conservator of Forest, Nagaland has been so made without any application of mind to the nature and responsibilities of the functions and duties attached to the posts in question. The functions and duties attached to the posts in question are so dis-similar that no reasonable man can possibly say that they are equivalent in status and responsibility. The declaration of equivalence of the said two posts is malafide for extraneous considerations and has been so done in colourable exercise of powers.

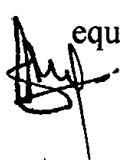
4.15 That the applicant states that records would reveal that the declaration of equivalence made of the two posts in question has not been so made on an objective assessment of the nature and responsibilities of the



functions and duties attached to the post of Chairman, Nagaland Pollution Control Board and that it was equivalent in status and responsibilities attached to the post of Principal Chief Conservator of Forest. The purported declaration finding place in the notification dated 07.6.07 is nothing but a cloak for displacing the applicant from the cadre post held by him and thereby facilitate persons like the Respondent no. 4 to hold the same through the backdoor.

4.16 That the applicant states that with the issuance of the notification dated 12.04.02, there exists no separate and independent post of Chief Wild Life Warden in the service. However, the impugned notification dated 07.06.07 while posting the respondent no. 5 as Chief Wildlife Warden has ignored the position with regard to the post figuring in the cadre in terms of the said notification dated 12.04.02. The cadre post of Additional Principal Chief Conservator of Forests & Chief Wild Life Warden is sought to be de-merged into the post of Additional Principal Chief Conservator of Forests and Chief Wild Life Warden, which power is not vested with the State Government. As such it is amply clear that the impugned notification dated 07.06.07 has been issued without any application of mind and has been issued in clear disregard to the express provisions of the statutes holding the field.

4.17 That the applicant states that the post of Chairman, Nagaland Pollution Control Board, was hitherto before being manned by an officer in the rank of ^{Chief} Conservator of Forests and it is for the first time that vide the impugned notification dated 07.06.07 that an officer in the grade of Principal Chief Conservator of Forest is being posted against the said post on substantive basis. There is no change in the status, duties and responsibility attached to the post of Chairman, Nagaland Pollution Control Board requiring its elevation to that of the rank of Principal Chief Conservator of Forest. The action of the respondents indicates that at times they have treated the post of Chairman Nagaland Pollution Control Board to the equivalent to that of ^{Chief} Conservator of Forest and thereafter without there being any change in the status and duties attached to the post of Chairman Nagaland Pollution Control Board have now equated it with that of Principal Chief Conservator of Forest Nagaland. The said exercise clearly reflects that the authorities have adjudicated the equivalence of the post of Chairman, Nagaland Pollution Control Board with




that of a post figuring in the Nagaland cadre of IFS, by treating it to be equivalent to the post in the cadre the incumbent of which, is being sought to be posted as Chairman, Nagaland Pollution Control Board and there is no objective assessment involved in the matter. The objective exercise mandated under the provisions of the Rules is clearly absent in the case on hand. As such the impugned declaration of equivalence of the post of Chairman, Nagaland Pollution Control Board with that of the cadre post of Principal Chief Conservator of Forest is clearly arbitrary and reflects non-application of mind. The said declaration of equivalence is required to be interfered with by this Hon'ble Tribunal.

4.18 That the applicant states that there is nothing adverse against the applicant preventing his continuance as Principal Chief Conservator of Forest, Nagaland and therefore there exists no justification in replacing a regular incumbent in the cadre of Principal Chief Conservator of Forest and allowing a junior to hold the said post on in-charge basis. The said action on the part of the authorities clearly reflect that the reason behind the issuance of the impugned notification dated 07.06.07 is to some how oust the applicant from the post of Principal Chief Conservator of Forest Nagaland and facilitate appointment of the respondent no. 4 against the same.

4.19 That the applicant states that the respondent no. 4 who is a direct recruit of 1978 is junior to the applicant and the impugned notification has been issued to some how confer the status of Head of Department upon the respondent no. 4 and thereby favour him. The respondent no. 4 who is well connected politically is the main beneficiary of the impugned notification dated 07.06.07. The invocation of Rule 6 of the Rules of 1966 and the purported declaration of equivalence as made in the notification dated 07.06.07 is nothing but a camouflage to cover up the illegality committed in posting the applicant against a non-cadre post.

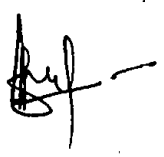
4.20 That the applicant states that the post of Principal Chief Conservator of Forest Nagaland being designated as the Head of the Department, the status, duties and responsibilities attached to the said post as



well as the perks attached thereto is absent in the post of Chairman, Nagaland Pollution Control Board. As stated herein above, the Nagaland Pollution Control Board being sub-ordinate to the establishment of Principal Chief Conservator of Forest Nagaland, there cannot be any equivalence between the posts of Chairman, Nagaland Pollution Control Board and Principal Chief Conservator of Forest Nagaland. The impugned notification has the effect of depriving the applicant of the status of Head of Department he is enjoying currently as the Principal Chief Conservator of Forest Nagaland and such deprivation is being sought to be meted out to the applicant without there being any fault on his part. The applicant is being sought to be victimised for the steps taken by him for conducting enquires to find out the truth with regard to the allegations existing against his sub-ordinates.

4.21 That the applicant states that in terms of the notification dated 07.06.07 he is required to hand over charge of the post of Principal Chief Conservator of Forest Nagaland to the respondent no. 4 by 12.06.07 and as such prays, in the facts and circumstances of the case, that this Hon'ble Tribunal would be pleased to pass an interim direction as has been prayed for failing which the applicant stands to suffer irreparable loss and injury.

4.22 That in the event this Hon'ble tribunal is pleased to pass an interim direction as has been prayed for the balance of convenience would be maintained in favour of the applicant inasmuch as he is yet to hand over charge of the post of Principal Chief Conservator of Forest Nagaland till date. Further, the impugned notification dated 07.06.07 also cannot come into effect prior to 12.06.07. The impugned notification and the transfers and postings made therein are clearly arbitrary and have been so done in colourable exercise of powers. The Nagaland Pollution Control Board being sub-ordinate to that of Principal Chief Conservator of Forest Nagaland, the post of Chairman, Nagaland Pollution Control Board can under no circumstances be treated to be equivalent in status, duties and responsibilities with that of Principal Chief Conservator of Forest Nagaland. The purported equivalence as made of the said two posts in question is an artificial one made only with the view to camouflage the illegality committed in transferring and posting the applicant as Chairman, Nagaland Pollution Control Board. There being no application of



mind by the authorities in the matter, the impugned notification cannot stand the scrutiny of law and requires to be interfered by this Hon'ble Tribunal.

4.23 That the impugned action on the part of the respondent authorities in issuing the impugned notification dated 07.06.07 has the effect of meting out arbitrary treatment to the applicant and further subjecting the applicant to malafide exercise of power by the state machinery, the rights of the applicant guaranteed under Article 14 & 16 of the Constitution of India has been infringed with. The effect of the notification dated 07.06.07 being in reality a reversion of the applicant to a inferior post, the same is in violation of the express provisions of Article 311 of the Constitution of India.

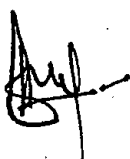
4.24 That the applicant states that he has no any other appropriate, equally efficacious, alternative remedy available to him and the remedy sought for herein if granted would be just, adequate, proper and effective.

4.25 That this application has been filed bonafide for securing the ends of justice

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

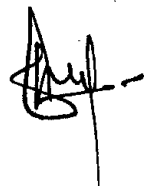
5.1 For that the impugned action on the part of the respondent authorities is illegal, arbitrary and in violation of the principles natural justice.

5.2 For that the post of Chairman Nagaland Pollution Control Board being an ex-cadre post figuring in an autonomous organization, the applicant could not have been transferred to the said post by invoking the provisions of Rule 6 of the IFS (cadre) Rules, inasmuch as the provisions of the said Rules do not contemplate a transfer but deals with the deputation of a cadre officer to non-cadre post as such the very source of power forming the basis for issuance of the notification dated 07.06.07 being not available, the impugned notification is void ab-initio and cannot be acted upon.



5.3 For that the Principal Chief Conservator of Forest Nagaland being admittedly the drawing and disbursement officer for the expenditures required to be incurred in the establishment of Nagaland Pollution Control Board, the post of Chairman Nagaland Pollution Control Board cannot under any circumstances be held to be equivalent in status and responsibility to that of Principal Chief Conservator of Forest. As such, the purported declaration of equivalence between the said two posts cannot stand of scrutiny of law and is required to be interfered with by this Hon'ble Tribunal.

5.4 For that the post of Chairman, Nagaland Pollution Control Board, was hitherto before being manned by an officer in the rank of ^{Chief} Conservator of Forests and it is for the first time that vide the impugned notification dated 07.06.07 that an officer in the grade of Principal Chief Conservator of Forest is being posted against the said post on substantive basis. There is no change in the status, duties and responsibility attached to the post of Chairman, Nagaland Pollution Control Board requiring its elevation to that of the rank of Principal Chief Conservator of Forest. The action of the respondents indicates that at times they have treated the post of Chairman Nagaland Pollution Control Board to the equivalent to that of ^{Chief} Conservator of Forest and thereafter without there being any change in the status and duties attached to the post of Chairman Nagaland Pollution Control Board have now equated it with that of Principal Chief Conservator of Forest Nagaland. The said exercise clearly reflects that the authorities have adjudicated the equivalence of the post of Chairman, Nagaland Pollution Control Board with that of a post figuring in the Nagaland cadre of IFS, by treating it to be equivalent to the post in the cadre, the incumbent of which is being sought to be posted as Chairman, Nagaland Pollution Control Board and there is no objective assessment involved in the matter. The objective exercise mandated under the provisions of the Rules is clearly absent in the case on hand. As such the impugned declaration of equivalence of the post of Chairman, Nagaland Pollution Control Board with that of the cadre post of Principal Chief Conservator of Forest is clearly arbitrary and reflects non-application of mind. The said declaration of equivalence is required to be interfered with by this Hon'ble Tribunal.



5.5 For that mere perusal of the impugned notification dated 07.06.07 would reveal that the same was passed in colourable exercise of power and the same is based on extraneous considerations. The main reason behind issuance of the said notification being to confer the status of the Head of Department on the respondent no. 4, the same cannot stand the scrutiny of law and is required to be set aside and quashed.

5.6 For that the manner and method in which the transfers and postings have been ordered vide the impugned Notification dated 07.06.07 would clearly reflect the non application of mind in the matter by the authorities. As such, the impugned notification does not have any legs to stand on and is required to be set aside and quashed.

5.7 For that in any view of the matter the impugned action on the part of the respondents authorities is bad and unsustainable in the eye of law.

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

6. **DETAILS OF THE REMEDIES EXHAUSTED:**

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him. The urgent nature of the relief's as sought for in this application has forced the applicant to approach this Hon'ble Tribunal at the earliest possible instance.

7. **MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

The applicant further declares that he has not filed any application, writ petition or suit regarding the grievance in respect of which this application is made before any other court or any other bench of this Tribunal or any other



authority, nor any such application writ petition or suit is pending before any of them.

8. **RELIEF SOUGHT FOR:**

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

8.1 To set aside and quash the impugned notification dated 07.06.07.
(Annexure - 5)

8.2 To set aside and quash the declaration of equivalence made of the post of Chairman, Nagaland Pollution Control Board with that of Principal Chief Conservator of Forest, Nagaland.

8.3 To direct the respondent authorities to allow the applicant to continue as the Principal Chief Conservator of Forest, Nagaland.

8.4 Cost of the application.

8.5 Any other relief/ reliefs that the applicant may be entitled to.

9. **INTERIM ORDER PRAYED FOR:**

The applicant in the facts and circumstances of the case prays that your Lordships would be pleased to stay the effect and operation of the impugned notification dated 07.06.07 (Annexure - 5);

10.



11. **PARTICULARS OF THE POSTAL ORDER:**

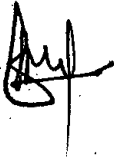
- i) IPO No. - 349 653525
- ii) Issued from - 12.6.07
- iii) Payable at - Guwahati.

