

50/100

15

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 259/95

R.A/C.P No.

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SECTION OFFICER (Judl.)

ORIGINAL APPLN. NO. 259 OF 1995

TRANSFER APPLN. NO. OF 1995

CONTEMPT APPLN. NO. OF 1995 (IN NO.)

REVIEW APPLN. NO. OF 1995 (IN NO.)

MISC. PETITION NO. OF 1995 (IN NO.)

..... C. P. Marak APPLICANT(S)

..... H. O. J. P. RESPONDENT(S)

For the Applicant(s)

... Mr. B. K. Sharma

Mr. P. K. Tiwari

Mr. S. Sharma

Mr.

For the Respondent(s)

Mr. S. Ali, Sr. case.

OFFICE NOTE

DATE

ORDER

29.11.95

this application is in
form and within time

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 344755

Dated 21.11.95

R. P. P. P.

R. P. P. P.

R. P. P. P.

29.1.96

for leaving

14.2.96

Order
Ben

Mr B.K. Sharma for the applicant.

Mr S. Ali, learned Sr. C.G.S.C.,
for the respondent No.1.

Prima facie case made out for consideration on the ground that no option was called from the applicant for deputation. Application admitted. 8 weeks for written statement to be listed on 5.2.1996 for directions.

Mr B.K. Sharma applies for interim relief. Issue notice to the respondents to show cause as to why interim relief should not be granted as prayed, returnable on 1.12.95. Mr S. Ali takes notice of this direction on behalf of respondent No.1.

Notices of respondent Nos.2, 3 and 4 permitted to be served by the applicant directly on the said respondents. Notices may be handed over to Mr B.K. Sharma for the said purpose. Other notices to be issued directly.

All notices to be issued urgently.

[Signature] 29.11.
Vice-Chairman

nkm

OFFICE NOTE

DATE

ORDER

1.12.95

Mr B.K. Sharma for the applicant.

Mr S. Ali, Sr. C.G.S.C., for the respondent.

No.1.

Smt B. Dutta for respondent Nos.2 and 3.

Respondent No.4 served, but none appears.

Smt B. Dutta submits that as per her instructions, some officer has already been appointed in place of the applicant and, therefore, no interim order may be passed. She gives the name of the officer as Shri G.C. Das Choudhury. Mr B.K. Sharma does not agree. He refers to the impugned order which indicates that G.C. Das Choudhury, DFO, was given the additional charge of the office of Planning Officer. Moreover, he points out that by reason of the order of status quo passed in the civil suit the order of status quo had operated till 30.11.1995 and, therefore, it is unlikely ^{that} someone may have been regularly appointed in the post. Mr S. Ali for respondent No.1 submits that it is the State Forest Service College which is suffering for want of a Lecturer and any order of stay will affect the college. He also submits that under the rules consent of the applicant is not required for ordering the deputation which is ^{thought necessary} to be sought by the Government.

Having regard to the interest of the college it would not be desirable to stay operation of the impugned order for a longer duration and, therefore, by consent of all the learned Advocates, who are present, the O.A. is directed to be listed for hearing on 13.12.95. It is made clear that if it is found by that time that respondent No.4 or 5 had not been served with the writ statement the matter will be heard for the purpose of interim relief. It should, however, be noted by all concerned that the O.A. is intended to be heard on merits. In the meantime, i.e. hearing on 13.12.95, by way of ad interim order.

it.

29.11.95

Notice issued to the Respondent No.2 and 3.

30.11.95

Notice issued to the Respondent No.4.

1.12.95

Notice duly served on Respondent No.3 and 4.

OFFICE NOTE

DATE

COURT'S ORDER

1.12.95

it is directed that if no officer has been posted as Planning Officer (Forest) in place of the applicant in pursuance of the impugned order and if Shri G.C. Das Choudhury, IFS, has merely been holding the charge and if the applicant had resumed charge of the post as it is stated on his behalf that he did resume on 5.10.1995 then the applicant may not be disturbed and allowed to continue until further orders on 13.12.1995. It may be mentioned that Smt B. Dutta does not admit that the applicant had resumed the duty in the same post on 5.10.1995 as alleged by the applicant. The question will be examined at the hearing.

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

[Signature]
Vice-Chairman

nkm

*Notice Send on
R.M. 2, 3 & 4.*

*Order dt. 1.12.95
sent to Counsel 2
with Rs. 5167.68
4.12.95*

[Signature]

[Signature]

OFFICE NOTE

DATE

COURT'S ORDER

14-12-95

Mr.B.K.Sharma for the applicant
 Mr.S.Ali, Sr.C.G.S.C. for ~~the~~ respondent No.1. Mr.A.Sharma Sr.counsel and Mrs.B.Dutta, State of Meghalaya respondent No.2 & 3. About the learned counsel for the respondents, seeks adjournment to enable the respondents to file their counter reply to the rejoinder of the applicant filed to-day. The request however is made for early hearing. It is not disputed by the learned counsel for the respondents that owing to adjournment the interim order dated 1-12-95 should continue till the hearing of the O.A. Accordingly the interim order dated 1-12-95 is extended till hearing of the O.A. It is made clear that ^{the} extension operates from 13-12-95 as the Bench was not available Yesterday for hearing this application. By consent O.A. is adjourned for hearing to 2-2-96.

15.12.95

Court's order dated
 14.12.95 ~~is~~
 by the applicant.

lm

[Signature]
 14.12.95
 Vice-Chairman

Order dt. 14-12-95
 issued to all counsel
 no. 5432-37 dt. 21/12/95

19/12

Notice Read dt.
 R. no. 5 & issued
 no 5438 dt. 21/12/95
 19/12 w/statement - of Rejoinder

ORDER NOTE

DATE

ORDER

13.2.96

Additional w/s
on behalf of the
Resdts No. 2 and 3
to the rejoinder filed
on behalf of the
applicant.

20.3.96

Mr S. Sarma for the applicant.
Mr S. Ali, Sr. C.G.S.C for the respon-
dents.

Mr Sarma submits that this is a
case of refusal to accept Central depu-
tation as Lecturer in State Forest
Service College, Byrnihat. It is not a
case of simple transfer and be placed
before Division Bench for hearing.

List for hearing before Division
Bench on 20.5.96.

Boo

14.2.96

To be listed in
Remission
20.3.96

pg

20
21-5-96

None is present. List for ^{hearing} order on
10-6-96.

Bo
Member

Bo
Member

*By order
Boo*

lm

10.6.96

Learned counsel Mr. B.K.Sharma for the
applicant.

Mr. S. Ali, Sr. C.G.S.C. for the respondents.

Hearing adjourned to 26.6.96.

13.3.96

w/s in reply
filed by the Respondent
At page 153-168

Boo
13/3

trd

26.6.96

Learned counsel Mr B.K. Sharma for
the applicant. Mr S. Ali, learned Sr. C.G.S.C.,
for the respondents.

List for hearing on 19.7.96.

S
Member (J)

Bo
Member (A)

Bo
Member

nkm

OFFICE NOTE

DATE

ORDER

19.7.96

Leave note of Mr M. S. Ali, Sr. C.G.S.

C.

List for hearing on 16.8.96.

Member

pg

16.8.96

Mr. B. K. Sharma for the Applicant.

Mr. S. Ali, Sr. C.G.S.C. for respondent No.1.

None for the other respondents.

List for hearing on 13.9.96.

Member

trd

18.9.96.

Mr. S. Ali, Sr. C.G.S.C. for the respondents.

List for hearing on 17.10.1996.

Member

trd

17.10.96

Mr S. Ali, Sr. C.G.S.C for the respondents.

List for hearing on 4.12.1996.

Member

pg

12.3.97

hearing.

Member

Vice-Chairman

trd 17/12

1) w/ statement on Respts
no. 2 & 3. l.w.
2) Addl. w/ statement on
Respt. no. 2 & 3 l.w.
3) Rejoiner on Respts
no. 2 & 3. l.w.

1) w/ statement l.w.
2) w/ statement on Respts no. 2 & 3
3) Addl. w/ statement l.w.
4) Rejoiner on Respts
no. 2 & 3. l.w.

1) w/ statement on behalf
of Respt. no. 2 & 3
l.w.
2) Addl. w/ statement l.w.
3) Rejoiner on Respts
no. 2 & 3. l.w.

20-3-97
Case is ready
for hearing
as regard
Service.

24/3
2013

21.3.97

Mr A.Sarma, learned counsel for the respondents due to his personal reasons prays for short adjournment till 3.4.97. Mr B.K.Sharma has no objection.

Accordingly we adjourn the case till 3.4.97.

Member

Vice-Chairman

pg

2113

3-4-97

Learned counsel Mr. S. Sharma for the applicant and Mr. S. Ali, Sr. C.G.S.C. for the respondents are present.

Let this case be listed for hearing on 6-5-97.

Member

Vice-Chairman

lm

211

8-4-97

Vakalatnama filed by Mr. S. Ali, Sr. C.G.S.C.

