CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.As Nos. 421, 447, 541, 557, 574, and 576 of 1997

Jabalpur, this the 6th day of January, 2003

Hon'ble Mr. Justice N.N. Singh - Vice Chairman
Hon'ble Mr. R.K. Upadhyaya - Member (Administrative)

(1) O.A. No. 421 of 1997

1. K.P.S. Bhadoria, S/o. Shri Gopal Singh Bhadoria, aged about 54 years, Occupation-Service, Presently posted as Sub Divisional Officer (Forest), Raisen Territorial, Raisen.

2. R.C. Gupta, S/o. Shri P.D. Gupta, aged about 54 years, Occupation Service, presently posted as Sub Divisional Officer (Forest), South Seoni (Production), District - Seoni.

(By Advocate - Shri Manoj Sharma) ... Applicants

VERSUS

1. Union of India, Through : Secretary, Van & Environment Department, New Delhi.

2. Union Public Service Commission, Through : Secretary, Dholpur House, New Delhi.

3. State of Madhya Pradesh, Through : Secretary, Van & Environment Department, Vallabh Bhavan, Bhopal.

4. K.C. Nagar, Assistant Conservator of Forest.

5. (Deleted)

6. K.A. Rizvi, Assistant Conservator of Forest.

7. Indra Nath Singh, Assistant Conservator of Forest.

8. Rameshwar Dayal Sharma, Assistant Conservator of Forest.

9. Jagdish Chandra, Assistant Conservator of Forest.

10. Shravan Kumar Chadhar, Asstt. Conservator of Forest.

11. G.D. Dwivedi, Assistant Conservator of Forest.

Contd...2/-

12. Rakesh Kumar Pathak, Assistant Conservator of Forest.

Respondents No. 4 to 12 represented through their Secretary, Department of Van & Environment, Vallabh Bhavan, Bhopal. ... Respondents

(By Advocate - Shri P. Shankran for respondents Nos. 1 & 2. None for other respondents)

(2) O.A. No. 447 of 1997

Shri D.P. Sharma, S/o. Shri Umashankar Sharma, aged about 54 years, Sub-Divisional Officer, (Production), Bagali Sub-Division, Dewas Production Division, Dewas (M.P.). ... Applicant

(By Advocate - Shri Manoj Sharma)

VERSUS

1. Union of India, through : Secretary, Van & Environment Department, New Delhi.
2. Union Public Service Commission, through : Secretary, Dholpur House, New Delhi.
3. State of Madhya Pradesh, Through : Secretary, Van & Environment Department, Vallabh Bhawan, Bhopal.
4. K.C. Nagar, Assistant Conservator of Forest.
5. K.A. Rizvi, Assistant Conservator of Forest.
6. Indra Nath Singh, Assistant Conservator of Forest.
7. Rameshwar Dayal Sharma, Assistant Conservator of Forest.
8. Jagdish Chandra, Assistant Conservator of Forest.
9. Shravan Kumar Chadhar, Assistant Conservator of Forest.
10. G.D. Dwivedi, Assistant Conservator of Forest.
11. Rakesh Kumar Pathak, Assistant Conservator of Forest.

Respondents No. 4 to 11 are represented through their Secretary, Department of Van & Environment, Vallabh Bhawan, Bhopal. ... Respondents

(By Advocate-Shri P.Shankaran for respondents 1& 2 none for other respondents).

Contd.....3/-

(3) O.A. No. 541 of 1997

1. Amol Singh Chandel,
S/o. Shri Prem Singh Chandel,
Age 54 years, Assistant
Conservator of Forests,
Conservator of Forests Office,
Chhindwara (MP).

2. Gajendra Singh Solanki,
S/o. Shri Devi Singh Solanki,
Age 54 years, Assistant Conservator
of Forests, South Seoni (Production)
Division, Seoni (MP).

... Applicants

(By Advocate - Shri R.C. Tiwari)

VERSUS

1. Union of India,
Through Secretary, Forest Department,
Ministry of Environment and Forests,
Paryavaran Bhawan, CGO Complex,
Lodhi Estate, New Delhi 110 003.

