

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI-5

ORIGINAL APPLICATION NO: 26/94

MISC. PETITION/ REVIEW APPLICATION/CONT. PETITION NO.

J. F. S. Assam TV APPLICANT(S)
versus

NOT FOR RESPONDENT(S)

20.5.94

Learned counsel Mr B.K.

This application is in
form and within time.

C. F. of P. 50-

denied

IP 50-

Dated 5/4

862064

Dr. Registrar

Bas
19/5

moves this application under Sec
19 of the Administrative Tribunal
Act, 1985 on behalf of the Indi
Forest Service Association (Ass
Unit) represented by its Genera
Secretary, Shri K.M. Deb Goswam
Principal, Northeast Forest Col
Jalukbari. Perused statement of
grievances and reliefs sought f
this application. Mr B.K. Shaz
submits that copy of the appli
has been served on learned Sr.
Mr S. Ali as well as on learned
Government Advocate, Assam, Mr
Phukan through his personal peo
Mr S. Ali is present, but Mr Y.
Phukan is not present. Consideri
subject matter involved in the
cation, we propose to consider
admission as well as interim re
prayer in presence of Sr. Gover
Advocate, Assam, Mr Y.K. Phukan
Office is directed to immediate
serve another copy of this appl
on Sr. Government Advocate, Ass
Mr Y.K. Phukan.

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

Learned counsel Mr B.K. S
read relevant paragraphs and ref
to relevant documents on the bas
which the applicants have assail
order under letter No. F & E.115/

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:

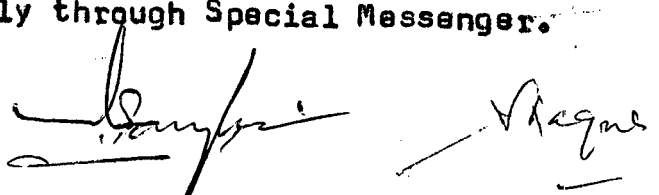
The respondents, particularly respondents No. 2 and 4 (State of Assam represented by the Secretary, Department of Forests, Dispur, and the Chief Secretary to the Government of Assam, Dispur) are directed not to give effect to the impugned order No.F & E.115/87/91-A dated 5.5.1994 issued by the Government 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

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

of the application accom-
ed by a copy of the order
erved on Sr. Govt Advocate,
a, Mr Y.K. Phukan.

By Order:

Inform all concerned immediate
ly through Special Messenger.



Order dt. 20.5.94 issued
as directed under no. 2089-92

dt. 20.5.94

24.5.94

Learned counsel Mr B.K.

20/5

Copy of ~~order~~ order with
Application signed 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.

By order

24.5.94

Copy of order dt. 24.5.94
issued to the all respondents
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.

By Order:

nkm

Vice-Chairman

Member

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
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. Phuka 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.

Shagun
Vice-Chairman

Be
Member

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

By Order:

nkm

26/7/94

(6)
OA 96/94

7

OFFICE NOTE

DATE

COURT'S ORDER

29-9-94

None present. Adjourned to
8-11-94 for fixing a date of hear

Order dt. 26.2.94 issued
to the counsel & in
particular vide m. 3259-61
dt. 5.8.94

lm
2/8

lm

[Signature]
Vice-Chairman

[Signature]
Member

[Signature]
29/9

Requisites are received
& issued in terms of
order dt. 4.10.94 in
OA 52/93 vide no. 4178, 79
dt. 25.10.94

Don
25/X

Notice duly served
on Respdt. no. 1, 6, 7, 8
through Mr. S. Ali, Sr. C.A.,
& on 2 & 4 through Dr.
Y. K. Phulekar, Sr. C.A., Bham.
& on 325 through Mr. D. Samra, Adv.
7.11.94.

Don
7/11, W/ Statement has been
filed by the Respdt No. 3

[Signature]

9
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.

[Signature]

Vice-Chairman

[Signature]

Member

pg

NS.
9/11/94

(11)
D.A. 96/94

10

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^{6,7,8} 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. ~~Matter be also served on respondent No. in Mr 9222/22 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.

Will
Vice-Chairman

Do
Member

pg
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.

ba
Member

Will
Vice-Chairman

trd

5-12-94

Adjourned to 6-12-94

22-12-94

Requisite are yet to be

order dt. 3.11.94. cont. to

in counsel in parties.
vide n. 4562-44 dt. 15.11.94

ba
11/11/94

Requisite are found

on 22-11-94 & served vide

no. dt.

24/11 30-11-94.

Statement of Law
filed by the Respondents
No.1.

ba

(10)
O.A. 96/94

9.11.94

Mr B.K.Sarma 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 instru-
ctions 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 mis-
placed 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

WLL

contd...

OFFICE NOTE

DATE

COURT ORDER

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.


Vice-Chairman


Member

nkm

20-12-94

Adjournd to 23-1-95.
By order

23-1-95

Res on 31-1-95
for hearing.

By order

OFFICE NOTE

DATE

COURT ORDER

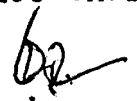
13

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 submi-
 ssions ^{made} towards in O.A. 53/93 for the
 purpose of this application. Their
 further comments heard and concluded.
 Unfortunately, Mr. A. Sarma learned counse-
 for respondent No. ³ ~~4~~ has left the Court
 before the matter ^{was} called out.

Hence ^{he} ~~this~~ will be heard to-morro-
 morning. Part heard and adjourned to
 to-morrow.


 Vice-Chairman


 Member

lm

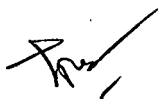
6-2-95

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

List on to-morrow for hearing

lm


 Member



OFFICE NOTE

Date

COURT'S ORDER

1.2.95

Arguments of counsel ^{already} concluded.
Dictation of Judgment commenced in open court. Judgment part delivered.

Vice-Chairman

Member

nkm

P.D.2.2.95

Judgment further
delivered. Adjourned
to 6.2.95.

6.2.95

D.B. did not sit.
Adjourned to tomorrow.

P.D.7.2.95

D.B. did not sit.
Adjourned to tomorrow.

P.D.8.4.95

Copy of Judge's order dtd.
1/8.2.95 issued to all
concerned along with
OA. 52/93.

P.D.

8.2.95

Mr B.K. Sharma with Mr P.K. Tiwar
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. S. Sarma with Mrs B. Dutta
for respondent No.3.

Judgment concluded. The applicati
is allowed as per order.

At this stage Mr A. S. Sarma,
learned counsel for respondent No.3, prays
for stay of operation of the order quashin
and setting aside the notification dated
28.3.1992 for a period of 8 weeks submitt
ing that the respondent No.4 wants to
consider his position. Mr S. Ali, Sr.
C.G.S.C., has no objection. Mr P.K. Tiwar
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 t
the parties for considering its impact,
for the present, we hereby stay operation
of the order for a period of four week
with liberty to apply after notice to all
other parties.

Member

Vice-Chairman

nkm

OFFICE NOTE

Date

COURT'S ORDER