211

14.5.97.

- 1) Written Statement has been filed on R-1-3.
- 2) Notice duly served on R-4.

14/5

6.5.97

This case relates to Meghalaya. Counsel for the parties pray for hearing of the case at Shillong.

Let this case be listed for hearing on 27.5.97 at Shillong.

Member

Vice-Chairman

pg

215

27-5-97

Left over. List for hearing on 29-5-97.

Member

Vice-Chairman

29.5.97

On the prayer of Mr B.K.Sharma, learned counsel for the applicant the case is adjourned to 5.6.97 for hearing.

Member

Vice-Chairman

pg

30/5

5.6.97

On the prayer of Mr B.K.Sharma, learned counsel for the applicant the case is adjourned to 3.7.97.

Member

Vice-Chairman

pg

6/6

3.7.97

Ms B. Dutta, learned Government Advocate, Meghalaya, prays for adjournment on behalf of Mr A. Sarma, learned/Government Advocate, Meghalaya, as he is not too well. Mr P.K. Tiwari has no objection in granting adjournment. Accordingly the case is adjourned till 7.8.97.

Member

Vice-Chairman

nkm

7/7

20.8.97

1) Written statement has been filed on Respondents No. 1, 2 and 3.

2) Notice duly served on R-4.

3) Memo of appearance not yet filed by the Court at Meghalaya.

29.9.97

Case is ready for hearing.

List for hearing on 4.12.97.

Member

Vice-Chairman

pg

30/9

20/9/97

w/s. and rejoinder has been filed.

u/b

1) 10/5. has been filed.
2) Rejoinder has been filed.

2/7

1. w/s. and rejoinder has been filed.
2. Add. w/s. has been filed.

6/8

7-8-97. There is no sitting of Bench, list on 29.9.97

By Mr.

4.12.97

Mr Barman, learned counsel, made a mention that the case may be adjourned as the counsel engaged, Mr A. Sarma not be in a position to attend court tomorrow. Accordingly the case is adjourned till 8.1.1998

Member

Vice-Chairman

nkm

5/12

*W/S and Addl W/S by him
b/w and Rejoinder by
him b/w*

8.1.98

Mrs B.Dutta, learned Government Advocate, Meghalaya on behalf of Mr A.S. Sharma, learned Sr. Government Advocate, Meghalaya prays for two weeks adjournment as Mr A.S. Sharma has gone to Delhi to attend to another case on behalf of the Government. Mr B.K. Sharma, learned counsel for the applicant however, ~~prays~~ opposes the prayer for adjournment. Considering the submission made we grant two weeks time.

List on 23.1.98 for hearing.

Member

Vice-Chairman

*W/S, And Addl. W/S. has been
b/w. Rejoinder has been b/w.*

pg

19/11

23-1-98

*W/S, addl. W/S and Rejoinder
has been b/w.*

There is no representation. Case is adjourned till 12-2-98 for hearing

Member

Vice-Chairman

lm


3/2


12.2.98

Mr P.K. Tiwari on behalf of Mr B.K. Sharma, learned counsel for the applicant submits that Mr B.K. Sharma is not well and is unable to attend court tomorrow. The case is of 1995. Mr A. Sarma, learned counsel for the respondents submits that though he feels that the case should be disposed of at an early date, however, he

12.2.98

of the illness of Mr B.K. Sharma he does not oppose the prayer of Mr Tiwari Accordingly let the case be listed on 19.2.98 for hearing.



Member



Vice-Chairman

nkm

19.2.98

Part heard. List it on 26.2.98 for further hearing.


Member



Vice-Chairman


nkm

ns
23/2

26.2.98

Heard in part. List it on 9.3.98 for further hearing. Dr Y.K. Phukan, learned Sr. Government Advocate, Assam, shall produce the records and if so advised may also file an affidavit.


Member


Vice-Chairman

nkm

ns
27/2

9.3.98

present on the day.
By order

10
Addl. w/s and
for order by
the court.


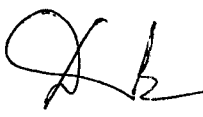


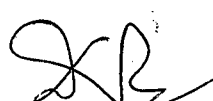


2


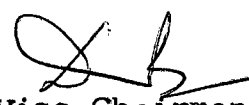


6-3-98

Records and affidavit
has not been filed.

6/3

Notes of the Registry	Date	Order of the Tribunal
<p>11.3.98 Copy of order dtd. 10.3.98 issued to the Counsel of respondents Mr. Y.K. Phukan and Joint Secy. of Govt. of Assam</p> <p>Copy of the order may be furnished to Dr Y.K.Phukan for taking steps.</p> <p>By order 10/3/98</p> <p>P. Kumar immediately 11/3</p>	<p>10.3.98</p> <p>nkm 11/3 20.3.98</p>	<p>During the course of arguments it was found that the copy of the impugned Annexure-2 order dated 24.8.95 was sent to the Secretary, Joint Cadre Association(Sic) and Commissioner and Secretary to the Government of Assam, Personnel (A) Department. It is not known whether at that point a Joint Cadre Authority was constituted as per Rule 6 and if so what action was taken by the Joint Cadre Authority after receipt of the said letter. We requested Dr Y.K.Phukan learned Sr.Government Advocate, Assam to produce the records. Today however, Dr Phukan expresses his inability to produce the records because in spite of writing several letters he has not been supplied with the records. On the other hand he submits that recently he had received a letter from the Joint Secretary, Govt. of Assam, Personnel(A) Department saying that the records could not be traced out. We are surprised at this. However, we feel that those papers will be necessary for proper adjudication of the matter. Therefore, we direct the Joint Secretary to depute one Deputy Secretary to be present on the next date of hearing i.e. 20.3.1998. He shall be present with all relevant documents in this connection.</p> <p>List on 20.3.98 for further hearing.</p> <p>Member</p> <p>Vice-Chairman</p> <p>Shri Yunus, Joint Secretary to the Government of Assam, Department of Fore has personally appeared before this Tribunal. He informs this Tribunal that</p> <p>contd..</p>

Notes of the Registry	Date	Order of the Tribunal	
7 - 3 - 98 Memo of appearance by Dr. Y.K. Phukan G.A. Assam, & Mrs. M G.A. Assam.	20.3.98	till today the copy of the Annexure-2 order could not be traced out. He requires another one week's time to ascertain and to make a statement in writing. Dr Y.K. Phukan, learned Sr. Govt Advocate, Assam prays for one week time. Let this case be listed for further hearing on 27.3.98.	
Addl. W/S. Rejoinder by filed	pg ns 23/3	 Member	 Vice-Chairman
25.3.98 W/S filed on behalf of respondent 4.	27.3.98	Division Bench is not available. List on 3.4.98 for hearing.	 Member
Addl. W/S. Rejoinder filed	pg ns 28/3	List on 12.5.98 for hearing.	 Member
W/S has been filed on R. No. 4. 1. W/S has been filed Nos 2 & 3 has not been filed Nos 1 & 5. Rejoinder has been on R. Nos 2 & 3	3.4.98	 Vice-Chairman	
	pg ns 6/4	On the prayer of counsel for the parties case is adjourned till 19-5-98.	 Member
	12-5-98	 Vice-Chairman	
Case is ready for hearing.	1m ns 14/5	27-5-98 By order	
Case is ready for hearing	19-5-98		

Notes of the Registry	Date	Order of the Tribunal
<p>The case is ready for hearing.</p> <p>5/6 3/6</p>	<p>27.5.98</p>	<p>On the prayer of the counsel for the parties the case is adjourned till 4.6.98.</p> <p> Member</p> <p> Vice-Chairman</p>
<p>The case is ready for hearing.</p> <p>5/6 10/6</p>	<p>4.6.98</p> <p>pg 1 28/5</p>	<p>By order dated 10.3.1998 we directed the Joint Secretary, Personnel Department, to depute an experienced officer before this Tribunal to tell us whether a Joint Cadre Authority was constituted at the material time and if so who were the members of the said Joint Cadre Authority. We also directed that all the relevant documents be placed before this Tribunal to let us know whether the Joint Cadre Authority was consulted before sending the applicant on deputation. However, regret to observe that till now we are not supplied with the information. Ms M. Das, learned Government Advocate, Assam, is present. She assures us that she will take immediate steps for compliance of our earlier order. Accordingly the case is adjourned till 11.6.98.</p> <p> Member</p> <p> Vice-Chairman</p>
	<p>11.6.98</p> <p>nkm 28/5 5/6</p>	<p>Ms M. Das, learned Jr Government Advocate, Assam, informs this Tribunal to the query made by this Tribunal that the Joint Cadre Authority was constituted as far back as in 197</p>

Notes of the Registry	Date	Order of the Tribunal
14	11.6.98	<p>and it is still in existence. The members are the Chief Secretaries of both the States (Assam and Meghalaya). In the present case the State Government was not consulted before sending the applicant on deputation.</p> <p>Order reserved.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>18.1.99</p> <p>Copies of Judgment have been issued to the parties vide D/12/124 Dtd. 18.1.99. and vide D. no. 570.</p> <p>Issued vide Despatch No. 190 & 191 dt. 27-1-99</p>	<p>4.1.99</p> <p>pg</p>	<p>Judgment pronounced in open Court. The application is disposed of in terms of the order which is kept in separate sheets. No order as to costs.</p> <p>Member</p> <p>Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A.No. 259 of 1995

DATE OF DECISION... 4.1.1999

1. Shri C.P. Marak, IFS (PETITIONER(S))

Mr B.K. Sharma, Mr P.K. Tiwari and
Mr S. Sarma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others RESPONDENT(S)

Mr S. Ali, Sr. C.G.S.C.,
Mr A. Sarma, Sr. Government Advocate, Meghalaya,
Ms B. Dutta, Government Advocate, Meghalaya,
Dr Y.K. Phukan, Sr. Government Advocate, Assam and
Ms M. Das, Government Advocate, Assam.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.259 of 1995

Date of decision: This the 4th day of January 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Cavouright P. Marak, IFS,
Planning Officer (Forest),
C/o Shri T.T.C. Marak, IFS,
Conservator of Forests (Social Forestry-
Environment Circle),
Meghalaya, Shillong.