2. Union Public Service Commission,
Through Secretary, Union Public
Service Commission, Dholpa House,
New Delhi.

3. The State of Madhya Pradesh,
Through Secretary, Forest
Department, Vallabh Bhawan,
Bhopal (MP).

4. The Principal Chief Conservator of
Forests, Madhya Pradesh, Satpura
Bhawan, Bhopal (MP).

5. Shri G D Dwivedi, Assistant
Conservator of Forests, Gomarda
Sanctuary, Distt Raigarh (MP).

6. Shri Rakesh Kumar Pathak,
Assistant Conservator of Forests,
Shahdol (MP).

... Respondents

(By Advocate - Shri P. Shankran for respondents Nos. 1 & 2,
none for other respondents)

(4) O.A. No. 557 of 1997

1. D.K. Singh, S/o. Dr. R.K. Singh,
Occupation service Assistant
Conservator of Forest posted in
the Conservator of Forest Rewa
Circle, Rewa.

2. S.P. Pandey, S/o. Shri Sharada
Prasad Pandey, Occupation-service
Assistant Conservator of Forest
posted as Sub Divisional Officer
(Production), Kannod Distt. Dewas.

Contd. 4/-

3. V.N. Pyasi, S/o. Shri Jagannath Prasad Pyasi Occupation-service Assistant Conservator of Forest presently posted as Sub Divisional Officer (Territorial) Katni Distt. Jabalpur.

4. M.S. Thakur, S/o. Thakur Occupation-service Assistant Conservator of Forest presently posted as Sub Divisional Officer (Forest) Deosar Distt. Sidhi. ... Applicants

(By Advocate - Junior to Shri K.S. Wadhwa)

VERSUS

1. Union of India, Through : Secretary, Van & Environment Department, New Delhi.

2. Union Public Service Commission, Through : Secretary, Dholpur House New Delhi.

3. State of Madhya Pradesh, Through : Secretary, Van & Environment Department, Vallabh Bhavan, Bhopal.

4. K.C. Nagar, Assistant Conservator of Forest.

5. K.A. Rizvi, Assistant Conservator of Forest.

6. Indra Nath Singh, Assistant Conservator of Forest,

7. Rameshwar Dayal Sharma, Assistant Conservator of Forest.

8. Jagdish Chandra, Assistant Conservator of Forest.

9. Shravan Kumar Chadhar, Assistant Conservator of Forest.

10. G.D. Dwivedi, Assistant Conservator of Forest.

11. Rakesh Kumar Pathak, Assistant Conservator of Forest.

Respondents No. 4 to 11 represented through their Secretary, Department of Van & Environment, Vallabh Bhavan, Bhopal. ... Respondents

(By Advocate - Shri P. Shankran for respondents Nos. 1 & 2, none for other respondents)

Contd. 5/-

(5) O.A. No. 574 of 1997

Uma Shankar Rastogi, son of late Shri Ramji Rastogi, aged about 44 years, occupation Government Service, presently posted as Assistant Conservator of Forest, Land Management, Satpuda Bhawan, Bhopal.

(By Advocate - Shri Manoj Sharma) ... Applicant

VERSUS

1. Union of India, Through The Secretary, Van and Environment Department, New Delhi.
2. Union Public Service Commission, Through the The Secretary, Dholpur House, New Delhi.
3. The State of Madhya Pradesh, Through the Secretary, Van and Environment Department, Vallabh Bhawan, Bhopal.
4. Jagdish Chandra, Assistant Conservator of Forest.
5. S.Shrawan Kumar Chadhar, Assistant Conservator of Forest.
6. G.D. Dwivedi, Asstt. Conservator of Forest.
7. Rakesh Kumar Pathak, Asstt. Conservator of Forest.
8. R.P. Afre, Asstt. Conservator of Forest.
9. S.R. Kharate, Asstt. Conservator of Forest.
10. S.V. Majumdar, Asstt. Conservator of Forest.
11. S.N.S. Tomer, Asstt. Conservator of Forest.
12. K.C. Nagar, Asstt. Conservator of Forest.

Respondents No. 4 to 12 through - the Secretary, Department of Forest, Vallabh Bhawan, Bhopal.