12. **DETAILS OF INDEX:**

An Index showing the particulars of documents is enclosed

13. **LIST OF ENCLOSURES:**

As per Index.



VERIFICATION

I, Dr. C. L. Goel, IFS, aged about 54 years, Son of Sri R.C. Goel, presently working as the Principal Chief Conservator of Forests, Nagaland, Kohima resident of Kohima, in the State of Nagaland, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 1, 2, 3, 4.1 to 4.3, 4.4 (Partly), 4.5, 4.6 to 4.20, 4.22, 4.25 and 5 to 12 are true to my knowledge; those made in paragraphs 4.4 (Partly) are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 11th day of June, 2007.


 (DR. C. L. GOEL)
DEPONENT

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

No: I6016/1/2002-AIS(II) (A)
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training)

New Delhi, 12th April, 2002

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 Government of Nagaland hereby makes the following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, namely: -

1. (i) These regulations may be called the Indian Forest Service (Fixation of Cadre Strength) Amendment Regulations, 2002.
- (ii) They shall come into force on the date of their publication in the Official Gazette.
2. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, for the heading 'Nagaland' and the entries occurring thereunder, the following shall be substituted namely:-

NAGALAND

1. Senior Posts under the State Government	20
Principal Chief Conservator of Forests	1
Addl. Principal Chief Conservator of Forests & Chief Wildlife Warden	1
Chief Conservator of Forests (Headquarters)	1
Chief Conservator of Forests (Monitoring & Evaluation)	1
Chief Conservator of Forests (Environment, Bio-diversity & Research)	1
Conservator of Forests (Territorial, namely Northern Circle & Southern Circle)	2
Conservator of Forests (Research, Planning & Utilisation)	1
Conservator of Forests (Wildlife and Bio-diversity)	1

Certified to be true Copy


Advocate

Deputy Conservator of Forests (Territorial namely Dimapur, Kohima, Mokokchung, Mon, Peren, Phek, Tuensang, Wokha, Zunheboto)	9
Working Plan Officer	1
Silviculturist	1
TOTAL	20
2. Central Deputation Reserve @ 20% of Item 1 above	04
3. State Deputation Reserve @ 25% of Item 1 above	05
4. Training Reserve @ 3.5% of Item 1 above	01
5. Leave Reserve and Junior Posts Reserve @ 16.5% of Item 1 above	03
6. Posts to be filled by promotion under Rule 9 of the Indian Forest Service (Recruitment) Rules, 1966 (not exceeding 33.3% of Item 1,2,3 & 4 above)	10
7. Posts to be filled up by Direct Recruitment (Items 1+2+3+4+6-5)	23

Direct Recruitment Posts	23
Promotion Posts	10
Total Authorised Strength	33

(G.C. Pandey)
Under Secretary to the Govt. of India

Note : Prior to the issue of this notification, the total authorised strength was 33.

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

S. No.	GSR No.	Date of Publication			
1	1673	30.10.66	16	47(E)	20.1.72
2	17	7.1.67	17	48(E)	20.1.72
3	653	6.5.67	18	478(E)	4.12.72
4	654	6.5.67	19	192(E)	2.4.73
5	689	13.5.67	20	321(E)	27.6.73
6	1083	8.6.68	21	391(E)	10.8.73
7	1887	9.8.69	22	142	24.1.71
8	80	17.1.70	23	28(E)	8.5.71
9	485	21.3.70	24	273(E)	11.1.72
10	545	4.4.70	25	300(E)	20.1.72
11	1802	24.10.70	26	812	29.4.72
12	135	24.1.75	27	2227	16.8.75
13	136	24.1.71	28	71	17.1.76
14	665	8.5.71	29	407(E)	16.6.76
15	45(E)	20.1.72	30	1064	24.7.76
			31	444 (E)	6.7.76
			32	750 (E)	3.8.76

NAGALAND POLLUTION CONTROL BOARD

NPCB/Bud/ 2408-09

Dated. 14.08. 2006

To

✓ The Principal Chief Conservator of forests
Nagaland, Kohima

Sub : Request for Salary Head for Nagaland Pollution Control Board employees – reg.

Sir,

With reference to the above cited subject, I am to inform you that the Nagaland Pollution Control Board has been functioning under Grant-in-Aid from the State Government to meet the salaries and office expenses. During the financial year 2005-06 an amount of Rs. 21.80 lakhs was provided by the Government and an amount of Rs. 1.70 lakhs received from consent which was utilized for contribution towards the Employees Provident Scheme.

Mention may be made that the Board is functioning with a Chairman, a Member Secretary and 9 nos. of posts in the Nagaland Pollution Control Board sanctioned by the Government of Nagaland (copies enclosed) besides others. In this regard, it is requested that the salaries of the employees of the Board be booked under Salary Head instead of the present system wherein the salary of these posts are met from the Grant-in-Aid so as to enable the Board to function smoothly and effectively.

Thank you,

Encl.: As stated

Yours faithfully,

Supdt Plg

pl.

18.08.06

Copy to:

(Rusovil John)
Member Secretary

- i) The P.S. to the Minister, Forest & Environment, Nagaland for his kind information.
- ii) The Commissioner & Secretary, Forest & Environment, Nagaland for kind information

Member Secretary


Signal Point, Dimapur – 797 112
Tel.: 03862-245726, TeleFax: 03862-245727
Website: <http://npcbngl.nic.in>, E-mail: npcb2@yahoo.com

Certified to be true Copy

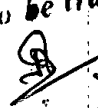
Advocate

List of Employees

Designation	Scale
1. Chairman	20900
2. Member Secy.	16400
3. Scientist B	9100
4. Asst. Env. Engineer	8000
5. Jr. Sc. Asstt.	5600
6. Data Entry Operator	5000
7. Assistant Field Officer	4300
8. Jr. Lab. Asstt. (2 nos.)	3050
9. Lab. Attendant (2 nos)	2750
7. L.D.A	3370
8. Driver (2 nos)	3030
9. Peon	2780
10. Chowkidar	2605


Member Secretary

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Advocate

GOVERNMENT OF NAGALAND
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
NAGALAND : KOHIMA

No.FPM-13/2001/ 8158

Dated Kohima the 14 March, 2007

To

The Commissioner & Secretary to the Government of Nagaland,
Department of Forests, Ecology, Environment & Wildlife
Kohima.

Sub: SUBMISSION OF PROPOSAL FOR RELEASE OF GRANT TO THE
STATE POLLUTION CONTROL BOARD UNDER NON-PLAN 2006-07

Ref: Finance Department No.BUD/1-14/2004-05 dated 27.02.2007

Sir,

Inviting reference to the above, I am submitting herewith a revised proposal for Rs.5.10 lakh (Rupees five lakh ten thousand only) as **Grant to State Pollution Control Board** during 2006-07 under Non-Plan.

The Finance Department has agreed to provide Rs.5.10 lakh (Rupees five lakh ten thousand only) as additionality to meet the salaries and establishment cost of the Board in the Revised Estimate 2006-07 as against the provision of Rs.16.70 lakh (Rupees sixteen lakh seventy thousand only) accorded in the Demand for Grant 2006-07. Further, with the additionality of Rs.5.10 lakh (Rupees five lakh ten thousand only) the total grant to the Board is Rs.21.80 lakh (Rupees twenty one lakh eighty thousand only) and the Government has already sanctioned and released Rs.16.70 lakh.

Therefore, the Government may kindly consider and accord administrative approval and expenditure sanction for Rs.5.10 lakh (Rupees five lakh ten thousand only) under the Head of Account "2406-01-800(10)- **Grant to State Pollution Control Board**" under Non-Plan during 2006-07. Further, the Finance Department maybe move to issue drawal authority in favour of the **Principal Chief Conservator of Forests at Kohima Treasury (South)**.

Encl: Annexure.

Yours faithfully,

0/L.
Certified to be true Copy
Advocate

(DR C. L. GOEL)
Principal Chief Conservator of Forests
Nagaland : Kohima.

ANNEXTURE I TO OM.NO.BUD/1-9/1999-2000 DT. 1.8.99.

ESSENTIAL INFORMATION WHICH MUST ACCOMPANY ANY PROPOSAL FOR FINANCE CONCURRENCE/DRAWING LIMIT/DRAWAL AUTHORITY ETC.

(other than proposal relating to specials repairs to vehicles and for condemnation/write off of vehicles for which the format at ANNEXTURE II will be fallowed).

1. Nature and gist of the Proposal: Grant to State Pollution Control Board.
2. Total gross expenditure proposed: Rs. 5.10 Lakh.
Rupees (in Words) Five lakh ten thousand only.
3. The expenditure is proposed under (Non-Plan/State Plan/CSS/NEC etc). : Non -Plan.
4. Budget Provision Demand No. : No.52-Forests.
and classification: Major Head : 2406 - F & W.
of the expenditure: Minor Head : 01- Forestry.

Sub Head : 800(1).

Detailed Head : Grant to State Pollution Control Board.

(Page 196 of Demand for Grants for 2006-07)

5. Availability of fund : Total budget provision under the detailed head
: as indicated against item 4 above : Rs. 21.80 Lakh.
: Expenditure already incurred/ proposed against
: the above mentioned provision : Rs. 16.70 Lakh.
: Balance available for accommodating the expenditure
: now proposed : Rs. 5.10 Lakh.
6. Whether the proposal involves procurement of materials, and if so:
 - a). How the materials are proposed to be procured : N.A.
 - b) The basis on which the have best fixed : N.A.
 - c) What are the different taxes/royalties/fees to be deducted at source :

<u>Name of the tax/royalty/fees</u>	<u>Amount</u>
<u>N.A</u>	<u></u>
 - d) In case the proposal is for construction work, what is the quantum of Departmental charges required to be deducted at source :

Rate of Departmental charge : N.A

Amount (Rs.) :
7. Any other information which may be relevant for scrutiny and consideration of the proposal :

Certified to be true Copy

Advocate

**Principal Chief Conservator of Forests,
Ecology & Environment and Wild Life
Nagaland: Kohima.**

Date signature of the
Head of administrative Department

NAGALAND POLLUTION CONTROL BOARD

(Dept. of Forests, Ecology, Environment & Wildlife, Govt. of Nagaland)

NPCB/Bud/ 07-08/ 2687-88

Dated. 07. 05. 2007

To

The Principal Chief Conservator of Forest
Nagaland, Kohima

Sub:- Request for release of Grant-in-aid for NPCB for the year 2007-08 under non-plan.

Sir,

On the above cited subject, I am to inform you that the Nagaland Pollution Control Board was allotted an amount of Rs. 21.80 lakhs under non-plan as per the the Government of Nagaland Demand for Grants 2007-08. The amount may kindly be release to meet the current salaries.

Encl: As stated

Yours faithfully,

Supdt Ptg

1/2.

09.05.07

NPCB/Bud/ 07-08/

(Rusovil John)
Member Secretary
Dated. 07. 05. 2007

Copy to :-

The Commissioner & Secretary, Forests, Ecology, Environment, and Wildlife, for information and necessary action.

Member Secretary

BUDGET ESTIMATE FOR THE YEAR 2007-2008

ESTABLISHMENT

ESTABLISHMENT					
<u>DETAILS OF PAY OF OFFICERS/ESTABLISHMENT FOR THE YEAR 2007-2008</u>					
S.No.	Name of Officer	Duty Station	Grade	Pay Band	Basic Pay
1	[Name]	[Station]	[Grade]	[Band]	[Amount]

Certified to be true Copy


Advocate

Member Secretary


ANNEXURE
Details Budget estimate of Nagaland Pollution Control Board
for the year 2007-2008.