.....Applicant

By Advocates Mr B.K. Sharma,
Mr P.K. Tiwari and Mr S. Sarma.

- versus -

1. The Union of India, through the
Secretary to the Government of India,
Ministry of Environment & Forests,
New Delhi.
2. The State of Meghalaya, through the
Principal Secretary,
Forest and Environment Department,
Shillong, Meghalaya.
3. The Principal Chief Conservator of Forests,
Shillong, Meghalaya.
4. The State of Assam, through the
Secretary to the Government of Assam,
Department of Forests,
Dispur, Guwahati.
5. Shri G.C. Das Choudhury, IFS,
Divisional Forest Officer, Wild Life,
Shillong, Meghalaya.

.....Respondents

By Advocates Mr S. Ali, Sr. C.G.S.C.,
Mr A. Sarma, Sr. Government Advocate, Meghalaya,
Ms B. Dutta, Government Advocate, Meghalaya,
Dr Y.K. Phukan, Sr. Government Advocate, Assam,
and Ms M. Das, Government Advocate, Assam.

.....

O R D E R

BARUAH.J. (V.C.)

The applicant, a tribal belonging to the Garo community in the State of Meghalaya is an officer of the Indian Forest Service (IFS for short) of the Assam-Meghalaya Joint Cadre. His community is recognised as Scheduled Tribe. He was inducted to the IFS of 1983 batch. According to him there are only two officers of his community

B

in the IFS. His community is not properly represented. On an earlier occasion when the Central Government requisitioned the service of one of the Garo officers belonging to IFS from the State of Meghalaya, the Government of Meghalaya objected to the proposal on the ground that there were very few officers belonging to the Garo community in the State of Meghalaya.

2. By Annexure 1 Notification dated 22.6.1994 the applicant was transferred and posted as Officer on Special Duty, Social Forestry and Environment. At that time he was a Divisional Forest Officer. He took over charge of the post on 21.7.1994. Soon after issuance of the Annexure 1 notification, on 10.1.1995 the applicant was again transferred and posted as Planning Officer, Forests, Meghalaya. On 24.8.1995 Annexure 2 Notification was issued by the Principal Secretary to the Government of Meghalaya, Forests and Environment Department, whereby the services of the applicant was placed at the disposal of the Government of India, Ministry of Environment and Forest on deputation for appointment as Lecturer, State Forest Service College, Byrnihat with effect from the date of handing over charge. The applicant has stated that the orders of transfer came in quick succession and totally disrupted his family life. According to the applicant none of those transfer orders had been issued on public interest, but to make certain adjustment at the whims and caprice of the authority. Being aggrieved, the applicant submitted Annexure 3 representation dated 25.8.1995. In his representation he submitted that the Annexure 2 order sending him on deputation was contrary to the professed norms. This was done without taking his consent and he was also not given prior notice to that effect. He made further allegation

that.....

B

that there was violation of the equality clause of the Constitution inasmuch as the applicant was discriminately treated. Besides, there was violation of the principles regarding the Tribal Welfare. The representation was rejected and the same was communicated by Annexure 4 letter dated 2.9.1995 issued by the Principal Chief Conservator of Forests, Meghalaya and the applicant was asked to hand over charge of the post of Planning Officer, Forests, Meghalaya, which post he was holding at the time of passing of the impugned order, to one Shri G.C. Das Choudhury. The said Annexure 4 order was received by the applicant on 7.10.1995. Some interested persons filed a suit in the court of the Sadar Munsiff, Shillong challenging the order of transfer. This suit was registered and numbered as T.S.No.27(H)/95. The Munsiff was pleased to pass an order to maintain status quo Ante as on 24.8.1995 by his order dated 28.9.1995 on an injunction application. The Munsiff, however, on 1.11.1995 revoked the order of status quo earlier granted with a direction to return the plaint to the plaintiffs to enable them to present the same before an appropriate court having competent jurisdiction. Thereafter the present application has been filed by the applicant before this Tribunal praying inter alia for an order to set aside and quash the impugned Annexure 2 order dated 24.8.1995 and the Annexure 4 order dated 2.9.1995. The applicant has also prayed for an interim order for stay of the impugned Annexure 2 order dated 24.8.95 pending disposal of the original application.

3. This Tribunal admitted the application and thereafter passed an interim order on 1.12.1995 as follows:

".....In the meantime, i.e. till hearing on 13.12.95, by way of ad interim order it is directed that if no officer has been posted as Planning Officer(Forest) in place of the applicant in pursuance of the impugned order and if Shri G.C. Das Choudhury, IFS, has merely been holding the charge and if the applicant had resumed charge of the post as it is stated on his behalf that he did resume on 5.10.1995 then the applicant may not be disturbed and allowed to continue untill further orders on 13.12.1995....."

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However, on 13.12.1995 the case was not taken up as there was no Bench on that day. On 14.12.1995, the interim order was extended with effect from 13.12.1995 till the date of hearing. This interim order was conditional. The applicant filed a Misc. Petition No.111/96 praying inter alia to pass an order directing the respondents to implement the above interim order, to allow the applicant to function in the post of Planning Officer restoring all benefits and facilities and to pay the applicant his salaries from September 1995. This Misc. petition was disposed of by order dated 22.8.1996 rejecting among others his prayer for allowing him to function in the post of Planning Officer for the reasons stated therein. Earlier to this he was on sick leave from 2.9.1995.

4. The respondent Nos.2 and 3, i.e. the State of Meghalaya and the Principal Chief Conservator of Forests have filed their written statement. The applicant has also filed rejoinder. An additional written statement has also been filed by respondent Nos.2 and 3. The respondent No.1, i.e. the Union of India has also filed written statement. In para 13 of their written statement the respondent Nos.2 and 3 have stated as follows:

".....deputation of IFS Officers against various posts is based on their bio data, in consultation with Government of India from time to time. It is pertinent to point out that the petitioner, All India Service Officer, is evading to move from Shillong to Byrnihat which is situated within the State of Meghalaya only. The training of Forest Officers of North Eastern Regional States at Byrnihat is an important task which has to be imported by a mixture of Tribal and Non-Tribal Officers, well versed with the traditions and customary laws of the Tribal people. Hence the urgency for the services of the applicant at Byrnihat."

In para 14 of the written statement the said respondents have stated, among others, as follows:

"The office memorandum referred to by the applicant covers cases within the State of Meghalaya and not for deputation post with Government of India. Further it does not put a bar on transfers within three years but only states that because of financial reasons such transfer should be avoided and if it becomes necessary to transfer an officer within three years, the approval of the Chief Minister should be obtained."

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5. We heard the learned counsel for the parties. Mr B.K. Sharma, learned counsel for the applicant submitted before us that the impugned Annexure 2 order dated 24.8.1995 was passed in violation of the mandatory provisions of the Indian Forest Service (Cadre) Rules, 1966 (For short, the Rules), inasmuch as the applicant being a member of the Joint IFS Cadre of Assam-Meghalaya, the State of Assam was not consulted. Besides, the applicant's consent was also not taken before sending him on deputation. According to the learned counsel the applicant was entitled to a notice as to whether he would like to go on deputation or not. The learned counsel also submitted that the applicant being in the Joint Cadre of Assam-Meghalaya and presently an officer under the Government of Meghalaya he was entitled to benefits of the policy adopted regarding the transfer of all officers holding transferable posts from one place to another before completion of three years. However, in exceptional cases the Government is entitled to transfer an officer with the prior approval of the Chief Minister. According to Mr Sharma in the present case no approval had been obtained prior to the applicant's transfer by way of deputation. He was also not given other benefits.

