

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI 5

ORIGINAL APPLICATION NO: 26/94

MISC. PETITION / REVIEW APPLICATION / CNT. PETITION NO.

J. F. S. Assn v.

versus

W.O.T. v.

APPLICANT(S)

RESPONDENT(S)

20.5.94

Learned counsel Mr B.K.

moves this application under Section 19 of the Administrative Tribunals Act, 1985 on behalf of the Indian Forest Service Association (Assam Unit) represented by its General Secretary, Shri K.M. Deb Goswami, Principal, Northeast Forest College, Jalukbari. Perused statement of grievances and reliefs sought for this application. Mr B.K. Sharma submits that copy of the application has been served on learned Sr. Mr S. Ali as well as on learned Government Advocate, Assam, Mr Phukan through his personal people. Mr S. Ali is present, but Mr Y.K. Phukan is not present. Considering subject matter involved in the application, we propose to consider admission as well as interim relief prayer in presence of Sr. Government Advocate, Assam, Mr Y.K. Phukan. Office is directed to immediately serve another copy of this application on Sr. Government Advocate, Assam, Mr Y.K. Phukan.

List on 24.5.94 for consideration of admission as well as for consideration of interim relief till disposal of the application.

Learned counsel Mr B.K. Sengupta read relevant paragraphs and referred to relevant documents on the basis of which the applicants have assailed the order under letter No. F & E.115/

This application is in form and within time.

C. F. of P. S. 862064  
demanded

Dated 2/4/94

J. F. S.  
DR. REGISTERED (S)  
B.K.  
19/5

20.5.94

dated 5.5.1994 issued by the Government of Assam, Forest Department, Dispur. He also refers to the statements on the basis of which prayer for interim order/relief is made and prays for adinterim order/relief till consideration of admission. He prays for adinterim order under the provision of the proviso to Section 24 of the Administrative Tribunals Act, 1985.

Upon hearing Mr B.K. Sharma as well as Sr. C.G.S.C. Mr S. Ali and in view of the facts, and circumstances and law involved in the case, we consider it just and expedient to pass an adinterim order as under, under the provision of the proviso to Section 24 of the Administrative Tribunals Act, 1985:

The respondents, particularly respondents No. 2 and 4 (State of Assam represented by the Secretary, Department of Forests, Dispur, and the Chief Secretary to the Government of Assam, Dispur) are directed not to give effect to the impugned order No.F & E.115/87/91-A dated 5.5.1994 issued by the Government of Assam, Forest Department, Dispur. The respondents are further forbidden from creating any posts in the rank of Conservator of Forests or above that rank (CCF) in the Assam Forest Service and appointing any officer of the Assam Forest Service to such posts or any other cadre posts or ex-cadre posts of IFS. This adinterim order shall remain in force till consideration of admission of the application and order

Inform all concerned immediately through Special Messenger.

of the order may be furnished to the counsel for parties.

of the application accompanied by a copy of the order served on Sr. Govt Advocate, Mr.Y.K. Phukan.

By Order:

Order d. 20.5.94 issued  
as directed vide no. 2089-92

dt. 20.5.94

24.5.94

Learned counsel Mr B.K.

~~Copy of order~~  
20.5.94

Copy of order 10.5.94 with  
application dated on  
20.5.94 to Mr. Y.K. Phukan  
G.A. Assam.

Sharma for the applicant is present. Sr.C.G.S.C Mr S.Ali is also present. Learned counsel Smt B.Rajkhowa submits that she has been instructed by Sr.Govt.Advocate Assam Mr Y.K.Phukan to inform the Tribunal that Shri Phukan could not come as he has not received any instruction from the State Government and prays for time till 27.5.1994.

Consideration of admission adjourned till 27.5.1994 on the prayer of Smt B.Rajkhowa on behalf of Sr.Govt.Advocate, Assam Mr Y.K. Phukan.