Sl. No.		Particulars	
1		Recurring	
	i.	Staff Salary	2295000
	ii.	T.E	100000
2		Non- Recurring	
	i.	Maintenance of vehicle	50000
	ii.	Cost of re-imbursment of P.O.L	105000
	iii.	Annual charge of telephone bills.	100000
	iv.	Cost of stationary articles	50000
	v.	Electricity for laboratory and office	60000
	vi.	Laboratory glass wares/chemicals	100000
	viii.	Contingency	100000
		Total	2960000

(Rupees Twenty nine lakhs sixty thousand) only


 (Rusovil John)
 Member Secretary

Certified to be true Copy


 Advocate

-26- ANNEXURE-3 Series
GOVERNMENT OF NAGALAND
FINANCE DEPARTMENT
(EXPENDITURE 'B' BRANCH)

NO.FIN/EXPDR-B/27 / 2006-07/ BC/101

// Dated, Kohima, the 7th Nov.

To,

The Treasury Officer,
KOHIMA (S)

Sub:- DDO-WISE LIMIT FOR THE YEAR 2006-2007 IN RESPECT OF DEMAND
52- FOREST DRAWING LIMIT NO. 19 OF 2006-07.

Sir,

I am directed to authorize a total Drawal Limit of Rs. 3,00,000/-
(Rupees three lakh) only being the grant to SPCB

under STATE-PLAN within the sanction budget for the year 2006-07 under Demand
52- FOREST in terms of para 4 of this Department's O.M. NO. BUD/8-9/88-89 dated 6th April'88 and also subject to the General terms and conditions prescribed in this Department's O.M. NO. BUD/1-9/99-2000 (A) dated 10th Augst'99 (DDO/Treasury-wise Drawing Limit indicated in the ANNEXURE)

2. Expenditure against the Drawing Limit shall be monitored in accordance with instructions contained in this Department's O.M. NO. BUD/8-9/88-89 dated 6-4-89. The amount should be utilized for the purpose indicated in the Annexure and should not be diverted for any other purpose.

3. This Drawing Limit is authorized on the basis of the proposal received from Commissioner/Secretary/Additional Secretary in-charge of FOREST Department contained in File/Letter No. FOR/WORKS-1/98(pt) Dated 18.10.06

4. Forests Royalty/Excise Duty/Sales Tax etc. should be deducted at source in terms of instructions contained in this Department's O.M. of 10th August'99 referred at above.

5. This does not constitute expenditure sanction. Sanction of the competent authority should be obtained before incurring any expenditure against this Drawal Limit.

6. This Drawing Limit is valid subject to authentication of the Treasury Office's copy by the District Treasuries & Accounts as well as issued of Authorization letter by the Head of the Administrative Department concerned.

7. The Department is requested to ensure that the Sales Tax on works contract and NST as per applicable rate deducted and deposited by Treasury Challan and a copy of the same be endorsed to Finance Department.

8. This Drawing Limit will remain valid for 45 days from the date of issue or till 31-03-07 whichever is earlier.

Yours Faithfully,

Seingit 7/11/06
(SEIKHOLUN SINGSIT)

Deputy Secretary to the Govt. of Nagaland.

NO. FIN/EXPDR-B/ 27 /2006-2007/ BC/101A

//Dated, Kohima the 7th Nov.

Copy for information and necessary action forwarded to:

1. The Commissioner & Secretary/Secretary/ Additional Secretary in - charge
FOREST Department, Nagaland, Kohima.
2. The Director of PCCF Nagaland, Kohima.
3. The Director of Treasuries & Accounts, Nagaland, Kohima.
4. The DDOs concerned.
5. The Branch Manager, State Bank of India, LERIE BRANCH KOHIMA.
6. The PA to OSD (Budget).
7. Revenue Branch.
8. Planning Department.
9. Computer Cell.
10. Guard file.

Certified to be true Copy
(Signature)
Advocate

Seingit 7/11/06
(SEIKHOLUN SINGSIT)
Deputy Secretary to the Govt. of Nagaland.

ANNEXURE TO DRAWING LIMIT NO. 19 OF 2006-07 UNDER
DEMAND NO. 52- FOREST

NON-PLAN/STATE PLAN/NEC/CSS

STATE- PLAN

PURPOSE OF EXPENDITURE

GRANT TO SPCB

Sl. No.	Name of DDO	Amount	Name of T
1.	PCCF	Rs, 3,00,000/-	KOHIMA(S)

TOTAL Rs, 3,00,000/-

(RUPEES THREE LAKH) ONLY

Singsit 7/11/21
(SEIKHOLUN SINGSIT)
DEPUTY SECRETARY (FIANCE)

Certified to be true Copy

[Signature]
Advocate

DEMAND NO.52/USS.NO.19/06-07
GOVERNMENT OF NAGALAND
DEPARTMENT OF FORESTS, ECOLOGY ENVIRONMENT AND WILDLIFE
NAGALAND : : KOHIMA

NO.FOR/WORKS - 1/98(pt)
To

Dated Kohima, the th November 2006

The Principal Chief Conservator of Forest,
Nagaland, Kohima.

Sub: - EXPENDITURE SANCTION FOR STATE POLLUTION CONTROL
BOARD DURING 2006-07.

Sir,

I am directed to refer to the letter NO.FPM-13/2001/2718 Dated the 25th September 2006 on the above subject and to convey the Administrative approval and expenditure sanction of the Government to an amount not exceeding Rs.3,00,000/- (Rupees three lakhs) only as per details at Annexure attached subject to the following conditions.

- b. Funds are available to this proposal during the current financial year 2006-07.
- c. It is ensured that NST and works contract Tax as applicable are deducted and credited to the Treasury by Treasury Challan.
- d. All codal and order formalities, norms, manuals, rules, orders and instructions issued by the Government from time to time are strictly followed.

2 The expenditure is debitable to the Head of Account 2406 -F&W-01-800(1) "Grant to State Pollution Control Board" during 2006-2007.

3 This is Plan expenditure.

4 This issued with clearance of the Planning Department Vide U.O. No. 598 Dated 03.10.06 and concurrence of Finance Department Vide their RFC (B) No19 dt.07.11.2006.

Yours faithfully,

(AKUMLA CHUBA)

Under Secretary to the Government of Nagaland
Dated Kohima, the 2/ th November 2006

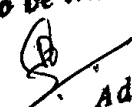
NO.FOR/WORKS - 1/98(pt)
Copy to:-

1. The Finance Department, Nagaland, Kohima with two spare copies for transmission to the Audit.
2. The Planning Department, Nagaland, Kohima.
3. The Sr. P.S. to Minister (Forests & Environment), Nagaland, Kohima.
4. The Director, Treasuries & Accounts, Nagaland, Kohima.
5. The Sr. Treasury Officer, Kohima (South)
6. The DDO concerned.
7. Guard File.



(AKUMLA CHUBA)

Under Secretary to the Government of Nagaland


Certified to be true Copy

Advocate

ANNEXURE TO DRAWING LIMIT (NO. 19 OF 2006-07) UNDER DEMAND
NO.52.FOREST.

Non-Plan/State Plan/CSS : State Plan
Purpose of Expenditure : For Grant to State pollution Control Board during 2006-07


(Rs. In lakhs)			
Sl. No	Name of DDO	Amount	Name of Treasury
	PCCF,	3,00,000/-	Kohima (S)

Total. 3,00,000/-
(Rupees three lakhs) only


20/11/06

(AKUMLA CHUBA)
Under Secretary to the Government of Nagaland

Certified to be true Copy


Advocate

NAGALAND POLLUTION CONTROL BOARD

(Dept. of Forests, Ecology, Environment & Wildlife, Govt. of Nagaland)

NPCB/ BUD/ 2457

Dated 10.10.2006

To,

✓ The Principal Chief Conservator of Forest
Nagaland, Kohima.

Sub: Plan Scheme for Grant to State Pollution Control Board – reg.

Sir,

I am furnishing herewith the Utilization Certificates for the different works executed under the Plan Scheme for the year 2006-07 for your kind perusal and further necessary action.

Thank you,

Encl.: As stated

Subdt Plg

CA
/09.10.06

Yours faithfully,

(Rusovil John)
Member Secretary

P.C.C.F. Nagaland
Case No 4600
ated 11-10-06
Branch Subdt. Plg.

Certified to be true Copy



Advocate

Signal Point, Dimapur – 797 112
Tel.: 03862-245726, TeleFax: 03862-245727
Website: <http://npcbngl.nic.in>, E-mail: npcb2@yahoo.com

Office of the Chairman
NAGALAND POLLUTION CONTROL BOARD
 (Dept. of Forests, Ecology, Environment & Wildlife, Govt. of Nagaland)


UTILIZATION CERTIFICATE

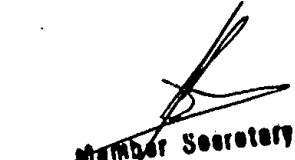
This is to certify that an amount of Rs. 300000/- (Rupees three lakh) only under Plan had been utilized for the various works as mentioned below:-

Sl. No.	Item	Date	Venue	Amount incurred (Rs.)
1	World Environment Day Seminar-cum-workshop	5/06/2006	Forestry Training School, Dimapur	39,000
2	Printing of Banners	-	-	70,000
3	Printing of Billboards	-	-	30,000
4	Purchase of laboratory glass wares and chemicals	-	-	1,60,911
			TOTAL	300,000

(Rupees three lakh) only

Certified to be true Copy


Advocate


Member Secretary
 Nagaland Pollution Control Board
 Nagaland & Dimapur

~~Rule 6~~
~~Exemption~~
no allegation
after post

GOVERNMENT OF NAGALAND
DEPARTMENT OF FORESTS, ECOLOGY, ENVIRONMENT & WILDLIFE

NOTIFICATION

Dated Kohima, the 7th June 2007

No. C&S (FOR) MISC.-1/2006: The Governor of Nagaland is pleased to order transfer and posting of the following IFS officers :-

1. Dr. C. L. Goel, IFS (NG : 77), Principal Chief Conservator of Forests is transferred and posted as Chairman, Nagaland Pollution Control Board (NPCB) under Rule 6 of IFS (Cadre) Rules 1966. The post is hereby declared equivalent in pay and status to that of Principal Chief Conservator of Forests in consonance with Rule 9 (1) of IFS (Pay) Rules 1968.
2. Shri A. Rongsenwati, IFS (NG:1978), Additional Principal Chief Conservator of Forests and Chief Wildlife Warden is to take current charge as Principal Chief Conservator of Forests vice Dr C.L Goel IFS , Principal Chief Conservator of Forests transferred.
3. Shri Temsuwati, IFS (NG: 83), Chairman, Nagaland Pollution Control Board (NPCB) is to take current charge as Chief Wildlife Warden vice Shri A. Rongsenwati, Chief Wildlife Warden transferred.

SI No. 1 shall hand over charge to SI No. 2 on or before by 12th June 2007.

Sd/- R. BINCHILLO THONG, IAS

Commissioner & Secretary to the Government of Nagaland

No. C&S (FOR) MIS -1/2006

Dated Kohima, the 7th June February 2007

Copy to:

1. The Commissioner & Secretary to the Governor, Nagaland, Raj Bhawan, Kohima.
2. The Addl Chief Secretary to the Chief Minister, Nagaland, Kohima.
3. The Sr. P.S. to Minister, Forests & Environment, Nagaland, Kohima.
4. The Secretary, Government of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
5. The Director General of Forests & Special Secretary, Government of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
6. The Chief Secretary, Nagaland, Kohima.
7. The Principal Chief Conservator of Forests, Nagaland, Kohima.
8. The Accountant General, Nagaland, Kohima.
9. The Chief Wildlife Warden, Nagaland, Dimapur.
10. All CCFs/CFs/DFOs/FUO/WPO/Wildlife Warden/Silviculturist, Nagaland.
11. The Publisher, Nagaland Gazette, Kohima for publication in the Gazette.
12. The officers concerned.
13. Personal file /Guard file of officers concerned.

Certified to be true Copy

[Signature]
Advocate

(L.KIRE) IFS

Secretary to the Government of Nagaland

GOVERNMENT OF NAGALAND
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
NAGALAND: KOHIMA

No. PCCF/FE-1/1581.

Dated the Kohima 8th June, 2007

To,

The Commissioner & Secretary,
Department of Forests, Environment, Ecology & Wildlife,
Govt. of Nagaland, Kohima.

Subject: Transfer and Posting – Representation Regarding.

Sir,

I have the honour to draw your kind attention to State Govt. Notification No. C&S(FOR)MISC-1/2006 dated 7th June 2007 on the subject cited above transferring therewith undersigned to the post of Chairman, State Pollution Control Board, Nagaland, Dimapur. In this context, I wish to state following facts for your kind reference:

1. That, though the State Pollution Control Board, Nagaland is an autonomous body, but the fact remains that it is a subordinate organization under the Principal Chief Conservator of Forests, Environment, Ecology and Wildlife. The fact that SPCB draws its salary as grant from the Department speaks about the status of SPCB vis-à-vis Forest Department.
2. That, since the inception of SPCB, never ever any IFS Officer in the rank of PCCF had been posted as Chairman, State Pollution Control Board, Nagaland, Dimapur. If at all, Mr. T. Angami and Dr. S.C. Deorani were given charge, it was as an additional charge only. No officer in the rank of PCCF had never given substantive charge as Chairman, SPCB. Even, in past the effort to create one ex-cadre post in the rank of PCCF to head SPCB had not succeeded.

In view of aforesaid facts, you are kindly requested to look into the matter and do the needful for revocation of the said govt. order. Looking forward for an early decision in the subject matter.

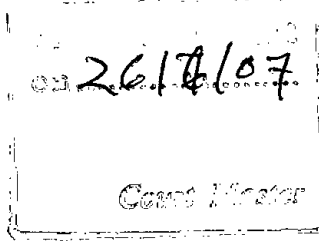
Yours faithfully,

(Dr. C.L. Goel)

Principal Chief Conservator of Forests
Nagaland, Kohima

Certified to be true Copy

Advocate



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATI

Filed on behalf of
the Respondents No. 243
through -
Kalyan B. Swano
Advocate
26/6/2007

O.A. NO. 147/2007

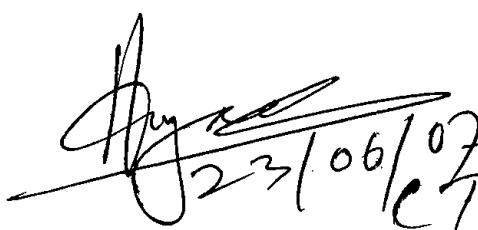
Between

Dr. C.L. Goel, son of Sri R.C. Goel, Presently
posted at Principal Chief Conservator of
Forests, Nagaland, Kohima.

...Applicant

And

1. The Union of India, represented by
the Secretary to the Govt. of India,
Ministry of Personal, Public
Grievance & Pension (Department of
Personal & Training), North Block,
New Delhi-1
2. The State of Nagaland, represented
by the Chief Secretary, Govt. of
Nagaland, Kohima.
3. The Commissioner & Secretary to
the Govt. of Nagaland, Department
of Forest, Ecology, Environment &
Wild Life, Kohima.


23/06/07. Ananta Yadav

4. Sri A. Rongsenwati, IFS Additional
Principal Chief Conservator of Forest
& Chief Wild Life Warden,
Department of Forest, Ecology,
Environment & Wild Life, Kohima.
5. Sri Temsuwati, IFS, Chairman,
Nagaland Pollution Control Board,
Kohima.

...Respondents

And

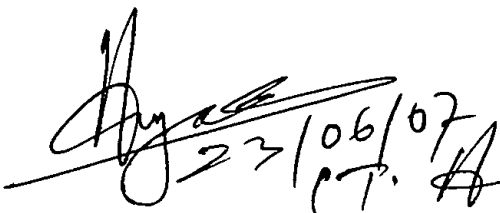
IN THE MATTER OF:

Written statement of the Respondent No.2 and 3 i.e. The State of Nagaland & The
Commissioner & Secretary to the Govt. of Nagaland.

The humble respondents No.2 and 3 above named –

MOST RESPECTFULLY SHEWETH:

1. That the Original Application filed by the Applicant is not maintainable on
facts and in law.
2. That save and except what has been specifically admitted by the
answering respondents, all the statements, averments and submissions made by the
applicant in the Original Application (hereinafter referred to as "the OA" for the purpose
of brevity) is deemed to have been specifically denied by the answering respondents,
and the Applicant is put to strict proof thereof.


23/06/07
Amenba Yaden

3. That the statements made in paragraph 1 of the OA are not correct and specifically denied by the answering respondents. It is stated that the impugned notification No. C&S/ (FOR) MISC.-1/2006 dated Kohima the 6th June, 2007 was issued under the IFS (Cadre) Rules, 1966. Rule 6 of the said Rule specifies posting of IFS Officers to non-cadre post where State Govt. has control its functioning. The State Govt. controls all posting, transfer, appointment of staffs, payment of salaries and wages through grant-in-aid to Nagaland Pollution Control Board (hereinafter referred to as "the NPCB for short). The activities of NPCB are funded under the PLAN scheme of financing through the Department of Forest, Environment, Ecology & Wild Life as grant-in-aid under demand for grants passed by the State Legislative Assembly. It is specifically denied that the impugned order for transferring and posting the applicant to post Chairman, NPCB has been passed by the respondent No.3 in clear violation of the procedure prescribed for transfer of an officer belonging to IFS cadre to a non-cadre post. It is denied that the impugned transfer order has been passed without application of mind or in clear disregard of the provisions of the law. It is also denied that the reason discernable behind issuance of the impugned order is to somehow oust the applicant from the post of Principal Chief Conservator of Forest (PCCF for short), held by him and thereby facilitate appointment of persons close to the powers.

4. That with regard to the statement made in paragraph 2 and 3, the same being questions of law, will be considered by this learned Tribunal in accordance with law, and the answering respondents have nothing to comment thereon.

5. That with regard to the statements made in paragraph 4.2 and 4.3, the answering respondents state that while admitting that the applicant is a direct recruit IFS, allotted to Nagaland Cadre in 1977, deny that the applicant had all along discharged his duties with utmost sincerity, dedication and with due promptness. It is also denied that there is nothing adverse against the applicant in his service records. It

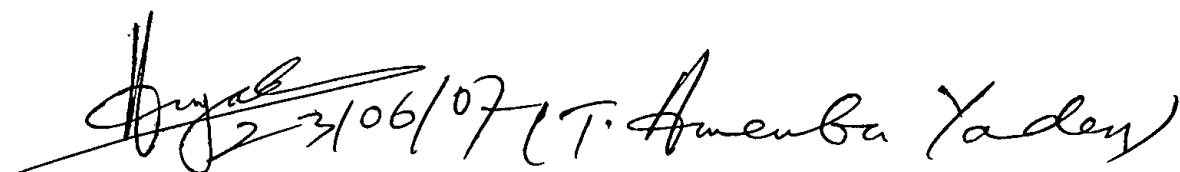
[Signature]
23/06/07
Amenba Yaden

is stated that since the date of his initial appointment, the applicant has been involved in many instances of acts, omissions, and commissions, which were unbecoming of an officer for which he was cautioned/ warned and several explanations were called for his conduct. The answering respondents reserve their right to produce all relevant records pertaining to the applicant at the time of hearing, if so required. The answering respondent further deny the statement made in the paragraph under reply that the applicant, as on date, is the senior-most officer in the Nagaland Cadre of Indian Forest Service (IFS for short). It is travesty of truth as Dr.S.C. Deorani, IFS., an officer of 1975 batch is still serving in the State Govt. and is currently posted as the Principal Secretary to the Govt. of Nagaland Urban Development, on State deputation reserve quota.

A copy of the relevant page of the seniority list of IFS of Nagaland Cadre is annexed herewith and marked as **Annexure- R/1**.

6. That the statements made in paragraph 4.4 is not correct. In this regard it is stated that the State Govt. has never moved the Central Govt. for incorporation of the post figuring in NPCL into the IFS cadre, and hence, the act of negation to such proposal does not arise. It is purely a fragment of imagination in the mind of the applicant with a view to misrepresent facts before this learned Tribunal.

7. That with regard to the statements made in paragraph 4.5 to 4.7, the answering respondent state that the drawing and disbursing officer in the office of the PCCF, is presently an Assistant Conservator of Forest. It is a fact that all payments including salaries, maintenance and other administrative expenditures of the NPCB, are met from the PLAN/ Non-Plan budget of the Department of Forest, Environment, Ecology & Wild Life. The Office of the PCCF through demand drafts disburses it to the NPCB as grant-in- aid. This act of disbursal of grant- in- aid by the office of PCCF does not make it superior to the NPCB, or conversely, make NPCB subordinate to the PCCF as the NPCB continues to remain under the control of the State Govt. and functions as a

 23/06/07 T. Amenba Yadav

semi – autonomous body (non- autonomous). Since all appointments, postings and grants are made by the State Govt. and not by the PCCF. For instance, Dr. S.C. Deorani, an IFS Officer of Nagaland Cadre- 1975 batch, in the rank of PCCF, who was the then Principal Secretary, Forest Department, was holding charge as Chairman, NPCB, from 2001 to 2005, which in no way made him subordinate to the office establishment to the PCCF though the NPCB was getting all its expenditure and funds pertaining to salaries, maintenance and other administrative expenditures from the Plan/ Non-plan budget of the Department of Forest, Environment, Ecology & Wild Life through the office of the PCCF. Hence, channeling of funds through the establishment of PCCF is a procedural matter for financial convenience, which does not make the NPCB subordinate to the establishment of the PCCF. However, the Govt. of Nagaland, by virtue of an order No. C & S (FOR) MISC.1/2006 dated Kohima, the 22nd June 2007, passed in continuation to the impugned order No. C&S (FOR) MISC.1/2006 dated 7th June 2007, has directed that NPCB shall have a separate Drawing & Disbursing Officer by declaring it as a Drawing & Disbursing Officer (DDO) in the Treasury Office, Dimapur. Further declaring that all salaries, office expenses, travel expenses, ~~travel expenses~~, overhead of the NPCB shall be provided with a separate DDO- wise sub-allocation under Demand No.52 of the Forests & Environment Department. By the said order, it was also clarified that only the Chief Secretary shall write the ACR of the Applicant.


In this regard, analogy can be drawn from the functioning of the Corporations like Nagaland Handloom & Handicrafts Development Corporation Ltd. (NHHDC Ltd. for short), which receives all its funds from the Director of Industries & Commerce and whose Chairman is normally an MLA, Minister of State or a Govt. Servant, which in no way makes him subordinate to the Director or Head of Department. However, all utilization reports of the expenditures received as grants by NHHDC are submitted directly to the Office of the Director of Industries & Commence Department.

A copy of the notification dated 22.06.2007 and a copy of one of such Fund utilization certificate No. NHHDC/ FIN-3/ 93-94/279-83 dated

[Signature]
23/06/07 (P. Anumba Yaden)

Dimapur, the 10th May 2005, is annexed herewith and marked as **Annexure – R/2 & 3 respectively.**

8. That with regard to the statements made in paragraph 4.8, the answering respondents state that having served for long in the Department of Forest, Environment, Ecology & Wild Life, the applicant ought to be already aware that earlier also there has been several instances of an IFS officer holding the charge or having been posted as Chairman, NPCB. Hence there can be no question of being shocked and surprised as alleged, on receipt of the impugned notification.
9. That with regard to the statements made in paragraph 4.9, the answering respondents state that the representation dated 8th June, 2007 was made available to the State Govt. on 11th June 2007.
10. That with regard to the statements made in paragraph 4.10, the answering respondents state that the notification dated 7th June 2007, contemplates that Rule 6(2)(i) of Indian Forest Service (Cadre) Rules 1966 provides for deputation of an IFS Officer to an organization controlled by the State Govt., and therefore, the question of prior approval of the Central Govt. or the consent of the applicant do not arise as the NPCB is under the control of the State Govt. and not an autonomous body as envisaged under Rule 6(2)(ii) of the said Rules. It is further stated that the NPCB is a body corporate as envisaged in Chapter-II of Section 4(3) of the Water (Prevention & Control of Pollution) Act, 1974 as adopted by the State of Nagaland on 27th March 1997. Further, through an OM dated 3rd December 1997, the State Govt. notified that the State Govt. would follow the Central Govt's Water (Prevention & Control of Pollution) Rules, 1975 till a Rule is framed by the State Govt. The State Govt. has control over its functioning and it is not an autonomous body as averred to by the applicant. The applicant is making contradictory statements while making a plea that neither his prior

 23/06/07 (T. Amenba Yaden)

consent nor approval of the Central Govt. was taken before issue of his posting order as envisaged under Rule 6 of the IFS (Cadre) Rules, 1966 terming NPCB as an autonomous body while in his averments in paragraph, 4.5, 4.7, 4.13, 4.20 and 4.22 has stated that NPCB is subordinate to the establishment of PCCF, Nagaland. Moreover, it is clear from the facts stated above that the State Govt. has been posting IFS Officers as Chairman to the NPCB in the past in the rank of PCCF under the IFS. In the instant case, it was thought proper in public interest that the services of the applicant would be more useful to the Govt. and public in general if the applicant is posted as Chairman of the NPCB. This is purely an administrative prerogative of the State Govt.

A copy of the OM dated 3rd December, 1997 is annexed herewith and marked as **Annexure-R/4.**

11. That with regard to the statements made in paragraph 4.11, the answering respondents state that the Water (Prevention & Control of Pollution) Act, 1974 was adopted by a resolution dated 27th March 1997 and the same has been extended to the whole of State vide Govt. notification No. FOR (GEN)- 100/96 dated Kohima, the 20th November 1997. It is under the administrative control of the State Govt. and therefore, posting of any officer to the NPCB does not require notification from the Central Govt. Sub-Section 2(3) of section 4 of the Water (Prevention & Control of Pollution) Act, 1974 empowers the State Govt. to appoint a Govt. servant as Chairman of the NPCB under the terms and conditions as specified by the state Govt. and hence, the applicant has no locus standi to challenge the State Govt. notification. The State Govt. has been posting IFS Officers as Chairman of NPCB in the past in the rank of the PCCF and CCF. This shows that the State Govt. has the power to post any officer irrespective of the rank to the NPCB.

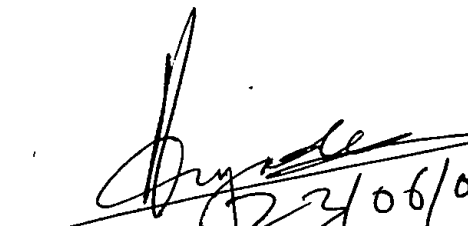
12. That the statements made in paragraph 4.12 is not correct and denied by the answering respondents. It is stated that the declaration made under Rule 9(i) of IFS

[Signature] 23/06/07 (T. Amenba Yaden)

(Pay) Rules, 1968 vide notification dated 7th June 2007, is neither an eyewash nor an idle formality as alleged in the OA. This has been done with the sole objective of ensuring that the pay and status of the applicant is protected in his new posting. Moreover, having regard to the public interest, the State Govt. is of the considered view that in the gloomy picture painted in the IPPCC report on climate change vis-à-vis global warming, the post of Chairman, NPCB, has assumed greater significance and importance, where the Doctorate Degree of the applicant will fit in, and his status/ pay is protected. It is an exercise to put the right man at the right job.

13. That with regard to the statements made in paragraph 4.13 to 4.15, the answering respondents state that the statements are not admitted. It is stated that the post of Chairman, NPCB, is not a rank specific post. It has been occupied by IFS Officers, who were in the rank of Principal Secretary to the Govt. of Nagaland, who is senior in rank to the PCCF. There has been instances in the IPS Cadre of Nagaland also where the declaration of equivalence status and responsibility was made to an ex cadre post, so created, though in practice the nature of responsibilities of new ex-cadre post is wholly different to that of the DGP. This exercise has been done to ensure pay and status protection. In the notification dated 7th June 2007, the declaration of responsibility has not been made as the nature of responsibility of Chairman, NPCB will be different to those of the PCCF. It may be mentioned herein that admittedly, the respondent No.5 was also posted as Chairman of NPCB, while he was in the rank of Chief Conservator of Forest posted under the Office of the PCCF. Moreover, Sri K.K. Sema, IFS., Chief Wild Life Warden, Nagaland, Dimapur, was also posted as Chairman, NPCB, Nagaland, vide order dated 15th February, 2000.

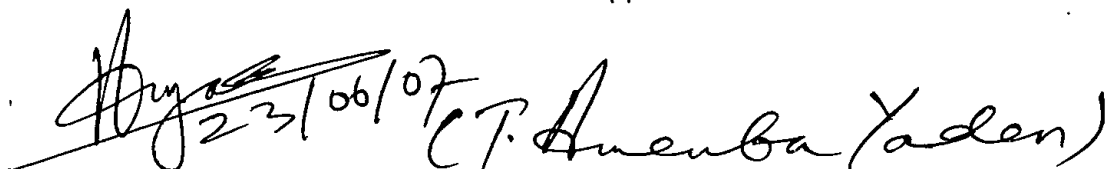
A copy of the said order dated 15.02.2000 is annexed herewith and marked as Annexure-R/5.


23/06/07
(T. Amenba Yaden)

14. That with regard to the statements made in paragraph 4.16, the answering respondents state that there is no question of de-merging the cadre post of Additional PCCF and Chief Wild Life Warden in the notification dated 12th April, 2002. Sri Temsuwati (Respondent No.5), an IFS Officer of CCF was to take over charge of the Office of the Chief Wild Life Warden only on current charge. The nature of cadre post remains the same, which is implied even if it is not specifically mentioned. Even correspondence to the office from the Govt. of India and other addresses it is mentioned as Chief Wild Life Warden, in fact an IFS Office in the rank of Conservator of Forest holds the post of Chief Wild Life Warden in the State of Mizoram and NCT of Delhi, which are AGMUT Cadre.

15. That with regard to the statements made in paragraph 4.17, the answering respondents state that the post of Chairman, NPCB is not a rank specific post. In past it has been occupied by IFS Officer, who were in the rank of Principal Secretary to the Govt. of Nagaland, who were senior in the rank to the PCCF. The power to post any IFS officer, irrespective of rank to the NPCB is vested with the State Govt., and neither consent of the officer concerned nor prior approval of the Central Govt. arises in such cases.

16. That with regard to the statements made in paragraph 4.18 and 4.19, the answering respondents state that the statements in paragraph 4.18 are repetition of the statements made in paragraph 4.2. Hence, the answering respondents reiterate and rely on their reply made in paragraph 5 above in order to avoid repetition. The answering respondents state that the notification dated 7th June 2007, has not been issued in order to facilitate the appointment of Respondent No.4, but has been done only in public interest. Further, the respondent No.4 is not promoted to the post of PCCF, nor is made the Head-Of- Department as he has been allowed only to hold the current charge to look after the office of PCCF. The applicant was also to take current charge of PCCF,

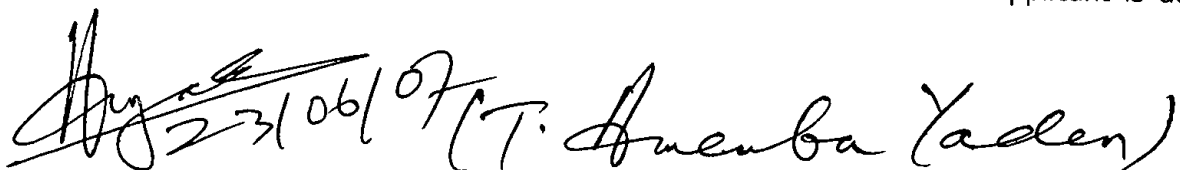

23/06/07 C.T. Amenba Yaden

while he was still an Additional PCCF in 2006, vide notification No. FOR- 17/82 dated 27th February 2006.

A copy of the said notification dated 27.02.2006 is annexed herewith and marked as **Annexure-R/6**.

17. That with regard to the statements made in paragraph 4.20, the answering respondents reiterate their reply made in the foregoing paragraphs to the effect that the NPCB is in no way subordinate to the establishment of the PCCF. All allowances and remuneration as per rules in force are admissible in both the post. In this context, the answering respondents deny the correctness of the allegation that the applicant has been deprived of the status of the Head-Of- Department and such deprivation has been sought to be meted out to the applicant without there being any fault on his part. It is also denied that the applicant is being sought to be victimized for the steps taken by him for conducting enquiries to find out the truth with regard to the allegations existing against his subordinates. The answering respondents state that the said statements are totally vague and liable to be rejected in toto.

18. That with regard to the statements made in paragraph 4.21 and 4.22, the answering respondents state that no good grounds exist for further continuance of any ad-interim orders for staying the operation of the notification dated 7th June 2007. On the other hand if the said ad interim order is further extended, the larger public interest is bound to suffer as the State Govt. having been satisfied that the services of the applicant would be best suitable for the post of Chairman, NPCB, for public interest and also because of his qualification appropriate to the said post, has taken appropriate steps to appoint the applicant to the post of Chairman, NPCB. The prima facie case for intervention by this learned Tribunal does not exist in this case, as the applicant would not suffer any prejudice to his service career as his posting as the Chairman, NPCB, is not a demotion and the pay and other admissible allowance of the applicant is duly

 23/06/07 (T. Anumba Yaden)

protected. The balance of convenience in favour of the respondents and in larger public interest as the issues of pollution and global warming is the cause of immediate and pressing public concern. Hence, the post of Chairman, NPCB, assumes greater importance in larger public interest. Moreover, the applicant will not suffer any loss or injury if he is allowed to join his office of posting as Chairman, NPCB. Therefore, this is a fit and proper case, wherein the ad-interim order dated 11th June, 2007 is liable to vacated, forthwith.

19. That with regard to the statements made in paragraph 4.23, the answering respondents state that the same are incorrect and specifically denied. The statements are vague without any material particulars, and liable to be rejected. It is specifically denied that the applicant has been subjected to arbitrary treatment and there has been malafide exercise of power by the State machinery and that in reality the effect of notification dated 7th June 2007, is reversion of the applicant to an inferior post.

20. That with regard to the statements made in paragraph 4.24 and 4.25, the answering respondents deny the correctness thereof, and state that the applicant having availed the alternative of filing representation made available before the State Govt. on 11th June 2007, immediately approached this Hon'ble Tribunal without waiting for any reply from the appropriate authority. Hence, the OA can neither be said to be bonafide or for ends of justice and the filing of the representation was merely an eyewash.

21. That the grounds as set forth in paragraph 5.1 to 5.7 are not tenable and are liable to be rejected, as the contentions raised in the said grounds are already replied to in the foregoing paragraphs, and the answering respondents reiterate and rely on the statements and grounds contended in the foregoing paragraphs in reply to the grounds in paragraphs 5.1. to 5.7 of the OA.

 31/06/07 P. Anubha Yadav

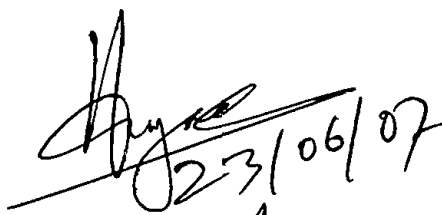
22. That with regard to the statements made in paragraph 6, the answering respondents state that the correctness of the same is not admitted as the applicant having availed the representation, which was received by the concerned authority only on 11th June 2007, has approached this Hon'ble Tribunal without even waiting for a day.

23. That with regard to the statements made in paragraph 8 and 9 of the OA, the answering respondents state that the relief sought for as well as the interim order prayed for, are not tenable and the various contentions as raised by the applicant are liable to be rejected, and the OA is consequently required to be dismissed.

24. That this written statement has been filed bonafide and for the ends of justice.

Under the facts and circumstances, it is, therefore, prayed that Your Honour may be pleased to dismiss the said OA with cost.

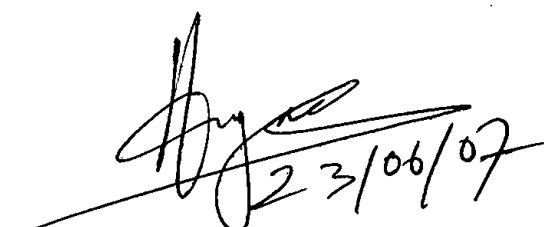
And for this act of kindness, the answering respondents, as in duty bound, shall ever pray.


23/06/07
(C.T. Amambua Yaden)

VERIFICATION

I, Sri T. Amenba Yaden, I.F.S., aged about 55 years, son of Late Wati Ao, by occupation- service, resident of Kohima, Nagaland, do hereby solemnly affirm and verify that I am the Deputy Conservator of Forests & the Nodal Officer for Legal matters on behalf the Forest Department, and duly authorized by the respondents No.2 and 3 to take steps in this case and to sign the pleadings, and that the statements made in paragraphs 22 to 24 above are true to my knowledge, those made in paragraphs 3 to 21 are true to my information derived from the records, and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this the 23rd day of June 2007 at Guwahati.


23/06/07
(T. Amenba Yaden)

नागालैंड

NAGALAND

राज्य	अधिकारी का नाम	आवंटन वर्ष भा. व. से. में नि. की तारीख	वर्तमान वेतनमान में नियुक्ति की तारीख टिप्पणी	वर्तमान पद वर्तमान पद में नियुक्ति की तारीख	दूरभाष (कार्या./घर) (मोबाईल) ई-मेल
क्र. सं.	जन्म तिथि				
अधिकारी	भर्ती स्रोत				
कोड सं.	शैक्षिक अर्हता				
STATE	OFFICER'S NAME	YEAR OF	PRESENT SCALE	PRESENT POST	TEL. (OFF./RES.)
S.NO.	DATE OF BIRTH	ALLOTMENT	OF PAY	DATE OF	(MOBILE)
OFFICER	RECTT. SOURCE	DATE OF	DATE OF APPTT.	APPOINTMENT	E-MAIL
CODE NO.	EDUCATIONAL	APPOINT. TO	TO SCALE	TO PRESENT	
	QUALIFICATION	IFS	REMARKS	POST	
0001 NG/004	एस.सी. देवरानी DR. S. C. DEORANI 01/01/1948 RR M.S.C. PH.D.	1975 01/03/1975	24050-26000 01/11/1999 AGAINST CDR	PRINCIPAL SECRETARY, FOREST & ENVIRONMENT	2271144 ng004@ifs.nic.in
0002 NG/005	एन. लोलेनमेरेन आओ N. LOLENMEREN AO 01/03/1946 SFS B.S.C.	1975 04/06/1980	24050-26000 24/01/2005	PCCF, NAGALAND	2224362 ng005@ifs.nic.in
0003 NG/006	सी.एल. गोयल DR. C.L. GOEL 01/06/1953 RR M.S.C. PH.D.	1977 02/03/1977	22400-24500 24/01/2005	ADDL. PCCF, NAGALAND	2244226 ng006@ifs.nic.in
0004 NG/007	अंसार अहमद ANSAR AHMED 10/06/1951 RR M.S.C.	1978 01/03/1978	18400-22400 01/09/1996 AGAINST CDR	CONTROLLER EXAMINATIONS JMI, NEW DELHI	6329165 ng007@ifs.nic.in
0005 NG/008	ए. रोंगसेनवती आओ A. RONGSENWATI AO 01/03/1953 RR M.S.C.	1978 06/03/1978	18400-22400 01/09/1996	CWLW, NAGALAND	226681 ng008@ifs.nic.in
0006 NG/009	खेतोवी सेमा KHETOVI SEMA 11/09/1951 RR B.S.C.	1980 01/04/1980	18400-22400 01/09/1996	CCF, HQ.	2221472 ng009@ifs.nic.in
0007 NG/010	के.एस. शशिधर DR. K.S. SHASHIDHAR 21/11/1954 RR M.S.C. PH.D.	1981 19/05/1981	16400-20000 06/08/1992 AGAINST CDR	DIRECTOR, IWST, BANGALORE ICFRE	ng010@ifs.nic.in
0008 NG/011	के.आर. ल्यांगडोह K.R. LYNGDOH 10/08/1958 RR M.S.C.	1982 10/05/1982	16400-20000 01/09/1996	CF, FC, DIMAPUR	227479 ng011@ifs.nic.in

229

http://ifs.nic.in

CERTIFIED TO BE TRUE

(KALYAN R. SURANA).
ADVOCATE

as they are helpless - I have interacted with them in

including many senior

because of lack of proper

provided by the PCCF. In fact, many of them

He is not
Mr. Smith/Man

-15-

ANNEXURE

R/2

37

GOVERNMENT OF NAGALAND
DEPARTMENT OF FORESTS, ECOLOGY, ENVIRONMENT & WILDLIFE
NAGALAND: KOHIMA

NOTIFICATION

Dated Kohima, the 22nd June 2007

No. C&S (FOR) MISC.-1/2006: In continuation to the notification No. C&S (FOR) MISC.-1/2006 Dated Kohima, the 7th June 2007, the following are incorporated for the smooth functioning of the Nagaland Pollution Control Board.

1. Nagaland Pollution Control Board shall have a separate Drawing & Disbursing Officer by declaring it as a Drawing & Disbursing Officer (DDO) in the Treasury Office, Dimapur.
2. All salaries, office expenses, Travel expenses, overhead of the Nagaland Pollution Control Board etc shall be provided with a separate DDO-wise sub-allocation under Demand No -52 of the Forests & Environment department. A revised DDO-wise allocation under PLAN and NON - PLAN shall be resubmitted to the Finance department to enable the Nagaland Pollution Control Board to draw its own expenses.
3. All Utilization Certificates for funds received by the Nagaland Pollution Control Board shall be submitted directly to the State government (Forest & Environment department).
4. The Annual Confidential Report (ACR) of Dr C.L Goel, IFS the Chairman, designate Nagaland Pollution Control Board shall be written only by the Chief Secretary.
5. All other facilities and allowances admissible as per Rules to members of the AIS shall be allowed.

Sd/- LALHUMA, IAS

Chief Secretary to the Government of Nagaland

CERTIFIED TO BE TRUE

Kalyan R. Surana

(KALYAN R. SURANA)

ADVOCATE

- 18 - ANNEXURE R/3

74

**NAGALAND HANDLOOM & HANDICRAFTS
DEVELOPMENT CORPORATION LIMITED
DIMAPUR : : NAGALAND**

(A Govt. of Nagaland Undertaking)

No.NHHDC/Fin-3/93-94/ 279-83
To,

Dt.Dimapur the 10th May 04

✓ The Director of Industries & Commerce,
Kohima, Nagaland.

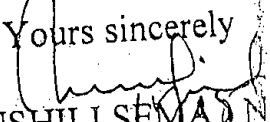
Sub :- UTILIZATION CERTIFICATE.

Sir,

With reference to the subject cited above I am to submit herewith Utilization Certificate against sanction of State equity share amounting to 15.00 lacs (Rupees fifteen lacs) only, vide sanction order No. IDB/HD-9/86(p) dt. 2/9/04 as detailed below :-

- | | |
|---|----------------------------------|
| 1. Amount received vide :-
DD No. 075564 dt. 10/9/04 | - Rs. 15,00,000.00 |
| 2. Expenditure | |
| i) Procurement of Finished good | |
| a) Handloom | - Rs. 6.00 lacs |
| b) Handicrafts | - Rs. 6.50 lacs. |
| ii) Procurement of R/material | - Rs. 2.50 lacs. |
| Total = | Rs.15.00 lacs |
| | - <u>Rs. 15,00,000.00</u>
Nil |

This is for favour of your information and necessary action.

Yours sincerely

(N. HUSHILI SEMA)
Managing Director,
Dt.Dimapur the 10th May


No.NHHDC/Fin-3/93-94/

Copy to :-

1. The Hon'ble Chairman, NHHDC Ltd.
2. The Secretary to the Govt of Nagaland Industries & Commerce, Nagaland Kohima.
3. The Sr. Accountant Officer, DDO Kohima.
4. The Branch Manager, NHHDC Ltd., Kohima.

(N. HUSHILI SEMA)
Managing Director

CERTIFIED TO BE TRUE


(KALYAN R. SURANA)
ADVOCATE

interacted with them in

- 17 -

ANNEXURE R/4

25

GOVERNMENT OF NAGALAND
DEPARTMENT OF FOREST ECOLOGY ENVIRONMENT AND WILDLIFE

OFFICE MEMORANDUM

Dt. Kohima, the 3rd Dec. '97.

NO. FOR/GEN/100/96 : Whereas the matter relating to the "Water (Prevention and Control of Pollution) Act 1974" and extending the same in the State of Nagaland has been under consideration of the Government.

And Whereas the said Water (Prevention and Control of Pollution) Act, 1974 has been adopted by the State Government by a Resolution Passed by the Nagaland Legislative Assembly during its sitting on 27th March 1997.

THEREFORE the Governor of Nagaland is pleased to order that the State Government shall follow the Central Government's Water (Prevention and Control of Pollution) Rules 1975 till it is framed by the State.

Sd/- THEPFULHOUVI ANGAMI
Commissioner & Secretary to the Govt. of Nagal

//Dt. Kohima, the 3rd Dec. '97.

NO. FOR/GEN/100/96

Copy to :-

- 1/ The Secretary to the Govt. of India, Ministry of Environment and Forests, Paryavaran Bhavan, C.G.O. Complex Lodhi Road, New Delhi - 110003.
- 2/ The Inspector General of Forests, Govt. of India, Ministry of Environment and Forests, Department of Forests and Wildlife, Paryavaran, Bhavan, C.G.O. Complex Lodhi Road, New Delhi-110003.

.....2/-

CERTIFIED TO BE TRUE

o/c
issued
5/12/97

Kalyan R. Surana
(KALYAN R. SURANA)
ADVOCATE

mem in

-185-

ANNEXURE R/S

Government of Nagaland
Department of Forests, Ecology & Environment & Wild life
Nagaland ; Kohima.

NOTIFICATION

Dated Kohima, the 15th Feb. 2000.

No FOR-40/85 :: In the interest of public service, the Governor of Nagaland is pleased to order the following transfer and postings of the Officers under the Department of Forests, Ecology, Environment & Wildlife with immediate effect.

1. Shri Ansar Ahmed, IFS, Member Secretary, Nagaland State Pollution Control Board is transferred and posted as Chief Conservator of Forests (Hq), Nagaland, Kohima, vice Shri Rongsenwati Ao, IFS, Chief Conservator of Forests (Hq) transferred.
2. Shri Rongsenwati Ao IFS, CCF (Hq) Nagaland, Kohima is transferred and posted as Chief Wildlife Warden, Nagaland, Dimapur, vice Shri K.K.Sema IFS.
3. Shri K. K. Sema, IFS, Chief Wildlife Warden Nagaland, Dimapur is transferred and posted as Chairman, State Pollution Control Board, Nagaland vice Shri K.I. Ao IFS released.

Shri. Ansar Ahmed, IFS will move first.

Sd/-
(Thepfulhouvi Angami, IFS)
Principal Secretary
Deptt of Forests, Ecology & Environment & Wild Life
Nagaland; Kohima.

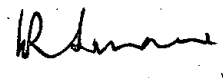
NO.FOR-23/82(pt) ::
Copy to :-

Dated Kohima, the 15th Feb. 2000

1. The Secretary to the Govt. of India, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi-110003.
2. The Accountant General, Nagaland, Kohima.
3. The Special Secretary to the Governor, Nagaland, Kohima.
4. The Special Secretary to the Chief Minister, Nagaland, Kohima.
5. The Sr. P.S. to the Minister (Forests), Nagaland, Kohima.
6. The Sr. P.S. to the Chief Secretary, Nagaland, Kohima.
7. The Principal Chief Conservator of Forests, Nagaland , Kohima.
8. The C.C.F (Wildlife), Dimapur.
9. The Chairman, Nagaland State Pollution Control Board, Nagaland, Kohima.
10. The Conservator of Forests, STC/NTC, Kohima. Functional Circle/ Wildlife, Dimapur.
11. The Publisher, Nagaland Gazette, Kohima.
12. The Chief Wildlife Warden, Dimapur.
13. The Forest Utilisation Officer, Dimapur.
14. The Principal, Forestry Training School, Dimapur.
15. The Silviculturist/W.P.O/D.C.F, Social Forestry Division, Kohima.
16. Officers concerned.
17. All D.F.Os in Nagaland.
18. Guard File.
19. Personal Files.