6. Mr A. Sarma, learned Sr. Government Advocate, Meghalaya, submitted that the applicant was sent on deputation strictly in accordance with the provisions of law. He was not entitled to any notice before sending him on deputation. The learned counsel also submitted that the post being exclusively for the State of Meghalaya, the State of Assam was not necessary to be consulted. However, according to Mr A. Sarma, a copy of the impugned Annexure 2 order dated 24.8.1995 was sent to the

Secretary.....



Secretary, Joint Cadre Association and Commissioner and Secretary to the Government of Assam, Personnel (A) Department. According to the learned counsel this would suffice the requirement of Rule 6 of the Rules, if at all the consent of the Authority was necessary.

7. Mr S. Ali, learned Sr. C.G.S.C. also supported the impugned Annexure 2 order dated 24.8.1995.

8. On the rival contention of the learned counsel for the parties, it is now to be seen as to whether the impugned Annexures 2 and 4 orders can sustain in law. An officer belonging to an IFS Cadre can be sent on deputation as per the provisions laid down in Rule 6 of the Rules. To appreciate the arguments of the learned counsel for the parties, it will be apposite to look to the provisions of Rule 6 of the Rules. We quote Rule 6 below:

"6. Deputation of cadre officers.- A cadre officer may, with the concurrence of the State Government or the State Governments concerned and Central Government, be deputed for Service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government.

2) A cadre officer may also be deputed for service under,-

i) a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, a Municipal Corporation or a local body, by the State Government on whose cadre he is borne; and

ii) an autonomous body not controlled by the Government or an international organisation, by the Central Government in consultation with the State Government on whose cadre it is borne."

As per the first proviso no cadre officer shall be deputed to any organisation or body of the type referred

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to in Item (ii) except with his consent. As per the second proviso no cadre officer shall be deputed under sub-rule (1) or sub-rule (2) to a post carrying a prescribed pay which is less than, or a pay scale, the maximum of which is less than, the basic pay he would have drawn in the cadre post but for his deputation.

9. From a reading of Rule 6 of the Rules it is clear that when an officer is required to be sent on deputation it can be done with the concurrence of the State Government or State Governments concerned and the Central Government for service under the Central Government or another State Government or company. So the consent of the State Government or State Governments concerned is necessary before sending an officer on deputation. As per the definition, State Government concerned, in relation to a Joint Cadre, means the Joint Cadre Authority. Therefore, the consent of the Joint Cadre Authority is necessary when a cadre officer belongs to a Joint Cadre. However, from reading of the said Rule 6 it does not appear that the consent of the cadre officer shall be obtained. It is necessary only when the officer is deputed to any organisation or body as referred to in clause (ii) of Rule 6 of the Rules or when his present salary is higher than the salary which he would get in the post where he is required to go on deputation. So on an overall reading of Rule 6 of the Rules it is clear that the consent of the applicant in the present facts and circumstances was not necessary. However, the Joint Cadre Authority ought to have been consulted.

10. Written statement has not been filed by the State of Assam. Therefore, we requested Dr Y.K. Phukan, learned Sr. Government Advocate, Assam, to inform the stand of the.....

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the State of Assam. Dr Phukan had taken all the pains to receive instructions in this matter. He informed us that no consent was obtained from the Joint Cadre Authority or from the State of Assam. He further informed that even the copy of Annexure 4 order dated 2.9.1995 was not received. Before the impugned Annexure 2 order dated 24.8.1995 was passed the Joint Cadre Authority was not consulted. We are also not in a position to ascertain whether the Joint Cadre Authority was consulted or not. In our view the consent of the Joint Cadre Authority was a must as per provisions of the rules. Moreover, the records placed before us do not disclose anything in that regard.

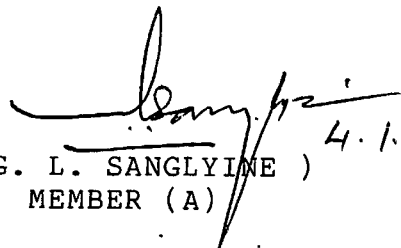
11. In the representation the applicant urged several points, namely that the Government deviated from the normal practice in respect of the applicant. The applicant also stated that there was violation of the principles of natural justice and the equality clause of the Constitution and also the principles of Tribal Welfare. While disposing of the representation the authority did not give any reason in the Annexure 4 order dated 2.9.1995. In the said Annexure 4 order the Principal Chief Conservator of Forests simply said that "the applicant's representation against sending him on deputation to the Government of India for appointment as Lecturer in the State Forest College, Byrnihat had not been acceded to by the State Government." When representations were filed, it was the duty of the concerned authority to consider the same and pass reasoned order. An aggrieved officer is entitled to know the reasons. If the representation is disposed of by a cryptic order the officer concerned would not know. As a result he would be prejudiced. As has already been stated earlier no reason whatsoever had been assigned for rejecting the representation.....

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representation even though the applicant had specifically mentioned the grounds. In that view of the matter it becomes difficult for us to come to a definite conclusion as to whether the impugned Annexure 2 order dated 24.8.1995 and Annexure 4 order dated 2.9.1995 can sustain in law.

12. In view of the above we send back the matter with direction to the respondents to reconsider the representation of the applicant in the light of the observations we have made and dispose of the same by a reasoned order. The applicant may also file a fresh representation giving details of his grievances within a month from today and if such representation is filed the respondents shall also consider the said representation in addition to the representation filed earlier. This must be done as early as possible, at any rate within a period of three months from the date of filing of the representation, if any.

13. With the above direction the application is disposed of. However, in the facts and circumstances of the case we make no order as to costs.


(G. L. SANGLYINE)
MEMBER (A)

4.1.1999


(D. N. BARUAH)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH:

BE TWEEN.

SRI C.P. MARAK, I.F.S. Applicant.

AND.

Union of India & Ors. Respondents.

For use in Tribunal's Office

Date of filing. 21.11.95.
Registration No. 259/95.
Registrar

* * *

Received copy.

✓ Rec. CGSC
21/11/95

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Filed by me
Applicant - Mr. Marak
S. S. Das
21.11.95

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 259 of 1995

BETWEEN

Mr. Cavouright P. Marak, I.F.S.
Planning Officer (Forest),
Meghalaya, Shillong
(under order of ~~his~~ transfer)
C/O Shri T.T.C. Marak, I.F.S.
Conservator of Forests, and (Social Forestry -
Environment ~~Division~~ Circle)
Meghalaya, L. Lachumiere, Shillong-793001

... Applicant

AND

1. The Union of India,
through the Secretary to the
Government of India,
Ministry of Environment & Forests,
Paryabharan Bhawan,
C.G.O. Complex, Lodhi Road,
New Delhi-110 003.
- ✓ 2. The State of Meghalaya,
through the Principal Secretary, Meghalaya
Forest and Environment Department,
Civil Secretariat
(Additional Building)
East Khasi Hills,
Shillong-793001, Meghalaya.
- ✓ 3. The Principal Chief Conservator of Forests,
Meghalaya, Lower Lachumiere,
East Khasi Hills, Shillong-793001,
Meghalaya.
4. The State of Assam,
through the Secretary to the
Government of Assam,
Department of Forest,
Dispur, Guwahati-6.
- ✗ 5. Shri G.C. Das Choudhury, I.F.S.
Divisional Forest Officer, Wild Life
Khasi Hills Division,
Shillong, Meghalaya.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH
THE APPLICATION IS MADE :

The application is directed against the following orders :

- (i) Notification No. FOR.86/94/128 dated Shillong the 24th August 1995 issued by the Principal Secretary to the Government of Meghalaya, Forests and Environment Department transferring the applicant from the post of Planning Officer (Forest), Meghalaya, Shillong and placing him at the disposal of the Government of India, Ministry of Environment and Forests, on deputation for appointment as Lecturer, State Forest Service College, Byrnihat with effect from the date of having over charge vice Shri G.C. Das Choudhury, I.F.S. Divisional Forest Officer, Wild Life, Khasi Hills Division, Shillong giving him the dual charge to function as Planning Officer, (Forest) Meghalaya in addition to his own duties.
- (ii) Order vide Memo No. MPG.57-A dated 2nd September 1995 passed by the Principal Chief Conservator of Forests, Meghalaya, Shillong rejecting the representation of the applicant against the order of his transfer and directing him to hand over charge of the post of Planning Officer (Forest) Meghalaya to Shri G.C. Das Choudhury, Divisional Forest Officer, Wild Life, Khasi Hills Division on or before 1600 hours on 2nd September 1995 making it clear that on the applicant's failure to do so, he shall be deemed to have been released of the charges of the Planning Officer (Forest) on the date and time specified.