... Respondents

(By Advocate - Shri P. Shankran for respondents Nos. 1 & 2, none for other respondents)

Contd. 6/-

(6) O.A. No. 576 of 1997

O.P. Chaturvedi, S/o. Shri BP Chaturvedi, Assistant Conservator of Forest presently posted as Sub Divisional Officer, Barman, Distt. Narsinghpur (MP). ... Applicant

(By Advocate - Junior to Shri K.S. Wadhwa)

VERSUS

1. Union of India, Through : Secretary, Van & Environment Department, New Delhi.

2. Union Public Service Commission, Through : Secretary, Dholpur House, New Delhi.

3. State of Madhya Pradesh, Through : Secretary, Van & Environment Department, Vallabh Bhavan, Bhopal.

4. K.C. Nagar, Assistant Conservator of Forest.

5. K.A. Rizvi, Assistant Conservator of Forest.

6. Indra Nath Singh, Assistant Conservator of Forest.

7. Rameshwar Dayal Sharma, Assistant Conservator of Forest.

8. Jagdish Chandra, Assistant Conservator of Forest.

9. Shravan Kumar Chadhar, Assistant Conservator of Forest.

10. G.D. Dwivedi, Assistant Conservator of Forest.

11. Rakesh Kumar Pathak, Assistant Conservator of Forest.

Respondents No. 4 to 11 represented through their Secretary, Department of Van & Environment, Vallabh Bhavan, Bhopal, (M.P.). ... Respondents

(By Advocate - Shri P. Shankran for respondents Nos. 1 & 2, none for other respondents)

Contd. 7/-

Common Order

By R.K.Upadhyaya, Member (Admnv.)-

All these six applications are disposed of by this common order for sake of convenience as the issue involved is same and the facts are similar. The applicants have claimed that all of them have better service records than the persons selected as per select list of 21.3.1997 for promotion to the Indian Forest Service (for short 'IFS') on promotion basis from the State Foreset Service officers.

2. In O.A. 421 of 1997 applicants K.P.S.Bhadoria and R.C.Gupta joined State Forest Service (for short 'SFS') in 1965. In O.A. 541 of 1997 applicants Amol Singh Chandel and Gajendra Singh Solanki joined the SFS in 1964 and 1965 respectively. The applicant in OA 447/1997 Shri D.P.Sharma also joined the SFS in 1965. D.K.Singh, S.P.Pandey and V.N.Pyasi applicants in OA 557/1997 joined SFS in 1965 whereas M.S.Thakur another applicant in OA 557/1997 joined the SFS in 1967. Applicant Uma Shankar Rastogi in OA 574/1997 claims himself to be direct recruit in the SFS with effect from 1.5.1978. O.A.576/1997 has been filed by O.P.Chaturvedi who states that he joined the SFS in 1965.

2.1 All these applicants state that their service records are better than the persons included in the select list prepared by the selection committee met for promotion to the IFS on 21.3.1997. It is also claimed that the entire panel deserves to be quashed for the following reasons amongst others - (a) the selection was for 14 vacancies and as per the information of the applicants the last persons being Shri G.D.Dwivedi and Shri Rakesh Kumar Pathak did not come within the zone of consideration as they were at serial numbers 43 and 44; (b) at the time of argument, it was pointed out that the applicant Gajendra Singh Solanki in OA 541/1997 has not been considered on account of being over-aged whereas persons elder to him have been included in the panel; and (c) a person included

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in the select list - Shri S.N.S.Tomar was awarded punishment as per order dated 4.10.1995, therefore, he should not have been included in the panel.

3. On behalf of the respondents, it has been stated that there is no violation of any rules and no interference is called for by this Tribunal. In OA 541/1997, it has been stated on behalf of the respondent-UPSC that the name of applicant Gajendra Singh Solanki was not considered as the same was not included in the list to be considered by the Selection Committee.

3.1 On behalf of respondent no.3 State of Madhya Pradesh it has been stated that selection to the IFS from the SFS are made mainly on the basis of merit. The selection was done by a committee set up in accordance with Regulation 3 of Indian Forest Service (Appointment by Promotion)Regulations, 1966 (hereinafter referred to as 'the Promotion Regulations'). It is also stated that this Tribunal is not to interfere with the assessment of annual confidential reports as assessed by the Selection Committee. It has also been stated that the list of eligible candidates who fall within the zone of consideration according to Regulation 5(2) of the Promotion Regulations was duly forwarded to the Selection Committee. One candidate whose name also appeared in the select list of 1996 still remains in the same position and situation in view of the pendency of disciplinary proceedings against him. His name continued in the list provisionally.