15/2/2000
(E. Ezung)

Joint Secretary
Deptt of Forests, Ecology and Environment and Wild Life
Nagaland; Kohima.

CERTIFIED TO BE TRUE

(KALYAN R. SURANA)
ADVOCATE

VCS after
Pomona
Tupac

GOVERNMENT OF NAGALAND
DEPARTMENT OF FORESTS, ENVIRONMENT, ECOLOGY & WILDLIFE

NOTIFICATION

Dated: Kohima, the 27th February 2006

No.FOR-17/82 :: Consequent upon superannuation/retirement of Shri N. Lolenmeren Ao, IFS (NG: 75), Principal Chief Conservator of Forests, Nagaland on 28.02.2006 (AN), Dr. C.L.Goel, IFS, (NG:77), Additional Principal Chief Conservator of Forests & Chief Wildlife Warden is hereby allowed to hold current charge of Principal Chief Conservator of Forests, Nagaland, Kohima (with effect from 28.02 2006, AN) till further orders.

This is in consonance with the recommendation of the Civil Service Board/ Screening Committee for Forest Department held on 23.02.2006 under the chairmanship of the Chief Secretary, Nagaland.

(R. BINCHILLO THONG) IAS

Commissioner & Secretary to the Government of Nagaland

Dated: Kohima, the 27th February 2006

No.For-17/82

Copy to:

1. The Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O.Complex, Lodi Road, New Delhi-110003.
2. The Commissioner & Secretary to Governor, Raj Bhawan, Kohima.
3. The Additional Chief Secretary to Chief Minister, Nagaland, Kohima.
4. The Senior P.S. to Minister (Environment & Forests), Nagaland, Kohima.
5. The Senior P.S. to Chief Secretary, Nagaland, Kohima.
6. The Principal Chief Conservator of Forests, Nagaland, Kohima.
7. The Accountant General, Nagaland, Kohima.
8. The Additional Principal Chief Conservator of Forests & Chief Wildlife Warden, Nagaland, Dimapur.
9. The Conservator of Forests, NTC/ STC, Kohima / WL/ Functional Circle, Dimapur.
10. The Wildlife Warden, Dimapur/Kiphre.
11. The Forest Utilization Officer /the Principal Forest Training Training School, Dimapur.
12. The Silviculturist/ WPO/ Dy CF, Social Forestry Division, Kohima.
13. All DFO's in Nagaland.
14. The Publisher, Nagaland Gazette, Kohima for publication in the issue of Gazette.
15. Personal File of the Officer.
16. The Officer Concerned.
17. The Treasury Officer, Dimapur/Kohima.
18. Guard file.

Receipt No. 234 dated 8/3/06
Nagaland (D) Secretary
.....
Kohima

CERTIFIED TO BE TRUE

(KALYAN R. SURANA)
ADVOCATE

(R. BINCHILLO THONG) IAS

Commissioner & Secretary to the Government of Nagaland

Dr. C.L. Goel

03/03/06

Arula

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 9 JUL 2007

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH:: AT GUWAHATI

O.A. No. 147/ 07

Dr. C.L. Goel, IFS

.... Applicant

Versus

The Union of India & ors.

.... Respondents

IN THE MATTER OF :-

A rejoinder by and on behalf of the applicant to the written statement filed in the above noted original application by the respondent no.2 & 3.

MOST RESPECTFULLY SHEWETH:

1. That with regard to statements made in paragraph 1 of the written statement under reply, your deponent denies the same and states that the respondent authorities in issuing the impugned notification dated 07.06.07 have violated the mandatory provisions of the statutory Rules/ regulation governing the service conditions of the applicant. The grievance raised by the applicant in the original application is covered by the provisions of Section 3 (q), and 14 of the Administrative Tribunals Act, 1985 and as such the original application preferred under section 19 of the said Act of 1985 is maintainable.

2. That with regard to statements made in paragraph 2 of the written statement under reply, your deponent denies the same and states that provisions of Rule 6 of the IFS (cadre) Rules, 1966 has got no application in the case on hand. The provisions of the IFS (Cadre) Rules, 1966 does not provide for transfer of a cadre officer to a non-cadre post. It is denied that the NPCB is not an autonomous organization. It is stated that the Water (Prevention & Control

Filed by:
Dr. C.L. Goel,
Applicant
Through:
U.K. Nair,
Advocate, 09.07.07.

of Pollution) Act, 1974 mandates that the Pollution Control Boards constituted under it, to be autonomous bodies. The fact that the state government controls the postings, payment of salaries & wages etc of NPCB through grant-in-Aid cannot under any circumstances hamper the autonomous nature of NPCB. The only reason for issuance of the impugned notification is to some how oust the applicant from the cadre post of PCCF and to have it manned by a person close to the powers that be.

3. That with regard to statements made in paragraph 5 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made in paragraph 4.2 and 4.3 of the original application. It is stated that no departmental proceeding is either contemplated and/ or pending against the applicant and/ or any adverse conclusions have been reached against the applicant, rendering him unsuitable for continuing as PCCF. It is stated that the applicant is the senior most IFS officer in the department, inasmuch as Dr. S.C Deorani, IFS is currently on state deputation and is holding the post of Principal Secretary, Urban Development Department.

The applicant was never superseded in the matters of promotion and he came to granted his due promotions as and when he attained eligibility for the same. The Civil Services Board/ Screening Committee for Forest Department had on 23.02.06 on consideration of the case of the applicant, recommended his name for the post of PCCF and the applicant was vide notification dated 27.02.06 allowed to hold the charge of the post of PCCF and thereafter vide notification dated 10.03.06 he was promoted as PCCF on regular basis.

Copies of the notifications dated 27.02.06 and 10.03.06 are annexed as **Annexure - A & B** respectively.

4. That with regard to statements made in paragraph 6 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made in paragraph 4.4 of the original application. It is further stated that as per the provisions of the IFS (Fixation of Cadre Strength)

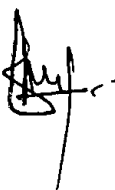


Amendment Regulations, 2002, which is currently holding the field, there is an amalgamated post of Addl. PCCF & Chief Wild Life Warden and the state Government is not empowered to appoint two persons against the said post, as has been sought to be done by the impugned notification dated 07.02.07.

5. That with regard to statements made in paragraph 7 of the written statement under reply, your deponent denies the same and states that the averments as made with regard to the functioning of NPCB and the analogy drawn from the case of Nagaland Handloom & Handicrafts Development Corporation Ltd., it is clear that the respondent authorities have in their haste to oust the applicant from the post of PCCF clearly ignored the statutory provisions governing his conditions of service. The notification dated 22.06.07 clearly reflects that NPCB is an autonomous organization this fact has also been admitted by the respondents. The mere receipt by an organization of grant-in-aid from the Government does not make it a Government controlled body. It is stated that never was an IFS officer in the rank of PCCF appointed substantively as chairman, NPCB. The authorities with a view to cover up the illegality committed in transferring the applicant as Chairman, NPCB proceeded to issue the notification dated 22.06.07. The notification dated 07.06.07 being ab-initio void, being in contravention of statutory provisions, the notification dated 22.06.07 cannot validate the same.

6. That with regard to statements made in paragraph 8 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made in paragraph 4.9 of the original application. It is stated that never before was any IFS officer in the rank of PCCF posted on substantive basis as Chairman NPCB.

7. That with regard to statements made in paragraph 10 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made in paragraph 4.10 of the original application. The provisions of Rule 6 of the IFS (Cadre) Rules, 1966 only operates in case of deputation and in the case of the applicant there is no deputation involved. Transfer can be only to an equivalent post in the same cadre. The respondent cannot approbate and reprobate in the same breath. It



is stated that no IFS officer in the rank of PCCF ever was posted as Chairman NPCB on substantive basis. It is denied that there existed any public interest in transferring the applicant as Chairman, NPCB. The government cannot exercise its powers basing on its whims and caprices. The actions of the Government must conform to the rules/ regulations holding the field. *The quota fixed for State deputation has been exhausted and no further deputation is permissible.*

8. That with regard to statements made in paragraph 11 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made in paragraph 4.11 of the original application. It is denied that any IFS officer in the rank of PCCF was ever appointed as Chairman, NPCB on substantive basis.

9. That with regard to statements made in paragraph 12 of the written statement under reply, your deponent denies the same and states that as per the own showing of the respondent authorities, the post of NPCB has been held to be equivalent to posts figuring in the IFS Cadre of the state basing on the incumbent who is posted against the same. As such, no independent exercise required under the Rules for determination of the equivalence has been carried out. The assertion that the doctorate degree of the applicant would be appropriate for the works related to NPCB clearly reflects the fact that there was no application of mind, in the matter by the authorities inasmuch as the applicant has obtained his doctorate in Tree Borne Oil Seeds and not global warming or climatic change. The expertise/ experience of the applicant is best suited for the works related to Forest Department. It is denied that any exercise was carried out to put the right man for the right job. Further, the whole exercise carried out in this connection being in clear violation of the Rules holding the field, the same is void ab-initio.


10. That with regard to statements made in paragraph 13 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made in paragraph 4.13 to 4.15 of the original application. It is stated that the respondent authorities have either failed to comprehend the provisions of the Rules holding the field and/ or are *feigning* ~~feigning~~ ignorance of the same. In the case on and there is no ex-cadre post being

created. The state government can in given case create Ex-cadre post, subject to the provisions of the IFS (Cadre) Rules, 1966.

11. That with regard to statements made in paragraph 14 of the written statement under reply, your deponent denies the same and states that the malafide behind issuance of the notification dated 07.02.07 is clear from the justification being sought to be advanced with regard to the de-merger of the cadre post of Addl. PCCF & Chief Wild Life warden. There is no separate post of Chief Wild Life Warden available for posting the respondent no. 5.

12. That with regard to statements made in paragraph 15 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made in paragraph 4.17 of the original application. It is denied that any IFS officer in the rank of PCCF had occupied the post of Chairman, NPCB on substantive basis. It is stated that the state government can exercise its powers with regard to IFS officer borne in its cadre strictly in terms of the provisions of the Rules/ Regularisation holding the field. It is stated that the accounts of NCPB are not auditable by the Accountant General, Nagaland as is done in the case of normal Governmental Expenditures. It is further stated that the accounts of NPCB is not auditable by the Accountant General, Nagaland as in done in normal Government expenditure.

13. That with regard to statements made in paragraph 16 of the written statement under reply, your deponent denies the same and reiterates and reaffirms the statements made herein above and in paragraph 4.18 and 4.19 of the O.A. It is stated that the sole intention behind issuance of the impugned notification dated 7.6.07 is to somehow appoint the respondent no. 4 against the post of PCCF. The respondent no.4 not being eligible as now for being appointed as the PCCF, is being sought vide issuance of the impugned notification to be accommodated against the post of PCCF through the back door. The applicant had also held the charge of the post of PCCF in the past, but such appointment was in pursuance of his selection for such appointment by the Civil Services Board/ Screening Committee for the Forest Department.



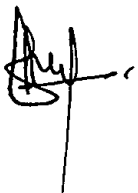
Thereafter, within a fortnight the applicant was appointed on regular basis as the PCCF.

14. That with regard to the statements made in paragraph 17 of the written statement, under reply, your applicant denies the same and reiterates and reaffirms the statements made herein above and in paragraph 4.20 of the O.A. It is stated that the impugned notification dated 07.06.07 being in clear violation of the provisions of the IFS(Cadre) Rules, 1966, the same is void ab-initio and cannot be implemented.