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2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

3. LIMITATION :

That the applicant further declares that the instant case is being filed under extra-ordinary circumstances as the representation filed by the applicant against the order of his transfer has been rejected by the Government of Meghalaya vide its memorandum dated 2nd September 1995 and till ~~xx~~ this very date, the applicant has not handed over the charge to Shri G.C. Das, Choudhury D.F.O. Wold Life, Khasi Hills Division, Meghalaya, Shillong. Hence it is stated that the instant application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

That the ~~xxx~~ applicant in the instant case is aggrieved by the impugned order of his transfer ~~xxx~~ issued vide Memo No. FOR.86/94/128-B dated 24.8.95 pursuant to which his transfer from the post of Planning Officer (Forest) Meghalaya, Shillong and he has been placed at the disposal of the Government of India, Ministry of Forest and Environment on deputation for appointment as Lecturer, State Forest Service College, Byrnihat. It is

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stated that the applicant's representation against the said order of his transfer has already been rejected in vide order dated 2nd Sept. 1995 passed by the Principal Chief Conservator of Forests, Meghalaya, Shillong. The basic grievance of the applicant against the order is that the impugned order of transfer has been passed in violation of the mandatory provisions of law and the same is also not in conformity with the executive instructions and guidelines issued from time to time.

The aforesaid is the crux of the subject matter of the instant case. The applicant now places the facts of the case in seriatim.

4.2 That the applicant is an I.F.S. Officer who belongs to 1983 Indian Forest Service batch of Assam Meghalaya Cadre. Since his recruitment to the I.F.S., the applicant has served in various capacities in different stations. He served as Agricultural Extension Officer in Dambo-Rongjong Development Block in East Garo Hills District, Meghalaya for one and half year and implemented SFDA, IRDP and CD Scheme for Garo Tribal people. The applicant also served as Assistant Conservator of Forest In-charge of both Territorial and Social Forestry Range in East Garo Hills District. The applicant's total tenure as Assistant Conservator of Forest was about two years and one month. It is pertinent to mention here that the applicant belongs to the Garo tribal community which is a Scheduled Tribe. The applicant is among the only two

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Garo tribal community officers belonging to I.F.S. through out the country. Both these two Garo officers including this applicant are presently posted in Meghalaya - a state where there is a large population of Garo people. It is also pertinent to mention that on previous occasions when the demand was made by the Central Government to send on deputation one of the Garo officers belonging to I.F.S. from the State of Meghalaya to outside the State of Meghalaya, the State of Meghalaya objected to such a proposal on the ground that the Garo community in the State of Meghalaya is not properly represented and since there are only two Garo officers belonging to I.F.S. in the State of Meghalaya, it would only be in the fitness of things that they be allowed to look after the welfare of the Garo people.

4.3 That prior to the impugned order of transfer the applicant was transferred and posted as Officer-on-Special Duty, Social Forestry and Environment Department, Meghalaya, from the post of Divisional Forest Officer Garo Hills Division, Tura. The applicant had taken over charge of the post on 21.7.94. The aforesaid order of applicant's transfer was passed on 22.6.94 vide Notification No.FOR.140/91/104.

Copy of the order of transfer dated 22.6.94 is annexed hereto and marked as ANNEXURE-1.

4.4 That however soon thereafter within a period of six months, the respondent No. 2 transferred and posted

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the applicant as Planning Officer (Forest) Meghalaya, Shillong from the post of the Officer-in-Special Duty Social Forestry and Environment, Meghalaya. Pursuant to this order of transfer, the applicant took over charge of the new post on 10.1.95.

4.5 That before the applicant could properly settled in the post of Planning Officer (Forest), Meghalaya, the respondent No. 2 once again within a period of 8 months transferred the applicant on deputation to the Ministry of Environment and Forest, Government of India for appointment as Lecturer in the State Forest Service College, Bymihat vice Shri G.C. Das Choudhury, I.F.S. Divisional Forest Officer, Wild Life, Khasi Hills Division, Shillong who was also allowed to hold the dual charge of Planning Officer (Forests) Meghalaya, Shillong in addition to his own duties. The aforesaid order of transfer was passed by the respondent No. 2 vide Notification No. FOR.86/94/128 dated 24.8.95.

Copy of the impugned order of transfer dated 24.8.95 is annexed hereto and marked as

ANNEXURE-2.

4.6 That it is, therefore, seen that this applicant within a period of fourteen months was transferred on three different occasions. The aforesaid orders of transfer came in quick succession and totally disrupted the family life of this applicant. Apparently neither of these orders

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of transfer ~~xxxx~~ were in public interest. These orders were passed hastily primarily for the purpose of making certain adjustment to the whim and caprice of the competent authority. Being thus aggrieved by the three orders of transfer within a period of 14 months, the applicant submitted a representation dated 25th August 1995 to the respondent No. 2 wherein he raised various legal grounds challenging the order of his transfer.

Copy of the representation dated 25.8.95 is annexed hereto and marked as ANNEXURE-3.

4.7 That within a week of filing his representation the applicant fell ill and he went on sick leave from 2nd September 1995 to 29.9.95. It is stated that during this period, the applicant was also hospitalised and he was operated upon. It is stated that Shri G. C. Das Choudhury, I.F.S. Divisional Forest Officer, ~~Kaxing~~ Wild Life, Khasi Hills Division, Shillong took over the charge suo moto of the post of Planning Officer (Forests) Meghalaya. on 2.9.95.

4.8 That as stated earlier the applicant was sick from 2.9.95 to 29.9.95, therefore it was only on 27.9.95, that he received the order of the respondent No. 2 vide Memo No.MBG.57-A dated 2.9.95 wherein the applicant's representation against his deputation to the Govt. of India was rejected and he was directed to hand over charge of the post of Planning Officer (Forests), Meghalaya to Shri G.C. Das Choudhury, I.F.S. Divisional Forest Officer,

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Wild Life, Khasi Hills Division on or before 1600 hours on 2.9.95. It was made clear in the said order that on failing to do so the applicant shall be deemed to have been relieved of the charge of Planning Officer (Forests) Meghalaya, Shillong on the date and time specified.

Copy of the order dated 2.9.95 is annexed herewith and marked as ANNEXURE-4.

4.9 That the decision of the Government of Meghalaya to send this applicant on deputation to the Central Government evoked sharp reaction from the Garo tribal community of Meghalaya and led to wide spread resentment among the Garo people. It was under these circumstances, that ~~the~~ a section of Garo people filed Title Suit No. 27(H) of 1995 in the Court of the learned Munsiff at Shillong wherein the order of applicant's transfer on deputation to the Central Government was challenged in the form of public interest petition. In the aforesaid Title Suit, an injunction petition was also filed which was registered as Misc. Case No. 28(H) of 1995 wherein the prayer was made for ~~an~~ immediate stay of the order of applicant's transfer on deputation to the Central Govt. In the aforesaid Misc. Case No. 28(H)/95, in Title Suit No. 27(H)/95, the learned Munsiff passed an order dated 28.9.95 asking the respondents to maintain status quo as on 24.8.95 with further direction not to do anything that may adversely affect the interest of this applicant till final disposal of the petition.

Subsequently vide order dated 1.11.95, the learned Munsiff revoked the order of status quo dated

28.9.95 and disposed of the Misc. Case with the direction that the petition be returned to the petitioner so as to enable him to present or file the same before an appropriate Court having competent jurisdiction in the matter.

A copy of the order dated 1.11.95 is annexed hereto and marked as ANNEXURE-5.

4.10 That however on 1.11.95 itself, the section of Garo people who had filed the Title Suit 27(H)/95, moved a petition before the learned Munsiff wherein the prayer was made to stay the operation of the earlier order of the learned Munsiff dated 1.11.95 for a period of thirty days with effect from 1.11.95 so as to enable the petitioners to prefer an appeal or revision petition against the order. The learned Munsiff allowed the prayer and stayed the operation of the order dated 1.11.95 for a period of 30 days from 1.11.95 upto 30.11.95.

A copy of the order dated 1.11.95, staying the operation of the earlier order dated 1.11.95 for a period of 30 days, is annexed herewith and marked as ANNEXURE-6.

4.11 That as a result of the order of the learned Munsiff staying the operation of the order dated 1.11.95 for a period of 30 days the situation now is that the applicant is still holding the post of Planning Officer (Forests) Meghalaya, Shillong and in all legal sense till now the order sending him on deputation to the

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Central Government has not come into force.

4.12 That the applicant states that the case of the applicant is governed and regulated by the Indian Forest Service (Cadre) Rules, 1966 (hereinafter referred to as the 'Rules of 1966'). Rule 6 of the Rules of 1966 provides for deputation of cadre officer for serving in the Central Government or any other State Government or under a Company, Association or Body of Individual, whether incorporated or not which is wholly or substantially or controlled by the Central Government or by any State Government with concurrence of the State Government or the State Government concerned and the Central Government. The applicant craves leave of this Hon'ble Tribunal to quote hereinbelow the rules 6 of the Rules of 1966 :

"Rule 6 - Deputation of cadre officers -

(1) A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government be deputed for service under the Central Government or another State Government be deputed for service under the Central Government or another State Government or under a Company, association or body of individuals, whether incorporated or not which is wholly or substantially owned or controlled by the Central Government or by another State Government.