3.2 At the time of hearing, it was stated on behalf of the respondents that the cases of all applicants except Shri Gajendra Singh Solanki were duly considered by the Selection Committee. The respondent no.3 State of M.P. in their reply have clarified that private-respondents G.D.Dwivedi and Rakesh Kumar Pathak were within the zone of consideration as their names appeared at serial

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numbers 41 and 42 of the list in accordance with their seniority in the State Cadre.

3.3 Regarding the case of Shri S.N.S.Tomar, it is stated that only punishment of withholding of one increment was imposed upon him in 1995 which punishment had lost its efficacy with the afflux of time and, therefore, on the date his name was forwarded to the Selection Committee, there was no adverse entry or departmental proceedings against him.

4. We have heard the learned counsel of parties and have perused the material available on record carefully. We have also gone through the minutes of the Selection Committee held in the years 1995,1996 and 1997.

5. As per the admission of respondent no.3, the name of selected person Shri Rakesh Kumar Pathak appears at serial number 42 of the list of zone of consideration prepared for promotion to the IFS on the recommendations of the Selection Committee meeting held on 21.3.1997. It was observed that the zone of consideration included 43 names for preparing a panel of 14 persons. The last person included in the zone of consideration is one Mohd.Kasim Khan. However, his name does not find place in the select list of 21.3.1997. On behalf of the official respondents, it could not be explained as to why the zone of consideration was extended by one name and not restricted to three times of panel of 14. However, we find from the minutes of the selection committee held in March,1995 that select panel of 13 persons was prepared whereas the zone of consideration was up to 41 persons. Similarly, the select list of March,1996 was prepared for 8 persons whereas the zone of consideration was of 25 persons. However, this lack of information from the official-respondents does not vitiate the select panel in view of the fact that the person at serial no.43 of consideration zone has not been selected and no one has

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been adversely affected by inclusion of his name in the consideration zone. May be that this extension of zone of consideration is in accordance with rules. But, we have noted it only because no plausible explanation was given by the learned counsel of official respondents at the time of arguments.

5.1 So far as the exclusion of the name of applicant Shri Gajendra Singh Solanki in OA 541/1997 in the zone of consideration is concerned, it is noticed that the date of birth of Shri G.S.Solanki as per records of seniority list of SFS officers as on 1.4.1996 was 19.1.19942. As per letter dated 20/27.12.1997 (Annexure-A-7) the correct date of birth of Shri G.S.Solanki was 18.7.1942. It is also noticed that Shri Solanki's name was not within the zone of consideration in the year 1996. Therefore, the question of his being in the select panel of 1996 does not arise as on 1.1.1997 (or as on 1.4.1997 as claimed to have been amended) the age of Shri G.S.Solanki was more than 54 years. Therefore, his name was correctly not included by the State Government in the list to be considered for promotion to IFS by the Selection Committee held on 21.3.1997 in terms of proviso to Regulation 5(3) of the Promotion Regulations. On perusal of records, we also find that similarly the name of one Shri P.K.Varughese was also not included in the zone of consideration for the same reason.

5.2 We have also considered the minutes of the Selection Committee and we find that none of the applicants is graded above "very good". As per the existing rules 'outstanding' candidates are to be placed first among the persons included in the select list. S/Shri G.D.Dwivedi and Rakesh Kumar Pathak whose names appeared at serial nos.41 & 42 of zone of consideration have been graded as 'outstanding'. Therefore, they have been placed in the select list. It is also seen that none of the persons graded 'very good' have been included

in the select list who were junior to the applicants. Therefore, we do not find any irregularity in the preparation of the panel. In this view of the matter, we do not find any justification for any interference in the impugned selection.

6. In the result, all these Original Applications being devoid of merits are dismissed without any order as to costs.

Sd/—

(R.K.Upadhyaya)
Member (Admnv.)

Sd/—

(N.N.Singh)
Vice Chairman

rkv.