List on 27.5.94 for consideration of admission. Smt B.Rajkhowa undertakes to intimate Mr Y.K. Phukan. In case, Sr.Govt.Advocate Assam fails to appear on 27.5.94, then admission and prayer for interim relief will be considered in his absence.

Ad-interim order passed on 20.5.94 shall continue in force until further orders.

Learned counsel Mr B.K.Sharma submits for an order allowing applicant to implead Accountant General(A&E), Assam and Inspector General of Forest, Govt. of India as respondents in the case. In view of statements in the application, we consider them as necessary parties in the case. Accordingly, prayer is allowed.

Let Accountant General(A&E), Assam and Inspector General of Forest, Govt.of India be impleaded as respondents No.7 and 8 in the Original Application. Office to amend the application accordingly.

Serve copy of order on Sr.Govt. Advocate, Assam and also to respondents No.2 and 4 and counsel of the parties.

Alr S.94. By order

G.K.G.A.

Copy of order dtd. 24.5.94  
issued to the all reponds  
and Counsel of parties  
Vide Memo No. 2154-64

OFFICE NOTE

DATE

COURT'S ORDER

27.5.94 Learned counsel Mr B.K. Sharma for the applicants and learned Sr. Government Advocate, Assam, Mr Y.K. Phukan make their submissions at length on the point of admission and interim relief prayer.

Submissions concluded. Order reserved.

The ad interim order/direction passed on 20.5.94 in this case is in force and shall continue to be in force until further orders.

Inform all concerned.

Office to inform all concerned.

Copy of the order may be furnished to the counsel for the parties.

*Kagru*  
Vice-Chairman

*AP*  
Member

By Order:

nkm

Member

*27/5/94*

26.7.94

Record is placed.

Learned counsel Mr B. K. Sharma for the applicant and learned Sr. Government Advocate, Assam, Mr Y.K. Phukan make further submissions in addition to their earlier submissions.

Perused the statement of grievances and reliefs sought for in the application. The law points and grounds taken formulate a prima facie case for scrutiny and decision.

This application by the Indian Forest Service Association (Assam Unit) is admitted. Issue notice on respondents No.1, 5,6 and 8 under registered post and on respondents No.2, 3, 4 and 7 through messenger locally.

*Order dt. 27.5.94 issued  
V. No. 2230-41 dt. 27.5.94*

*27/5*

OFFICE NOTE

DATE

COURT'S ORDER

26.7.94

Sr. C.G.S.C. Mr S. Ali and Sr. Government Advocate, Assam, Mr Y.K. Phukan pray for six weeks time to file counter/written statement. Time allowed as prayed for.

Heard counsel of the parties on the interim relief prayer. Considering the facts and law involved for scrutiny, and decision, there is sufficient ground to grant the interim relief prayed for. Accordingly it is directed that the interim order passed on 20.5.1994 shall continue in force till disposal of this case. To reiterate, the respondents, particularly the respondents No. 2 and 4 (The State of Assam represented by the Secretary, Department of Forest and the Chief Secretary, Assam) are directed not to give effect to the impugned order No.F&E 115/87/91-A dated 5.5.1994 issued by the Government of Assam, Forest Department, Assam (Annexure-III to the application). The respondents are further forbidden from creating any posts in the rank of Conservator of Forests or above that rank, i.e. CCF in the Assam Forest Service and appointing any officer of the Assam Forest Service to such posts or in any other cadre post or ex-cadre post of IFS. This interim order shall remain in force till disposal of this case.

Fix 20.9.94 for filing counter/written statement and further orders.

Copy of the order may be furnished to the counsel for the parties.