(2) A cadre officer may also be deputed for service under -

(i) a company association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State

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Government a municipal corporation or a local body by the State Government on whose cadre he is borne ; and

(ii) an international organisation, an autonomous body not controlled by the Government or a private body, by the Central Government in consultation with the State Government on whose cadre he is borne ;

Provided that no cadre officer shall be deputed to any organisation or body of the type referred to in item (ii) except with his consent ;

Provided further that no cadre officer shall be deputed under sub rule (1) or sub rule (2) to a post carrying a prescribed pay which is less than or a pay scale, the maximum of which is less than, the basic pay he would have drawn in the cadre post but for his deputation."

4.13 That the applicant states that Rule 6 of the Rules of 1966 is the enabling rule for sending the cadre officers on deputation. But no guidelines have been provided as to who are the officers and for what period they can be sent on deputation. Accordingly, the Government of India issued office memorandum dated 14.12.83, 1.12.88 ~~xxx~~ and 11.4.91 giving instructions and guidelines in the matter of sending cadre officers on deputation. The applicant further states that the aforesaid office memoranda being in the nature of administration instructions are supplementary to the provisions of Rule 6 of Rules 1966 and as such, the aforesaid office memoranda are law specifying the principles ~~of~~ on the basis of which the

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question of ~~leave~~ deputation of officers should be determined. The applicant craves leave of this Hon'ble Tribunal to produce the copies of the office memoranda dated 14.12.83, 1.12.88 ~~xx~~ and 11.4.91 at the time of hearing of the instant case.

4.14 That the applicant states that the respondent No. 2 acted illegally and in violation of the mandatory provisions of Rule 6 of the Rules of 1966 while deputing the applicant without having concurrence of the ^{Central Govt. and the} State of Assam and the applicant belongs to Assam Meghalaya Cadre of Indian Forest Service. The applicant further states that the respondent No. 2 did not obtain prior concurrence of the State of Assam while deputing the applicant to the Central Government. Therefore, the impugned order of transfer is not only violative of the basic principles on the basis of which an officer is deputed either to the Central Government or to other State Government ; but also violative of Rule 6 of the Sub-Rule 1 of Rules of 1966.

4.15 That the practice which is followed by the concerned State Government prior to exercise of power to send cadre on deputation have been - Notice/Circular of a vacant deputation post seeking option/willingness and the application from interested cadre officer recommendation and forwarding of application etc. by the State Government concerned, empanelment, offer of appointment by the borrowing authority, release of the cadre officer i.e. the final option/consent. However, in the case of this applicant, neither all these formalities

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were carried out, nor consent of this applicant was taken prior to sending him on deputation to the Central Government. As no consent was taken, there was no willingness either. No notice was given to him prior to such an exercise of power. Suffice to it to state that the impugned order of transfer, the applicant on deputation to the Central Government was passed suo moto by the State of Meghalaya in contravention to the established practice and procedure which has been followed so long ~~under~~ in case of all other cadre officers of the State of Meghalaya.

4.16 That in the recent past, the following cadre officers have been considered for deputation post under the Government of India viz. (i) Shri R.O.L. Nongbry, (ii) Shri S.M. Sahay, (iii) Shri R. Popli etc. In all these cases, the established practice and procedure was strictly followed while taking ~~in~~ decision to send these cadre officers on deputation to the Central Government. It is pertinent to mention that the respondent No. 2 refused to send Shri S.M. Sahay and Shri R. Popli though the borrowing authorities have sought for their services. The respondent No. 2 refused to send these officers on the ground that Meghalaya being under-staffed of IFS cadre. For similar reason Shri R.O.L. Nongbry was prematurely sent to parent cadre and when the Central Government sought for the services of Shri T.T.C. Marak, I.F.S. the Respondent No. 2 refused to release him for similar reason coupled with the reason that the Garo S.T. community is under represented in the Forest Department of Meghalaya. However, in case of this applicant, the borrowing authority

at no point of time made a prayer for requiring his services, no notice was sent to him that he might be sent on deputation, no willingness was sought for and as such none was given and the State of Meghalaya acted suo moto ~~improvisely~~ in a partisan manner while sending this applicant on deputation to the Central Government. It is stated that while sending this applicant on deputation he was discriminated against and was not treated at par with the officers as named above. The applicant was selected in pick and chose manner for the purpose of sending him on deputation in violation of the mandatory provisions of law and in contravention of the established practice and procedure.

4.17 That there is an office memorandum of the Government of Meghalaya, Department of Personnel that the concerned officers should be retained atleast for the period of three years in the station of his posting. The idea underlined in the said memorandum is to ensure that the officers are not frequently disturbed and to allow atleast some minimum time to remain at a particular place of posting. However, in the case of the applicant, transferring him thrice in a period of fourteen months. In the instant case also he was allowed to work as Planning Officer (Forests), Meghalaya only for the period of 8 months and thereafter was sent on deputation to State Forest Service College, Bymihat. It is thus stated that the impugned order of applicant's transfer is in violation of the office memorandum No.PER.58/85/4 dated 1.7.85.

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India in regard to tribal population followed by the Government.

The applicant craves leave of this Hon'ble Tribunal to produce the copies of the said memoranda at the time of hearing of the instant case.

4.19 That it is stated that Shri G.C. Das Choudhury I.F.S., Divisional Forest Officer, Wild Life, Khasi Hills Division, Shillong is presently functioning in a deul capacity as Planning Officer (Forests) Meghalaya also and in addition to his own duties. He is also performing the duties of this applicant in the said post. It is pertinent to mention that pursuant to the order of the learned Munsiff for all intent and purpose, this applicant is still a Planning Officer (Forests), Meghalaya Shillong, therefore, when on 5.10.95, he submitted his joining report after expiry of sick leave to the Principal Chief Conservator of Forests, Government of Meghalaya, the latter refused to accept the joining report and directed him to submit the same to his place of posting at the State Forest Service College, Bymihat ^{though} ~~because~~ he is still the Planning Officer (Forests), Meghalaya, Shillong.

4.20 That the instant case is a fit case wherein this Hon'ble Tribunal may be pleased to pass an interim order staying the operation of the impugned order of applicant's transfer dated 24.8.95 inasmuch as Shri G.C. Das Choudhury, I.F.S. is presently holding the deul

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C.P. Manick

charge of both Planning Officer (Forests) Meghalaya and also that of Divisional Forest Officer, Wild Life, Khasi Hills Division, Shillong. Therefore, the interim order if passed by this Hon'ble Tribunal would not in any way adversely affect the interest of Shri G.C. Das Choudhury and also would not cause any administrative inconvenience to the Government of Meghalaya. Moreover as the order of the learned Munsiff dated 1.11.95 is still in operation. It may ^{not} ~~not~~ be held that the applicant has ceased to function as Planning Officer (Forests) Meghalaya, Shillong. It is, therefore, in the fitness of things that this Hon'ble Tribunal may be pleased to stay the operation of the applicant's order of transfer.

4.21 That the impugned order of applicant's transfer dated 24.8.95 has not served the cause of public interest and it also cannot be said that ~~the~~ it has been passed in the exigencies of service. From the facts and circumstances of the case, it is seen that the impugned order of applicant's transfer has only created wide spread resentment among the Garok Tribal people and caused unnecessary administrative inconvenience. From the facts, it is apparent that the applicant was bundled out from the post of Planning Officer (Forests) Meghalaya unceremoniously without any sound and cogent reason. The respondent No. 2 was in such a great haste for transferring the applicant that he found it almost impossible to complete all these formalities and necessary legal

Contd...P/18.

requirements which must be adhered to while sending on deputation the IFS cadre officer. It is thus stated that the impugned order of applicant's transfer has been passed malafide in a colourable exercise of power.

4.22 That the applicant files this application bonafide and to secure the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the impugned order of applicant's transfer has been passed in violation of mandatory provisions of Indian Forest Service Cadre Rules, 1966.

5.2 For that the concurrence of the ^{Central Govt. and the} Joint Cadre Authority, which in the instant case, is the State of Assam is a sine qua non for sending the I.F.S. officer on deputation to Central Government. However in case of the applicant no concurrence of the ^{Central Govt. and the} Joint Cadre Authority was taken and as such, the impugned order of his transfer is not sustainable in law.

5.3 For that the established practice and procedure which are adhered to while sending I.F.S. officer on deputation to the Central Government were not completed in case of the applicant. Neither the borrowing authority made a prayer for utilising the services of the applicant nor for that matter any such willingness was given of the consent of this applicant was obtained for sending him on deputation to the Central Government. The impugned order of applicant's transfer is therefore in contravention of the established practice and procedure and as such not tenable in law.

