

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 698 of 2003

Jabalpur, this the 5th day of October, 2004

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

R.V.S. Verma
S/o Shri R.S.S. Verma,
Aged about 65 years,
Asstt. Conservator of Forests
(Retd.), 57, Vineet Kunj,
Akbarpur Kolar Road,
Bhopal(M.P.)

APPLICANT

(By Advocate - Shri Sunil Kumar Dwivedi on behalf of
Shri R.C. Tiwari)

VERSUS

1. The Union of India,
Through the Secretary,
Ministry of Environment &
Forests, Paryavaran Bhawan,
CGO Complex, Phase-II,
Lodhi Estate, New Delhi.
2. The State of Madhya Pradesh,
Through the Principal
Secretary, Forests,
Vallabh Bhawan, Bhopal(M.P.)
3. The Secretary,
Union Public Service Commission
Dholpur House Shahjahan Road,
New Delhi.

RESPONDENTS

(By Advocate - Shri Om Namdeo for respondent No.2
Shri S.P.Singh for respondents No.1 and 3)

O R D E R (ORAL)

By M.P.Singh, Vice Chairman -

By filing this OA, the applicant has sought the
following main reliefs :-

"(i) To issue a writ in the nature of certiorari
with directions to the respondents to quash the
proceedings of the Review Selection Committee meeting
held on 7.7.95.

(ii) To issue directions to the respondents to
convene the meeting of the Review Selection Committee
as on 24.2.92 as directed in the Hon'ble Court's order
Annexure A/2 and to induct name of the applicant at the
appropriate place in the select list.

(iii) To issue directions to the respondents to appoint
the applicant on the post of IFS w.e.f. the date of the
other officers, have been appointed.

(iv) To fix the salary of the applicant in the cadre
post of IFS and to pay him the arrears alongwith the
interest @ 20%.

(V) To refix the pension and other retiral claims of the applicant and to pay him the difference amount alongwith the interest @ 24%."

2. The brief facts of the case are that the applicant was a member of State Forest Service. As per Indian Forest Service (Appointment by Promotion) Regulations, 1966 (hereinafter referred to as "the Promotion Regulations"), he was due for induction into the Indian Forest Service (for short 'IFS'). As per Regulation 3 of the Promotion Regulations, a Committee under the Chairmanship of Chairman or a Member of the UPSC, and other Members ^{1/2} ~~are~~ required to be constituted to assess the State Forest Service Officers for induction into the IFS. The applicant was eligible for induction. Accordingly, he was considered by the Selection Committee in its meeting held on 24.2.1992. He was assessed as 'very good' and could not be included in the select panel for induction to IFS. The applicant filed an O.A.NO.730/1992 before this Tribunal challenging the proceedings of the Selection Committee which met on 24.2.1992. The Tribunal vide its order dated 8.9.1994 passed the following directions-

"6.....the application is allowed. The respondent-State of Madhya Pradesh is directed to hold a review Selection Committee as on 24.2.1992 to consider the applicant in the light of the observations made above in the body of the judgment for his induction to the IFS from the due date along with eight other officers who had been empanelled and promoted to the IFS. On such promotion, the applicant shall be entitled to all consequential benefits including back wages".

The respondent-State of Madhya Pradesh had filed an SLP before the Hon'ble Supreme Court against the aforesaid order dated 8.9.1994. The Hon'ble Supreme Court vide its order dated 17.2.1995 (Annexure-A-3) dismissed the SLP. Accordingly a selection committee meeting was held by the UPSC on 7.7.1995 to review the selection committee proceedings dated 24.2.1992. The applicant was adjudged as 'very good' and again not included in the select list. Then the applicant had filed C.C.P.No.41/1995. The Tribunal vide its order dated 3.10.2000 has dismissed the CCP. Thereafter, the applicant had filed a Writ Petition No.1871/2001 before the Hon'ble High Court of

Madhya Pradesh challenging the order passed by the Tribunal in the aforesaid Contempt Petition. The Hon'ble High Court vide its order dated 8.7.2003 has passed the following order-

"In view of our aforesaid analysis we are inclined to think that the petitioner shall approach the Tribunal afresh agitating his grievance whereby he has been deprived of his benefit. An apprehension has been made that the application of the petitioner would be thrown overboard on the ground of limitation. Mr. R.S. Patel, learned senior standing counsel for Union of India submits that the said apprehension is misconceived. In view of this we permit the petitioner to approach the Tribunal within a period of eight weeks from today and the Tribunal shall admit the application. Mr. Patel assures that the return in question shall be filed before the Tribunal within eight weeks therefrom. The Tribunal shall dispose of the case within a period of six months on merits. We hope that the Tribunal shall do the needful as the petitioner is awaiting for its verdict to get justice.

With the aforesaid direction the writ petition is allowed to the extent indicated above..."

In view of the aforesaid direction, the applicant has filed this O.A. claiming the aforementioned reliefs.

3. Heard the learned counsel of parties.

4. We find that the applicant, who was a member of the State Forest Service was eligible for induction into IFS as per the Promotion Regulations. His name was accordingly sent by the State of Madhya Pradesh to the UPSC, who convened a meeting of the selection committee on 24.2.1992. The selection committee in its meeting held on 24.2.1992 empanelled 8 officers of State Forest Service in the select list who were at serial nos. 7, 11, 13, 14, 16, 17, 18 & 19. The applicant was placed at serial no. 20. All the officers were graded as 'very good'. None was graded as 'outstanding'. All the persons were senior to the applicant. The applicant has contended that he should have been graded as 'outstanding'. He has, therefore, challenged the select list prepared by the UPSC in the year 1992 by filing OA 730/1992. The Tribunal vide its order dated 8.9.1994 had directed the respondents to consider the applicant by holding a review selection committee for his empanelment and induction into the IFS. Accordingly, a meeting of the selection committee was held on 7.7.1995 to

review the selection committee proceedings of 24.2.1992. The selection committee presided over by the Member of the UPSC has again assessed the applicant as 'very good' and did not include him in the select list of IFS officers of the Madhya Pradesh cadre for the year 1992. The applicant had filed a contempt petition which was dismissed. He had then filed a writ petition before the Hon'ble High Court and the Hon'ble High Court directed him to approach this Tribunal. Hence this OA. We find that the case of the applicant has been considered twice by the selection committees presided over by the Member of the UPSC. The UPSC is a Constitutional body. It is a well settled legal position by the Hon'ble Supreme Court that the powers to make selection were vested with the Selection Committee under the relevant rules and the Tribunal could not have played the role which the Selection Committee had to play. The Tribunal could not have substituted itself in place of the Selection Committee and made the selection as if the Tribunal itself was exercising the powers of the Selection Committee (See-UPSC v. Hiranyalal Dev, AIR 1988 SC 1069). In the instant case the Selection Committees have assessed the record of the applicant twice and have not found him as 'outstanding' on the basis of his complete annual confidential reports. We do not find any ground to interfere with the findings of the selection committee presided over by the Member of the UPSC.

5. In the result, the OA has no merit and is accordingly dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

rkv.

By (Signature) dated 24/2/92
(4)
(3)
(2)
(1)
By (Signature) dated 24/2/92
By (Signature) dated 24/2/92