By Order:

*[Signature]*  
26/7/94

nkm

*[Signature]*  
Vice-Chairman

*[Signature]*  
Member

(6) OP. 96/94 X

OFFICE NOTE	DATE	COURT'S ORDER
<p>Order dt. 26.2.94 issued to the counsel of the parties vide m. 3259-61 dt. 5.8.94</p> <p>1m</p>	29-9-94	<p>None present. Adjourned to 8-11-94 for fixing a date of hearing</p> <p>Bill Vice-Chairman</p> <p>60 Member</p>

For 29/9/94

Requirements are received  
& issued in terms of  
Order dt. 4.10.94 in  
dt. 5.9.93 vide m. 6178,79  
dt. 25.10.94

For 25/10/94

Notice duly served  
on Resps. no. 1,6,7,8  
through Mr. S. Ali, Dr. C. S. C.  
& on 2 & 4 through Dr.  
Y. K. Phukan, Et. G. A., Assam.  
& on 3 & 5 through Mr. D. Samanta, Adm.  
7-11-94.

On 7/11/94 Statement has been  
filed by the Resps. No. 3.

Bm

OFFICE NOTE

DATE

COURT'S ORDER

(a) a  
O.A. 96/94

8.11.94 To be heard alongwith O.A.52/93  
which is on board today.

*LL*  
Vice-Chairman

*62*  
Member

PG  
28  
9/11/94

11  
O.A. 96/94

9.11.94 be issued by Registered Post A/D with the Original Application forthwith to the respondent No.1 stating the date of hearing therein as 5.12.1994 peremptorily. It is made clear that no further adjournment will be granted and if the respondent No.1 intends to file any written statement that should be filed in advance to the date of hearing. A fresh notice be also issued to respondent No.5<sup>6,7,8</sup> informing ~~them~~ that the matter is peremptorily fixed for hearing on 5.12.1994 and matter will not be further adjourned and if any written statement is intended to be filed that should be filed well in advance of the date of hearing. The learned Advocate for the applicants to supply two copies of the Original Application to the office during the course of tomorrow for being served on respondent Nos. 1, 5, 6, 7 & 8 as directed above. ~~Notices be also issued on respondent No. 9 MxRx222/248 Rax~~  
All the learned Advocates are apprised of the same.

To be placed first on board on 5.12.1994.

Copy be supplied immediately to counsel for parties. Mr Ali is requested to obtain instructions independently also.

Requisition made in the  
second  
order dt. 3.11.94. Second is  
in counsel or parties.  
vide n. 8562-64 dt. 15.11.94

11/11/94

Requisition made in the  
on 22.11.94 & carried out  
by dt.

*W.L.*  
Vice-Chairman

*W.L.*  
Member

24/11 30-11-94. pg  
C.J. statement for  
filed by the respondents  
No.1.

6.12.94 Argument of the counsels on preliminary point of jurisdiction concluded. Order on the preliminary point is reserved. The matter will be heard on merits after the said order is given. Case adjourned for ~~verdict~~ order.

*W.L.*  
Member

*W.L.*  
Vice-Chairman

5-12-94 trd  
adjourned to 6-12-94 m/s 1/2  
on 5-12-94 2-12-94

9.11.94

Mr B.K.Sarma ~~came~~ for the applicants Mr S.Ali, Sr.C.G.S.C for Respondent No.1 Mr Y.K.Phukan, Sr.G.A for respondent No.2 and Mrs M.Das also for respondent No.2 Mr A.Sarma with Mrs B.Dutta for respondent No.5. The respondent No.5 in particular feels aggrieved by the interim order and repeatedly his learned counsel has been requesting for early hearing of the matter. The application alongwith other companion matters was fixed for hearing today. All along so far Mr S.Ali, the learned Sr.C.G.S.C has been appearing for Union of India and it was presumed that he has received the instructions. It is only when the matter is called out for hearing that Mr Ali informs that the Govt.of India have informed him that they have not been served with the application and therefore no written statement could be filed or instructions could be given to Mr Ali. We have ascertained from the records of the office of the Tribunal that notice was sent to the respondent No.1 by Registered Post as far back as on 30th March,1993 but no acknowledgement has been received back. It appears that either the papers were misplaced or they are not traceable with the Govt. of India and that is why they have not filed any written statement and now they have become aware of the matter. This is indeed unfortunate situation. The inevitable result is to prolong the life of the litigation and the parties who are in a hurry are unable to know their fate early. We do not think it would be proper to hear the matter without Union of India being afforded an opportunity to put forth their say on merits. Under the circumstances we direct that fresh notice

*Verd*

contd...

OFFICE	NOTE	DATE	COURT	ORDER
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16.12.94

Order on preliminary point of jurisdiction

The same preliminary objection to further proceeding with the application on the ground that a dispute arises under Article 131 of the Constitution, as is raised in O.A.No.53/93 has been raised in this application also. This has been negatived by us by detailed order separately passed today in O.A.No.53/93 and for the same reasons it is negatived in this application also.

The application is directed to be proceeded on merits for hearing. By consent to be heard on 20.12.1994 alongwith O.A.No.53/93.

A copy of the detailed order passed in O.A.No.53/93 may be placed in the record of this case.

20-12-94

Kell  
Vice-Chairman

Adjourned to 23-1-95

By order

nkm

60  
Member

23-1-95

Res. on 31-1-95  
for hearing.

By order

OFFICE NOTE

DATE

COURT ORDER

13

31-1-95

Mr. B.K. Sharma for the applicant.

Mr. S. Ali Sr. C.G.S.C. for respondents 1, 6, 7 & 8. Dr. Y.K. Phukan Sr. Government Advocate State of Assam for respondent 2 & 4. None for respondent No. 5. Learned counsel mentioned above adopt the submissions <sup>made</sup> towards in O.A.53/93 for the purpose of this application. Their further comments heard and concluded. Unfortunately, Mr. A. Sarma learned counsel for respondent No. <sup>3</sup> has left the Court before the matter <sup>was</sup> called out.

Hence <sup>he</sup> this will be heard to-morrow morning. Part heard and adjourned to to-morrow.

*bill*  
Vice-Chairman

*62*  
Member

lm

6-2-95

One of us (Hon'ble Vice-Chairman) is not available to-day due to indisposition. Passed over for the day.

List on to-morrow for hearing

*62*  
Member

lm

*Am*

D.A.No.96/94

OFFICE NOTE

Date

JURT'S. ORDER

1.2.95

Arguments of counsel concluded.

Dictation of Judgment commenced in open court. Judgment part delivered.

2.2.95

Judgment further delayed. Adjourned to 6.2.95.

P.D.P.

nkm

huk  
Vice-Chairman

60  
Member

6.2.95

D.B. allowed. Adjourned to tomorrow.

P.D.P.

8.2.95

Mr B.K. Sharma with Mr P.K. Tiwari for the applicant.

Mr S. Ali, Sr. C.G.S.C. for respondent No.1, 6, 7 and 8.

Dr Y.K. Phukan, Sr. Government Advocate for the State of Assam with Mrs M. Das, Government Advocate, Assam.

Mr A. Sarma with Mrs B. Dutta for respondent No.3.

Judgment concluded. The application is allowed as per order.

At this stage Mr A. Sarma, learned counsel for respondent No.3, prays for stay of operation of the order quashing and setting aside the notification dated 28.3.1992 for a period of 8 weeks submitting that the respondent No.4 wants to consider his position. Mr S. Ali, Sr. C.G.S.C., has no objection. Mr P.K. Tiwari for the applicants, however, opposes the request and submits that if the court is inclined to grant the same it may not be granted for more than four weeks. Since the judgment is yet to be transcribed and will take some time for being available to the parties for considering its impact, for the present, we hereby stay operation of the order for a period of four weeks with liberty to apply after notice to all other parties.

P.D.P.

nkm

60  
Member

huk  
Vice-Chairman

12  
OFFICE NOTE

Date

COURT'S ORDER