

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 207 of 2004

Indore this the 18th day of Oct-2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Chandra Shekhar Pandey, S/o. late Shri
R.P. Pandey, age : about 65 years,
Assistant Conservator of Forest (Retd.),
16-Collector Residence Road,
Shivpuri (MP), Pin Code No. 473551.

.... Applicant

(By Advocate – Shri Anil Gupta)

Versus

1. The Union of India, through :
The Secretary, Environment and Forests,
CGO Complex, New Delhi.
2. The Secretary, Union Public Service
Commission, Govt. of India, Dhaulpur
House, Shahjahan Road, New Delhi.
3. The State of Madhya Pradesh,
Through : The Principal Secretary,
Forests Department, Govt. of M.P.,
Vallabh Bhawan, Bhopal.
4. A.K. Siroliya, IFS, C/o. Principal
Chief Conservator of Forest, Govt. of
M.P., Satpuda Bhawan, Bhopal.
5. G.L. Shrivastava, IFS, C/o. Principal
Chief Conservator of Forest, Govt. of
MP, Satpuda Bhawan, Bhopal.

.... Respondents

(By Advocate – Shri S.P. Singh)



ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“8.1 the respondents be directed to grant the IFS award to the applicant w.e.f. due date and to extend all such benefits to him as allowed to incumbent juniors,

8.2 the respondents be further directed to grant all the consequential and monetary benefits attached to the post of Deputy Conservator of the Forest to applicant by awarding the IFS award with effect from due date till the age of superannuation and arrears thereof by calculating the monetary benefits by fixation of the pay, may be directed,

8.3 the respondents be further directed to refix and release the benefit of retiral dues and pension and release the same to the applicant, after granting of IFS award in the interest of justice.”

2. The brief facts of the case are that the applicant was initially appointed and posted on the post of Forest Ranger, after training on 1.1.1961. He was promoted on the post of Assistant Conservator of Forest on 19.3.1974. At the time of attaining the age of superannuation i.e. on 31.12.1996 he was in selection grade of ACP at National Park, forest Division, Shivpuri. He was allowed senior scale as well as selection grade in that cadre in due time. In the gradation list of ACF's the position of the applicant is at serial No. 48 and the names of the respondents Nos. 4 and 5 are at serial No. 52 and 53 respectively. The applicant was entitled for consideration to IFS. In the year 1992 the fit list was prepared by the Forest Department, Government of M.P (Annexure A-6). In this list the name of the applicant is at serial No. 28 but despite meritorious service record the selection committee has not recommended his case to IFS. Again in the year 1993 the fit list was prepared wherein the name of the respondents Nos. 4 & 5 was considered and the selection committee also recommended their names for grant of IFS, without considering the case of the applicant. The applicant submitted a representation on 11.12.1993



(Annexure A-7). The same was disposed of by one line order on 17.1.1997 (Annexure A-8). He again submitted his representation on 25.11.2001 (Annexure A-12). But no response was given by the respondents. Thereafter he has filed OA No. 105/2002 which was disposed of by the Tribunal with direction to the respondents to consider the representation of the applicant. After passing the order of the Tribunal the applicant received a letter from the Government of Madhya Pradesh, Forest Department on 31.5.2002 (Annexure A-14) in which it was mentioned that the meeting of the selection committee of award IFS was held on 19.3.1993 and in which the name of the applicant was within the zone of consideration at serial No. 13. Only six persons have been recommended and the name of the applicant was not recommended as the applicant's name was at serial No. 13 and due to the statutory limit of 6 officers the other senior officers were selected. Thereafter, vide memo dated 1.4.1993 it was mentioned that since the applicant has completed 54 years of service, now he cannot be considered for recommendation of promotion of IFS. The applicant also submitted that his juniors i.e. respondents Nos. 4 & 5 had also attained the age of 54 years in the same year i.e. 1993 but they were promoted to the IFS ignoring the claim of the applicant. The applicant submitted detailed representation on 30.7.2002 but his representation was not considered. Hence, he has filed this Original Application.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that apparently he was senior to the private respondents Nos. 4 & 5 in the seniority list Annexure A-5, wherein the name of the applicant is shown at serial No. 48, whereas the names of the private respondents Nos. 4 & 5 are shown at serial Nos. 52 and 53 respectively. The private respondents had also attained the age of 54 years in the same year i.e. 1993 when the applicant had attained but



they were considered for promotion to the IFS by the selection committee ignoring the genuine claim of the applicant. The applicant submitted many representations to the respondents but they were not considered by the respondents. The action of the respondents is not justifiable and the applicant is discriminated. Therefore, the applicant is legally entitled for the reliefs claimed.

5. We have perused the contentions raised by the respondents in the reply and find that the meeting of the selection committee was held on 19th March, 1993 to prepare the select list for the year 1992-93 for promotion to the IFS of Madhya Pradesh Cadre. For 4 vacancies the size of the select list was determined as six in accordance with the then prevailing provisions of Regulation 5(1) of the promotion regulations. Accordingly, the zone of consideration was for 18 officers, being three times the size of the select list. The applicant was considered at serial No. 13 in the eligibility list and on an overall assessment of his service records he was granted as 'very good' by the select committee. The respondents Nos. 4 & 5 in the instant OA were considered at serial Nos. 16 & 17 respectively and were also graded as 'very good'. However, the names of the applicant nor of the private respondents could not be included in the select list due to the statutory limit on the size of the select list. Further the selection committee meeting for the next year i.e. 1993-94 was held on 24.3.1994. However, the applicant was not eligible for consideration as he had attained the age of 54 years as on 1.4.1993, since his date of birth was 1.1.1939, which was the crucial date for eligibility for consideration of officers for the year 1993-94 in terms of the provision of the promotion regulations. However, the respondents Nos. 4 & 5 were eligible for consideration for the year 1993-94 as they had not crossed the age of 54 years as on 1.4.1993, since their date of births were 1.7.1939 and 17.9.1939 respectively. The committee graded both the private respondents as 'very good' and on the basis of this assessment their names were included at serial No. 7 and 8 in the select list of 1993-94. Hence,




the action of the respondents is perfectly legal and justified and this Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the first meeting of the selection committee held on 19th March, 1993 and the names of the applicant and the private respondents Nos. 4 & 5 were considered by the selection committee. The applicant's name was at serial No. 13 and the names of the private respondents Nos. 4 & 5 were at serial No. 16 & 17 respectively. All the 3 persons were graded as 'very good' but their names could not be included in the select list due to the statutory limit on the size of the select list. Again the meeting of the selection committee held on 24.3.1994 for the preparing the select list for the year 1993-94. This time the applicant was not eligible for consideration as he had attained the age of 54 years as on 1.4.1993, since his date of birth being 1.1.1939. But the private respondents Nos. 4 & 5 were eligible for consideration as they had not crossed the age of 54 years as on 1.4.1993, since their date of births being 1.7.1939 and 17.9.1939 respectively. The committee graded both the private respondents as 'very good' and on the basis of this assessment their names were included at serial Nos. 7 & 8 respectively in the select list of 1993-94. The applicant could not show us any document or proof as to how he was discriminated from the private respondents Nos. 4 & 5.

7. Considering all the facts and circumstances of the case, we are of the considered view that this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman