

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 162/2000

Jabalpur, this the 12th day of March, 2004

HON'BLE SHRI M.P. SINGH, VICE CHAIRMAN
HON'BLE SHRI MADAN MOHAN, MEMBER (J)

1. Sri B.K. Verma,
Add. Principal Chief Conservator Forest,
Satpura Bhawan,
Bhopal.
2. Sri P.K. Mishra,
Addl. Principal Chief Conservator of Forest
(Wild Life) Van Bhawan,
Bhopal.
3. Sri R.R. Dohare,
Addl. Principal Chief Conservator,
Forest, Bhopal.
4. The Indian Forest Service Association
Madhya Pradesh, Through its secretary,
Dr. A.K. Bhattacharya, Satpura Bhawan,
Bhopal. ...Applicants

(By Advocate: Shri P.S. Nair, Sr. Advocate with Sh.S.K.
Nagpal and Shri S. Nagu)

-versus-

1. State of Madhya Pradesh through
The Principal Secretary,
Forest Department,
Mandralaya, Bhopal.
2. The Union of India through
The Secretary,
Ministry of Environment & Forests,
Paryavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi. ...Respondents

(By Advocate: Shri Sanjay Yadav for respondent no. 1
Shri Harshit Patel for Shri S.C. Sharma,
for respondent no. 2)

ORDER

By Shri Madan Mohan, Member (J):

By filing the present O.A. the applicants have sought
the following main reliefs:-

- i) to direct the respondents to fix the applicants
in the scale of Rs. 24050-26000 w.e.f. 1.1.1996
i.e. the corresponding revised scale of Rs. 7300-
7600/-.
- ii) to direct the respondents to give all the arrears
after fixation of the applicants in the revised
scale of Rs. 24050-26000/- from 1.1.1996.



2. The brief facts of the case are that the applicants are of 1968 batch of Indian Forest Service. In the year 1991 the Govt. of Madhya Pradesh appointed a committee under the chairmanship of Shri N.S.Sethi, Principal Secretary, Forest to examine the needs and requirement of creation of additional posts in the Forest Department for the purpose of streamlining the management of the Forest Department. The committee so appointed, after extensive enquiry, found that the strength of IFS officers in the State of Madhya Pradesh in 1991 was 396 and the highest single post in the service was Principal Chief Conservator of Forest carrying fixed pay of Rs. 7600/-. The Committee recommended that four posts of Addl. Principal Chief Conservator of Forest be created in the scale of Rs. 7300-7600/- between the post of CCF and PCCFs, similar to set up as was existing in IAS and IPS cadre, wherein the post of Principal Secretary to Govt. and Additional Director of Police existed in the scale of Rs. 7300-7600/-.

3. The recommendations of the Committee were accepted by respondents vide their letter dated 20.3.1993, they sent a proposal to the respondent no. 2 to create one ex-cadre post of PCCF and 4 posts of Addl. P.C.C.F. in the scale of Rs. 7300-7600/-. A copy of the proposal as sent by respondents vide letter dated 20.3.1993 and the order of Govt. of India approving creation of four posts of Addl. P.C.C.F in the scale of Rs. 7300-7600/- are filed by the applicant as Annexure A-1 & Annexure A-2. In accordance with the directions and order of respondent no. 2, the respondent no. 1 created posts of APCCF in the scale of Rs. 7300-7600/- vide order dated 25.4.1994. The applicants were fixed in the scale of Rs. 7300-7600/-.

4. After coming into force of the 5th Pay Commission, the IFS Pay Rules were amended vide IFS second Amendment Pay Rules, 1997 and scale of Rs. 7600/- fixed and 7300-7600 have been clubbed together and revised to Rs. 24050-26000/-. Accordingly, all the Addl. PCCF in the country working on the date of coming into force of the 5th Pay Commission

now been awarded scale of Rs. 24050-26000 except in the State of Madhya Pradesh. It is pertinent to note that prior to 1.1.1996 there was no cadre post of Addl. PCCF in any of the provisions governing Indian Forest Service (Cadre) Rules 1996. However, the 5th Pay Commission in view of the fact that the post of Addl. PCCF had been created by all the State recognised this post for the first time and fixed the scale of this post as Rs. 22400-24500/-.

5. As stated earlier, it is for the first time that the post of Addl. PCCF was recognised by the Pay Rules vide second Amendment to the Rules in 1997 and the pay of this post was fixed at Rs. 22400-24500/-. However, this related only to the persons who would be promoted or taken into the cadre as Addl. PCCF after 1.1.1996. This is apparent from the fact that while the pay scale of the post of Addl. PCCF was fixed at Rs. 22400-24500 the existing scale of Rs. 7300-7600/- was revised to Rs. 24050-26000. As the State of Madhya Pradesh inspite of the fact that the 5th Pay Commission had recommended for revision of pay scale of Rs. 7300-7600 to 24050-26000 as well as the fact that this scale was awarded to all the Addl. PCCF in the country by other States did not fix the applicants in the scale of Rs. 24050-26000, the applicants filed representations before both the respondents. On the representations of the applicants, the respondent no. 2, who is the cadre controlling authority as well as the authority empowered to interpret and decide the import or meaning of any of the pay rules directed that as far as the applicants were concerned, they should be fixed in the scale of Rs. 24050-26000/- in view of the fact that prior to revision of pay they had been fixed at Rs. 7300-7600/-. In spite of clear orders of respondent no. 2 as the respondent no. 1 failed to issue any consequent order, the applicants were forced to file repeated representations and therefore the respondent no. 2 again wrote and directed the respondent no. 1

to fix the applicants in the scale of Rs. 24050-26000/-.

In spite of the order and directive of respondent no. 2, the respondent no. 1 without any authority of law and in total disregard of the order of respondent no. 2 issued communication dated 23.1.1998 and 16.7.1998 reiterating their stand of fixing the applicants in the scale of Rs. 22400-24500. The applicants immediately filed representation before the respondent no. 2 bringing to the notice the fact that in spite of their order dated 26.5.1998 the respondent no. 1 was refusing to properly revise their pay scale and respondent no. 2 has again issued directive and orders dated 4.8.1998 and 7.10.1998 directing the respondent no. 1 to fix the applicants in the scale of Rs. 24050-26000/-.

6. The respondent no. 1 has totally failed to take into account the fact as per second amendment to the IFS Pay Rules, 1997 the scale of Rs. 7300-7600/- has been revised and fixed as Rs. 24050-26000/- and in total ignorance thereof they are fixing the applicants at Rs. 22400-24500/- contrary to the rules and provisions of law. Hence, this O.A. has been filed for seeking the relief as prayed for.

7. Heard the learned counsel for both the parties and have carefully perused the pleadings and other relevant material on record.

8. Learned counsel for the applicant argued that in Annexure A-4 i.e. Indian Forest Services (Pay) Second Amendment Rules, 1997, it is clearly mentioned that for the words and figure "Rs. 7300-7600" and Rs. 7600", wherever they occur, the word and figure "Rs. 24050-26000" shall be substituted. He has drawn our attention towards Annexure A-15, which is a letter issued from the Govt. of India, Ministry of Environment and Forests, Parivaran Bhawan, New Delhi addressed to the Chief Secretary, Govt. of Madhya Pradesh, Bhopal relating to Indian Forest Service (Pay) Second Amendment Rules, 1997 clarification. In this letter, it is clearly mentioned that the officers appointed to the pre-

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revised scale of Rs. 7300-7600/- are entitled to re-fixation of their salary in the revised scale of Rs. 24050-26000/-.

He has also drawn our attention towards Annexure A-9 and Annexure A-10. In these letters, the Union of India has directed the State of Madhya Pradesh to revise the pay scale of the applicants as prayed by them in this O.A.

Learned counsel for the applicant also drawn our attention towards Annexure A-17, which is a letter issued from the M.P. Government, Forest Department under orders of the Hon'ble Governor of the Madhya Pradesh dated 9.8.1995 vide which applicant no. 1 Sh. B.K.Verma is appointed as P.C.C.F. (Production), vide Annexure A-18 dated 26.8.1995 - applicant no. 2 Shri F.K.Mishra is also appointed temporarily till further orders as Chief Forest Conservator (Wild Life) and vide Annexure A-19 dated 20.11.1995 - applicant no. 3 Mr. R.R.Dohare was also appointed as Addl. PCCF. Hence, all the three applicants were eligible for the required pay scale before the due date i.e. 1.1.1996. It is also argued that other States of the country have followed the orders and directives of respondent no. 2 except the State of Madhya Pradesh i.e. respondent no. 1.

9. In reply, the learned counsel for respondent no. 2 i.e. Union of India has clearly supported the claim of the applicants and also drawn our attention towards Annexures A/9, A/10 and A/15 which clearly show that Union of India has no objection in accepting the claim of the applicants.

Learned counsel for the respondent no. 1 i.e. State of Madhya Pradesh had drawn our attention towards Annexure R-1 which speaks that the pay of Addl. PCCF in the Madhya Pradesh carrying the pre-revised scale of Rs. 7300-7600/- may be fixed in the new scale of pay of Rs. 24050-26000/- provided the State Govt. has declared the post of Addl. PCCF as equivalent in status and responsibility to the post of PCCF as required under Sec. 9(1) of I.F.S.(Pay) Rules of 1968.

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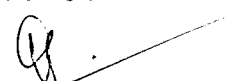
In this regard, the learned counsel for the applicants argued that this argument goes in favour of the applicants and he also referred Section 9 sub rule (iv) of the aforesaid Rules. Learned counsel for respondent no. 1 has drawn our attention on Annexure R-5 in which the Govt. of Madhya Pradesh, Forest Department has passed an order that the Addl. PCCF of the State shall be entitled for revised pay scale of Rs. 22400-24500/- in place of Rs. 7300-7600/- w.e.f. 1.1.1996. He further drawn our attention towards Annexure R-6 which is related to State of Madhya Pradesh and argued that the applicants are not equivalent to that post for which they are claiming the present pay scale in their O.A.

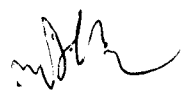
10. Again in reply the learned counsel for the applicants argued that inspite of the several clear orders and directives of respondent no. 2 accepting the claim of the applicants, respondent no. 1 i.e. State of Madhya Pradesh is adamant not to provide the proper and reasonable pay scale to the applicants without any reasonable and justifiable reason whereas all other States of the country have already implemented the orders of the respondent no. 2 in this regard.

11. After careful consideration of the rival contentions of the parties, we are of the considered opinion that the applicants are entitled for the pay scales of Rs. 24050-26000/- w.e.f. 1.1.1996 with all consequential benefits.

12. In view of the above, the O.A. is allowed and the respondent no. 1 is directed to fix the applicants in the pay scale of Rs. 24050-26000/- w.e.f. 1.1.1996 i.e. the corresponding revised scale of Rs. 7300-7600/- and pay them the consequential benefits thereof within a period of three months from the date of receipt of a copy of this order.

No costs.


(MADAN MOHAN)
MEMBER (J)


(M.P. SINGH)
VICE CHAIRMAN