

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 841/03

~~Civil~~ this the ~~8th~~ day of December 2004

CORAM

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

S.P.Shrivastava
S/o Late R.P.Shrivastava
Conservator of Forest Deputation
Managing Director, Zila Van Upaj
Union Maryadit Ltd.
Dist.Tkamgarh (M.P.)

Applicant.

(By advocate Shri A.K.Tiwari)

Versus

1. Union of India through
Secretary
Ministry of Environment & Forest
Govt. of India
New Delhi.
2. Principal Secretary
(Forest), Govt.of M.P., Bhopal.
3. Principal Chief Conservator of Forest
Govt.of M.P., Bhopal.
4. Additional Chief Conservator of Forest (Gazette)
Administration/gazette, M.P. Bhopal.
5. Secretary
Union Public Service Commission
Dholpur House
Shajahan Road
New Delhi.
6. R.P.S.Beghal
Deputy Conservator of Forest on Deputation
Narmada Ghati Vikas Pradhikaran
Bhopal.

7. Ashok Kumar Joshi
D.F.O. Devas (production)
Devas M.P.
8. Atul Khera
D.F.O. Harda (Territorial Harda), M.P.
9. Kalloo Singh Alva
Director, Sanjay National Park
Sidhi, M.P.
10. Sarpat Singh Rawat,
D.F.O. Badwani (Territorial)
Badwani, M.P.
11. Tarun Shekhar
Deputy conservator of Forest on Deputation
Narmada Ghati Vikas Pradhikaran
Bhopal. Respondents

(By advocate Shri S.P.singh)

ORDER

By Madan Mohan, Judicial Member

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

- (i) To direct the respondents to include the name of the applicant in the next promotion and IFS award w.e.f. 31.1.03 placing him above his juniors.
2. The brief facts of the case are that the applicant who was initially appointed as Forest Ranger on 15.11.70 was promoted as Assistant Conservator of Forest w.e.f. 3.9.83. He was confirmed on the post of Assistant Conservator of Forest w.e.f. 6.9.95 (Annexure A1). The applicant completed more than 8 years of service, hence he was qualified for the next promotion as Deputy Conservator of Forest including the award of IFS. There is no adverse entry against the applicant and no departmental enquiry is pending against the applicant. In the gradation list published by the Department on 1.4.02, the name of the applicant finds place at Sl.No.68 above one B.R.Satalkar and below one D.P. Richhariya. The name of the applicant should have been



considered for promotion but the list of juniors was prepared and submitted to UPSC for next promotion. The applicant made a representation dated 3.7.02 (Annexure A4) followed by reminders dated 1.11.02 and 7.12.02 (Annexure A5 & A6). The DPC was held on 12.12.02 but the name of the applicant was not placed before the DPC and therefore the applicant was deprived of his right for promotion. The above DPC considered for promotion of officers simultaneously for two years i.e. 2001-2002 and the juniors of the applicant were considered. They were R.P.S.Baghel in 2001, Ashok Kumar, Atul Kheda, Kalloo Singh Satpat Singh Rawat and Taron Shekher Chaturvedi in 2002 for award of IFS by notifications issued on 4.2.03. The applicant made further representations on 24.12.02 and 23.1.03 (Annexure A9 & A10). The applicant has not been communicated as to why his name was placed before the DPC especially when he was duly qualified. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant was apparently senior to respondents 6 to 11. In the gradation list, the name of the applicant is mentioned in between Sl.No. 67 and 68 while the names of respondent No.6 is at Sl.No.83 and the names of other private respondents are mentioned after that. Hence the private respondents are junior to the applicant. There was nothing adverse against the applicant and no departmental proceedings were pending against the applicant at any point of time and it is surprising why the name of the applicant was not included in the list for consideration for promotion and that the juniors were promoted superseding the applicant which an infringement of the constitutional right of the applicant. Hence the applicant is legally entitled for the reliefs claimed.