5.4 For that the respondent No. 2 acted discriminatorily and arbitrarily in sending this applicant on deputation to Central Government. In case of few IFS officers posted in the State of Meghalaya even despite the request of the Central Government, the said officers were not transferred on certain spacious grounds. However, this applicant was discriminated against and was sent on deputation in violation of established practice and procedure in suo moto exercise of power by the respondent No.2. The action of the respondent No. 2, therefore, violated the equality clause enshrined in Article 14 of the Constitution of India.

5.5 For that the impugned order of applicant's transfer is in violation of the office memorandum No. PER.58/85/4 dated 1.7.95 which lays down that the normal period of posting in case of an officer is three years. As in the instant case, the applicant has been transferred even 8 months of his earlier posting and in all total he has been transferred three times within a period of 14 months, therefore, the impugned order of his transfer is in contravention of the said memorandum and thus not sustainable in law.

5.6 For that the impugned order of applicant's transfer is contrary to the tribal welfare policy of both the Government of India as well as of the State of Meghalaya and as such, it is not sustainable in law.

5.7 For that the transfer of the applicant has been carried out not in any public interest or due to any exigencies of service and it neither serves the cause of public service nor that of the Government service. In sharp contrast, it has generated a wide spread resentment among the Garo people of the state of Meghalaya and has resulted in irreparable damaging the ~~public~~ cause of public interest.

5.8 For that the impugned order of applicant's transfer is contrary to the established principles of service jurisprudence and is liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that there is no other alternative remedy available and the remedy sought for herein when granted would be just, adequate and proper.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before ~~any~~ this Hon'ble Tribunal. However, a certain section of Garo people had filed a Title Suit in the nature of public interest before the learned Munsiff. Even the said Title Suit has also been disposed of. So at present there is no suit pending before any other Court of law.

Contd...P/22.

8. RELIEFS SOUGHT :

Under the facts and circumstances, the applicant prays for the following reliefs :

- 2.9.95
- 8.1 Set aside and quash the order of applicant's transfer vide notification No.FOR. 86/94/128 dated 24.8.95 ;
- 8.2 Set aside and quash the order of the Principal Conservator of Forests, Meghalaya vide No.MFG. 57-A dated 28.9.95 ;
- 8.3 Pass any other ~~xxx~~ or further order or orders as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.
- 8.4 Award cost of the application to the applicant.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, be further pleased to stay the operation of the impugned order of applicant's transfer vide notification No.FOR.86/94/128 dated 24.8.95 and direct the respondents to allow this applicant to continue functioning in the post of Planning Officer (Forests), Meghalaya, Shillong.

10.....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 8 09 344755
(ii) Date : 21.11.95
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

V E R I F I C A T I O N

I, Mr. Cavouright P. Marak, I.F.S. Assam Meghalaya Cadre, son of Mr. Shubindra D. Sangma, aged about 29 years, the applicant in the instant original application, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts. .

And I sign this verification on this the 20th day of November 1995 at Guwahati.

Cavouright P. Marak

GOVERNMENT OF MEGHALAYA
FOREST & ENVIRONMENT DEPARTMENT

ORDERS BY THE GOVERNOR

NO.FOR.

NOTIFICATION

Dated Shillong, the 22nd June, 1994.

NO.FOR. 140/91/104- In the interest of public service, Shri C.P. Marak, IFS, Divisional Forest Officer, Garo Hills Division, Tura is transferred and posted as Officer on Special Duty (SF) attached to Chief Conservator of Forests, (SF&E) 's office Meghalaya, Shillong with effect from the date of taking over charge and until further orders.

NO.FOR. 140/91/104-A - Shri R. Popli, IFS, Officer on Special Duty, (SF) attached to Chief Conservator of Forests (SF & E) 's office Meghalaya, Shillong is transferred and posted as Divisional Forest Officer, Garo Hills Division, Tura with effect from the date of taking over charge and until further orders vice Shri C.P. Marak.

NO.FOR. 140/91/104-B - In the interest of public service, Shri R. Shullai, IFS, Working Plan Officer, Meghalaya, Shillong is transferred and posted as Divisional Forest Officer, Jaintia Hills Division, Jowai with effect from the date of taking over charge and until further orders vice Shri B.K. Lyngwa.

NO.FOR. 140/91/104-C- On relief, Shri B.K. Lyngwa, IFS, Divisional Forest Officer, Jaintia Hills Division, Jowai is transferred and posted as Working Plan Officer, Meghalaya, Shillong with effect from the date of taking over charge and until further orders vice Shri R. Shullai.

6d/- B. Chinkhanthang,
Commer. & Secretary to the Govt. of Meghalaya,
Forest & Environment Department

...

Contd...2/-

Handwritten signature

Memo NO.FOR. 140/91/104-U

Dt.Shillong, the 22nd

June, 1994.

Copy forwarded to :-

1. The Accountant General, accounts/audit, Meghalaya, Shillong.
2. The Principal Chief Conservator of Forests/Chief Conservators of Forests/Conservators of Forests/Divisional Forest Officers Concerned.
Sam Hill, Secy. Tura.
3. Shri R. Shullai, IFS, working Plan Officer, Meghalaya, Shillong.
4. Shri C.P. Morak, IFS, Divisional Forest Officer, Garo Hills Division Tura.
5. Shri U.K. Lyngda, IFS, Divisional Forest Officer, Jaintia Hills Division, Jowai.
6. Shri R. Popli, IFS, Officer on Special Duty, (SF) attached to Chief Conservator of Forests (SF&E) office Meghalaya, Shillong.
7. The Director, Printing & Stationery, Meghalaya, Shillong for publication in the Gazette.
8. Private Secretary to Minister Forest for favour of information of Minister.
9. Personal File.
10. Guard file.

By order etc.,

*B. S. Hill*Under Secretary to the Govt. of Meghalaya,
Forest - Environment Department.

....

21

ORDERS BY THE GOVERNMENT
M. P. I. F. I. C. A. T. I. O. N

Dated Shillong, the 24th. Aug., 1995.

NO. FOR. 86/94/128 - The services of Shri C.P. Marak, IFS, (PS-1983) Planning Officer (Forest) Meghalaya, Shillong are placed at the disposal of Government of India, Ministry of Environment and Forest on deputation for appointment as Lecturer, State Forest Service College, Byrnihat with effect from the date of handing over-charge.

NO. FOR. 86/94/128-A - Shri G.C. Das Choudhury, IFS, (SFS-1983) Divisional Forest Officer, Wildlife, Khasi Hills Division, Shillong shall also function as Planning Officer (Forest) Meghalaya, Shillong in addition to his own duties vice Shri C.P. Marak, IFS, released on deputation.

sd/- J.P. Singh,
Principal Secretary to the Govt. of Meghalaya,
Forests and Environment Department.

Memo No. FOR. 86/94/128-B, Dated Shillong, the 24th. August, 1995.

Copy forwarded to :-

1. The Accountant General (Accounts/Audits), Meghalaya, Shillong.
2. Shri A.K. Goyal, Deputy Secretary to the Govt. of India, Ministry of Environment & Forests, Paryawaran Bhavan, C.G.O. Complex, Lodi Road, New Delhi with reference to their message No. 12026/5/95-IFS-I dt. 16.3.95.
3. The Principal Chief Conservator of Forests, Meghalaya, Shillong. He is requested to release Shri C.P. Marak, IFS, immediately.
4. The Principal State Forests Service College, Byrnihat for information and necessary action.
5. The Chief Conservator of Forests (Research, Training & Wild Life/Conservator of Forests (Hq), Meghalaya, Shillong.
6. Private Secretary to Minister, Forests for favour of information of the Minister.

contd... 2/-

Handwritten signature/initials

57
7
Shri C.P. Marak, IFS, Planning Officer (Forests) Meghalaya, Shillong. He is to hand over charge to Shri G.C. Das Choudhury and report for duty immediately to Principal, State Forests Service College, Byrnihat.

8. Shri G.C. Das Choudhury, IFS, Divisional Forests Officer, (Wildlife) Khasi Hills, Shillong for information and necessary action.
9. The Secretary, Joint Cadre Association and Commissioner and Secretary to the Govt. of Assam, Personnel (A) Department, Dispur, Guwahati, Assam.
10. Commissioner and Secretary to the Govt. of Assam, Forests Department, Dispur, Guwahati, Assam.
11. The Principal Chief Conservator of Forests, Assam Rehabari, Guwahati - B.
12. Personnel and A.R. (A) Department.
13. The Director, Printing & Stationery, Meghalaya, Shillong for publication in the Gazette.
14. Personal file of Officer concerned.
15. Guard file.

By orders, etc.,

[Signature]
Under Secretary to the Govt. of Meghalaya,
Forests and Environment Department

To,
The Principal Secretary to the Govt of
Meghalaya,
Forests and Environment Department.

Through,

The Proper Channel.

Subj:- A representation for removal of injury caused by the Meghalaya Govt's orders on deputation in respect of Shri. C.P. Marak, IFS Planning Officer(Forest) Meghalaya to the S.F.S. College Byrnihat for appointment as a Lecturer.