15. That with regard to the statements made in paragraphs 18, 19, 20, 21, 22, 23 and 24 of the written statement, under reply, your applicant denies the same and reiterates and reaffirms the statements made herein above and in paragraph 4.21, 4.22, 4.23, 4.24, 4.21 and 5 to 9 of the O.A. The impugned notification dated 07.06.07 being in clear violation of the express provisions of the IFS (Cadre) Rules, 1966 the same is not sustainable and liable to be set aside and quashed by this Hon'ble Tribunal. The stand as taken by the respondent authorities in the written statement under reply and the discussions the applicant had with the authorities and the follow actions taken by the authorities in pursuance thereof clearly indicate that the authorities would not redress the grievances of the applicant.

16. That your applicant states that the respondent authorities have failed to bring on record any cogent ground for the purpose of vacation of the interim directions passed in the matter by this Hon'ble Tribunal and or for the dismissal of the O.A and as such it is prayed that the applicant having made out a prima facie case the same is to be accepted and the O.A is required to be allowed by granting to the applicant the relief's sought for by him therein.

17. That your applicant prays that your Lordships would be pleased to reject the grounds shown by the respondent authorities in the written statement under rely and be pleased to allow the original application by granting to the applicant the relief's sought for by him therein.




.... Verification

VERIFICATION

I, Dr. C. L. Goel, IFS, aged about 54 years, Son of Sri R.C. Goel, presently working as the Principal Chief Conservator of Forests, Nagaland, Kohima resident of Kohima, in the State of Nagaland, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 are true to my knowledge; those made in paragraphs _____ are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 9 th day of July, 2007.


DÉPONENT

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Principal Chief Conservator
27 FEB 2006
ANNEXURE - A

GOVERNMENT OF NAGALAND
DEPARTMENT OF FORESTS, ENVIRONMENT, ECOLOGY & WILDLIFE

NOTIFICATION

Dated: Kohima, the 27th February 2006

No.FOR-17/82 :: Consequent upon superannuation/retirement of Shri N. Lolenmeren Ao, IFS (NG: 75), Principal Chief Conservator of Forests, Nagaland on 28.02.2006 (AN), Dr. C.L.Goel, IFS, (NG:77), Additional Principal Chief Conservator of Forests & Chief Wildlife Warden is hereby allowed to hold current charge of Principal Chief Conservator of Forests, Nagaland, Kohima (with effect from 28.02 2006, AN) till further orders.

This is in consonance with the recommendation of the Civil Service Board/ Screening Committee for Forest Department held on 23.02.2006 under the chairmanship of the Chief Secretary, Nagaland.

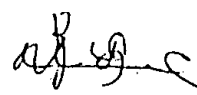
(R. BINCHILO THONG) IAS
Commissioner & Secretary to the Government of Nagaland

No.For-17/82

Dated: Kohima, the 27th February 2006

Copy to:

1. The Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O.Complex, Lodi Road, New Delhi-110003.
2. The Commissioner & Secretary to Governor, Raj Bhawan, Kohima.
3. The Additional Chief Secretary to Chief Minister, Nagaland, Kohima.
4. The Senior P.S. to Minister (Environment & Forests), Nagaland, Kohima.
5. The Senior P.S. to Chief Secretary, Nagaland, Kohima.
6. The Principal Chief Conservator of Forests, Nagaland, Kohima.
7. The Accountant General, Nagaland, Kohima.
8. The Additional Principal Chief Conservator of Forests & Chief Wildlife Warden, Nagaland, Dimapur.
9. The Conservator of Forests, NTC/ STC, Kohima / WL/ Functional Circle, Dimapur.
10. The Wildlife Warden, Dimapur/Kiphre.
11. The Forest Utilization Officer /the Principal Forest Training Training School, Dimapur.
12. The Silviculturist/ WPO/ Dy CF, Social Forestry Division, Kohima.
13. All DFO's in Nagaland.
14. The Publisher, Nagaland Gazette, Kohima for publication in the issue of Gazette.
15. Personal File of the Officer.
16. The Officer Concerned.
17. The Treasury Officer, Dimapur/Kohima.
18. Guard file.

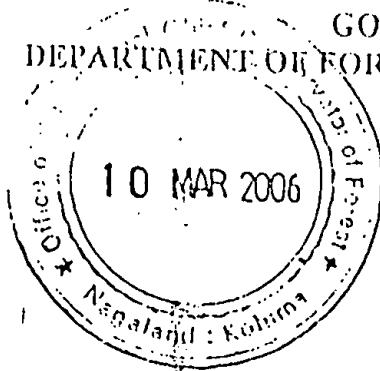

(R. BINCHILO THONG) IAS
Commissioner & Secretary to the Government of Nagaland

SL 52/C

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B

GOVERNMENT OF NAGALAND,
DEPARTMENT OF FORESTS, ECOLOGY, ENVIRONMENT & WILDLIFE
NAGALAND: KOHIMA



NOTIFICATION

Dated Kohima, the 10th March 2006

No. FOR-Estt-25/2005 : On recommendation of the Civil Services Board/Screening Committee, the Governor of Nagaland is pleased to promote and appoint Mr C.I. Goel, IFS Additional PCCF to the post of Principal Chief Conservator of Forests in the pay scale of Rs 24,050- 650-26,000/- P.M..

Shri A. Ronsenwati Ao, IFS Chief Conservator of Forests is promoted and posted as Additional PCCF & Chief Wildlife Warden, Nagaland, Dimapur in the pay scale of Rs. 22,400-525-24500/-. He shall continue to look after Chief Conservator of Forests (Environment, Bio-diversity & Research) till further order.

Shri Ansar Ahmad, IFS Chief Conservator of Forests presently on central deputation with MoEF, Govt of India is given Pro-forma promotion as Additional PCCF in the pay scale of Rs. 22,400-525-24500/-.

Sd/- BINCHILLO THONG
Commissioner & Secretary to the Government of Nagaland

No. FOR-Estt-25/2005

Dated Kohima, the 10th March 2006

Copy to:

1. The Commissioner & Secretary to the Governor, Nagaland, Raj Bhawan, Kohima.
2. The Special Secretary to the Chief Minister, Nagaland, Kohima.
3. The Sr. P.S. to Minister, Forests & Environment, Nagaland, Kohima.
4. The Secretary, Government of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
5. The Director General of Forests & Special Secretary, Government of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
6. The Chief Secretary, Nagaland, Kohima.
7. The Principal Chief Conservator of Forests, Nagaland, Kohima.
8. The Accountant General, Nagaland, Kohima.
9. The Principal Resident Commissioner, Nagaland House, New Delhi.
10. The Resident Commissioner, Nagaland House, Kolkata.
11. The Chief Wildlife Warden, Nagaland, Dimapur.
12. All CCFs/CFs/DFOs/FUO/WPO/Wildlife Warden/Silviculturist, Nagaland.
13. The Publisher, Nagaland Gazette, Kohima for publication in the Gazette.
14. The concerned officers.
15. Personal file /Guard file.

in file Pl.

10.03.06

(10/3/06)
(J. KIRE)IFS

केन्द्रीय प्रशासकीय न्यायालय
Central Administrative Tribunal

17 JUL 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH:: AT GUWAHATI

O.A. No. 147/ 07

Dr. C.L. Goel, IFS

.... Applicant

Versus

The Union of India & ors.

!... Respondents

IN THE MATTER OF :-

An additional Affidavit filed on behalf of the applicant to bring on record the developments taking place in the matter after filing of the Original Application.

ADDITIONAL AFFIDAVIT

I, Dr. C. L. Goel, IFS, aged about 54 years, Son of Sri R.C. Goel, presently working as the Principal Chief Conservator of Forests, Nagaland, Kohima resident of Kohima, in the State of Nagaland and the applicant in O.A. No.147/07, do hereby solemnly affirm and state as follows;

1. That the applicant had by way of filing the above noted original application assailed the notification dated 07.06.07 (Annexure – 5 to the O.A). This Hon'ble tribunal was pleased vide order dated 11.06.07 to issue notices in the matter and had in the interim protected the service interests of the applicant.

Filed by:-

Dr. C.L. Goel, Applicant

Through's

U.K. Nani
Advocate - 09.03.07

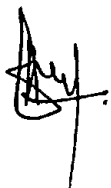
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2. That your applicant states that in terms of the interim directions passed by this Hon'ble Tribunal, he is continuing as the PCCF, Department of Environment & Forest, Government of Nagaland.

3. That on 21.06.07 the applicant was intimated to appear before the Chief Secretary to the Government of Nagaland and the Secretary to the Government of Nagaland, Department of Forests, for a discussion for finding out an amicable settlement with regard to the grievances raised by the applicant before this Hon'ble Tribunal. The applicant accordingly appeared before the said authorities on 21.06.07 and 22.06.07. The meeting had proceeded in a very congenial atmosphere and the grievances raised by the applicant were assured to be redressed. As per the impression drawn by the applicant, the respondent authorities were to withdraw the notification dated 07.06.07 and thereafter issue fresh notification invoking the provisions of proviso to Rule 4 and Rule 8 (3) of the IFS (Cadre) Rules, 1966. Accordingly, the applicant basing on the said impression drawn by him during the said meeting proceeded to issue communication dated 22.06.07 to his Counsel requesting for withdrawal of the Original Application No. 147/ 07.

4. That the respondent authorities contrary to the impression drawn by the applicant during the discussions indicated herein above proceeded to issue a notification dated 22.06.07 incorporating certain measures for the smooth functioning of the NPCB. The said measures as contained in the notification dated 22.06.07 does not in any manner redress the grievances of the applicant. After considering the matter in detail, the applicant instructed his counsel on 23.06.07 not to act upon his communication dated 22.06.07. The applicant thereafter again approached the authorities for initiating steps for an amicable settlement in the matter, but nothing concrete has emerged there from. The respondent authorities are insisting upon the applicant to comply with the directions contained in the impugned notification dated 07.06.07.

5. That your applicant states that the respondent authorities have issued memorandums to the applicant asking him to show cause on trivial matters. Such a course of action has been adopted only to put pressure upon the



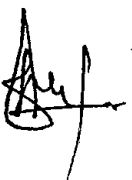
applicant to withdraw the present proceedings pending before this Hon'ble Tribunal. The applicant is taking steps to meet the allegations levelled against him and requisite show cause replies are being prepared for submission to the authorities.

6. That your applicant states that the recourse to proceedings before this Hon'ble tribunal is a Constitutional as well as a statutory right of the applicant and the choice of withdrawing proceedings pending before this Hon'ble Tribunal is vested with the applicant. Until and unless the applicant himself or through his counsel makes prayers before this Hon'ble tribunal for withdrawal of the above noted Original Application and this Hon'ble Tribunal grants such prayers the respondent authorities cannot insist upon the applicant to withdraw the said proceedings. The communication dated 22.06.07 was issued by the applicant to his counsel on a bonafide belief that his grievances would be redressed by the authorities. The respondent authorities had also required the applicant to withdraw the present proceedings before taking any further steps in the matter. The grievances of the applicant having not been redressed and the notification dated 22.06.07 having not changed the position with regard to his grievances, the applicant decided to continue with the present proceedings.

7. That the aforesaid facts being developments after filing of the Original Application and the same having bearing on the outcome of this Original Application, the applicant has filed this additional affidavit to bring on record the same.

8. That your applicant submits that the impugned notification dated 07.06.07 being in clear violation of the express provisions of the IFS (Cadre) Rules, 1966 the same is not sustainable in the eye of law and is required to be set aside and quashed.

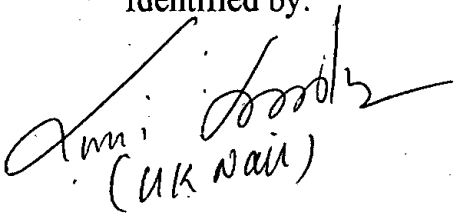
9. That this additional affidavit has been filed bonafide for securing the ends of justice.



10. That the statements made in this affidavit in paragraphs 1 to 6 and 9 are true to my knowledge, and the rests are my humble submission before this Hon'ble Tribunal.

And I sign this affidavit on this 9th day of July 2007, at Guwahati.

Identified by:


(UK Nai)

Advocate.


DEPONENT

Solemnly affirmed and declared
before me by the deponent who is
being identified by UK Nai
Advocate, on this
09th day of July, 2007 at Guwahati.