4. In the reply filed on behalf of UPSC, it is mentioned that during the year 2001, for 11 vacancies determined by the Government of India, the zone of consideration was to comprise of 33 officers, being thrice the number of vacancies.. However, the name of the applicant

was not included in the list of eligible officers furnished by the State Government. Since the applicant's name did not fall within the zone of consideration for the Select Lists of 2001 as per the seniority list of State Forest Service officers furnished by the State Government, his name was not considered by the Committee. It is further mentioned that during the year 2002, the zone of consideration comprised of 27 officers for the 9 vacancies determined by the Government of India. However, the name of the applicant was not included in the list of eligible officers furnished by the State Government. Since the applicant's name did not fall within the zone of consideration for the Select Lists of 2002 as per the seniority list of State Forest Service officers furnished by the State Government, his name was not considered by the Committee. A Selection Committee Meeting was subsequently held on 11.7.03 to prepare the Select List of 2003 for promotion of SFS officers to the IFS of MP cadre. The Ministry of Environment and Forests had determined 16 vacancies in the promotion quota for the year 2003. Accordingly the zone of consideration was 48. The name of the applicant was considered at Sl.No.4 in the eligibility list. The State Government informed that a penalty of withholding one increment without cumulative effect has been awarded to the applicant vide State Government order No.4 dated 3.3.03. On the basis of an overall relative assessment of his service record, the Selection Committee assessed the applicant as 'Unfit' and on the basis of this assessment his name could not be included in the Select List of 2003.

5. We have perused the Minutes of the Selection Committee constituted under Regulation 3 of the Indian Forest Service (Appointment by Promotion) Regulations, 1966 for preparation of year-wise lists of such members of the State Forest Service of Madhya Pradesh as are suitable for promotion to the Indian Forest Service during the years 2001 & 2002. Regarding the Select List of 2001, it is mentioned in it that the Committee were informed that the maximum number of State Forest Service officer who may be included in the



Select List is 11 against 11 existing vacancies in the promotion quota of the State Cadre during 2001 as determined by the Central Government. The Committee examined the records of the officers who fulfilled the conditions of eligibility, up to the year 1999-2000 as the crucial date of the eligibility is 1.1.2001. On an overall relative assessment of their service records, the Committee assessed them as indicated against their names in A-1 and they were found suitable for promotion. In this List, the name of respondent No.6 is shown at Sl.No.7. As regards the Select List of 2001, the Committee were informed that the maximum number of State Forest Service Officer that can be included was 9. Hence the Committee examined the records of the officers who fulfilled the eligibility conditions up to the year 2000-01 as the crucial date of the eligibility is 1.1.2001. Respondents 7 to 11 were found suitable for promotion and their names are mentioned at Sl.No.2 to 6. We have perused the Minutes of the Selection Committee for the year 2003 in which it is mentioned that the maximum number of State Forest Service officers who may be included in the Select List is 16. The committee examined the records of the officers who fulfilled the conditions of eligibility, up to the year 2001-02 as the crucial date of the eligibility is 1.1.2003. and on an overall relative assessment of their service records, the Committee assessed them as indicated against their names in the document annexed. The overall relative assessment of the applicant S.P.Shrivastava is shown to be unfit. Hence he was not considered for award of IFS. The Hon'ble Supreme Court in 1996 (330 ATC 228 Nutan Arvin Vs.UOI , decided on 15.1.96 has held that "Promotion-Selection - Consideration of Confidential Reports – SC cannot sit in appeal over the DPC's assessment. We have considered the minutes of the Meetings of the DPC of the relevant years regarding promotion of the applicant as mentioned above.



7. Considering all the facts and circumstances of the case, we find that the OA has no merit and accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

aa.

(M.P.Singh)
Vice Chairman

प्रांगण सं ओ/न्या..... जबलपुर, दि.....
पतिनिधि वार्डिल:-
(1) सचिव, उच्च न्यायालय वर उपरियोग, जबलपुर
(2) आवेदक श्री/प्रियती/द्वा..... के राजसभा
(3) पत्तरी श्री/प्रियती/द्वा..... के कार्यालय
(4) बंधाल, कोडा, जबलपुर क्षेत्रीय सूचना एवं आवश्यक कार्यकाली हेतु

D.R.Tiwari १३१२०१८
S.P.Singh १३१२०१८
मेरा नाम है १३१२०१८
अधिकारी

Issued
on 13.12.09
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