Ref :- Memo No. FOR.86/94/128 - B, Dt. 24. 8. 95

Sir,

Respectfully, I beg to state as follows :-

1. That vide impugned notification/orders under reference, The Govt of Meghalaya in the Forest & Environment Dept have transferred on deputation, Shri C.P. Marak, IFS to the Govt of India, Ministry of Environment & Forests for appointment as a Lecturer in the S.F.S. College, Byrnihat.
2. That the impugned orders have injured the legal rights of Shri C.P. Marak, IFS as follows, inter alia :
 - (a) Public interest is not served.

The impugned orders have not been issued in the interest of public service. There is no mention of public interest in the orders. Therefore the orders is malicio in law.

Handwritten signature
Byrnihat

(b) Harassment by frequent transfer.

The Govt have transferred and posted Shri C.P. Marak, IFS as Officer on Special Duty (SF & E) from the post of the D.F.O., Garo Hills Division, Tura. Shri C.P. Marak, IFS took charge of O.S.D. (SF & E) on 21. 7. 94.

Thereafter, the Govt have transferred and posted him as a Planning Officer (Forest) Meghalaya within 6 months. He took charge on 10.1. 95

Again, within a brief span of 8 months, the Govt issued the impugned orders of transfer on deputation like a thunderclap.

The Govt have vested a right to 3 year tenure posting in a transferable post to its employees or servants. Shri. C.P. Marak, IFS being a Govt servant possesses this right. The impugned orders have offended the tenure posting right, and have subjected to frequent transfer harassment as if Shri C.P. Marak, IFS is not a citizen of India and as if he is a badminton shuttle cock.

(c) Shortage of IFS officers in Meghalaya.

To fill up the vacant Cadre posts, the Govt of Meghalaya have asked for the services of Shri. C. Thangliana, IFS and Shri B.B. Dhar, IFS from the Govt of Assam. By this Act of the Govt of Meghalaya it proves beyond any shadow of doubt that Meghalaya is not in a position to spare the services of any of her IFS officer to go on deputation.

The impugned orders defies logic. It appears to be an irrational and an arbitrary act.

(d) Violation of principles of natural justice.

The procedure/normal practise followed for sending the IFS officers on deputation have been - Circulation of notice of deputation posts, option, forwarding of application and offer of appointment.

Accordingly, Shri R.G.L. Nongbri, Shri S. Ashutosh, Shri R.Popli, Shri S.M.Sahal and others have received notice, gave option, application forwarded, offer received clearly spelling out the terms and conditions of deputation and then only sent on deputation. In the case of Shri R.Popli and Shri S.M.Sahal though they themselves have applied for the deputation post and have been offered for deputation, yet the Govt of Meghalaya have not released them to the Govt of India due to shortage of IFS officers in the State.

The Govt have deviated from the procedure/normal practise in the case of Shri C.P. Marak, IFS. The Govt have denied notice etc to Shri C.P. Marak, IFS to exercise the right conferred by the procedure/normal practise in the matter of deputation.

The impugned notification/orders have violated the principles of natural justice applicable also to executive action involving civil consequences.

(e) Breach of Fundamental Right to Equality.

Whereas similarly situated IFS officers as named in para 2(d) have enjoyed equality of treatment from the Govt in the matter of procedural safeguards for deputation. But the impugned orders have singularly targetted and discriminated against Shri C.P. Marak, IFS as if he is an untouchable person by denying notice etc. (i.e fulfillment of pre-conditions for deputation).

The impugned orders have breached the highest law of India i.e. Fundamental Right to Equality Art. 14, 15

Attorney General

and 16 of the Constitution of India.

(f) Infringement of Tribal welfare principles.

Whereas the first Prime Minister, Late Pandit Nehru, having developed a deep sympathy for the tribal people, laid down Tribal Panch Sheel and called for its vigorous implementation. In point No. 3, he categorically stated :

We should try to train and build up a team of their own people to do the work of administration and development. Some technical personnel from outside will no doubt, be needed, especially in the beginning. But we should avoid introducing too many outsiders into tribal territory.

There are only two Garo tribal IFS officers in the country i.e. Shri T.T.C. Marak and Shri C.P. Marak and both are serving in the Meghalaya wing of the Assam-Meghalaya Cadre. When the Govt of India had asked for the services of Shri T.T.C. Marak, IFS by name for posting in the Ministry of Env & Forest The Govt of Meghalaya refused to release him on the ground there are only 2 Garo IFS officers in Meghalaya and the community is under-represented in posts under the State Govt.

But in the case of Shri C. P. Marak, IFS the Govt have readily issued transfer orders as contrary to the case of Shri T.T.C. Marak and also in the case of non-Tribal IFS officers viz. Shri R. Popli and Shri S.M. Sahai.

The Impugned orders have exhibited inconsistent approach in the matter of deputation which is arbitrary and done without application of mind, and it has violated the Tribal Panch Sheel which shows that it is clearly an anti-Tribal act and is detrimental to the interest of the tribal people of Meghalaya in general and of Garo community in particular.

officers in placement and posting.

The instruction contained in the GOI, Dept of Per. & Trg., O.M. No. 36011/25/89 - Est.(SCT), Dtd 21.8.1989 are as follows -

Complaints are often received of discrimination against the SCs and STs officials in the matter of posting and placements. In this connection, attention is invited to this Dept's O.M. No. 36026/3/85 - Est.(SCT) Dtd 24.6. 1985,

It is reiterated that in the matter of postings/placements of officers/staff, no discrimination should be shown against those belonging to SC/ST. Complaints in this regard should be given due consideration and should be brought to the notice of the Head of the Department for corrective action, wherever necessary. Senior officers, including Liaison Officers, should keep a close watch to ensure that incidents of harassment of SC/ST officers and discriminatory treatment against them do not occur. Prompt action should be taken against the erring officials responsible for such lapses.

The impugned notification/orders, in the light of reasons adduced in above paras under 2 clearly manifest violation of the instructions of the Govt of India on the matter.

3. That Shri C.P. Marakk, IAS has deviated nasal septum and his throat pains while speaking or singing beyond 10 minutes. These health problems are an impediment to functioning as a Lecturer in the JPS College

*Attny
Ramesh*

Now therefore, I request you to cancel the impugned orders in the best interest of public service, justice and rule of law.

Please communicate the decision taken on this humble representation preferably within a week time from the date of receipt for necessary follow-up action from my end.

Dated Shillong
the 25th Aug.'95

Yours faithfully,

(C.P. Marak, IFS)

Planning Officer,

(Forests)

M. Chala, Shillong

Copy to the Hon'ble Chairman, National Commission for SC/ST for information. A formal complaint will be lodged under Art.338 of the Constitution of India if need arise to seek redressal against deprivation of rights to a Tribal person on this matter contained in the representation.

Planning Officer,

(Forests)

M. Chala, Shillong

GOVERNMENT OF MEGHALAYA
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS : MEGHALAYA
SHILLONG

No.MPG.57 Dated Shillong, September 02, 1995

From : The Principal Chief Conservator
of Forests, Meghalaya, Shillong.

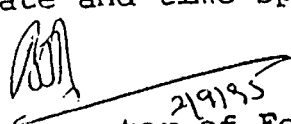
To
Shri C.P. Marak, IFS.,
Planning Officer (Forests),
Meghalaya, Shillong.

Sub : Transfer of Shri C.P. Marak, IFS., on deputation to the
Govt. of India.

Ref : Govt. Notification No.FOR.86/94/128 dated 24th August, '95.

This is to inform you that your representation against your deputation to Govt. of India for posting in the State Forest Service College, Byrnihat, for appointment as Lecturer has not been acceded to by the State Government.

Therefore, you are hereby directed to handover charge of the post of Planning Officer (Forests), Meghalaya, to Shri G.C. Das Choudhury, IFS., Divisional Forest Officer, Khasi Hills Wildlife Division, Shillong, on or before 1600 Hrs on 2nd September, 1995. Failing to do so you shall be deemed to have been relieved of the charge of Planning Officer (Forests), Meghalaya, Shillong, on the date and time specified above.


Principal Chief Conservator of Forests,
Meghalaya, Shillong.

Dated Shillong, September 02, 1995.

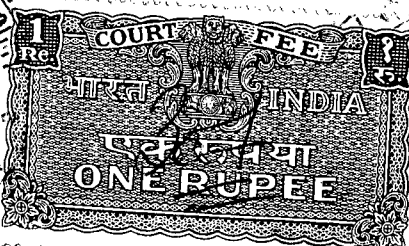
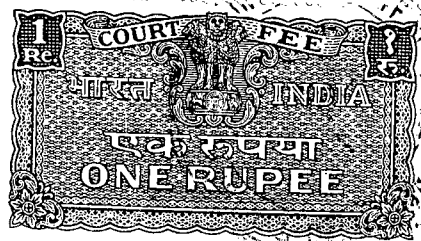
Memo No.MPG.57-A

Copy to :

1. The Principal Secretary to the Govt. of Meghalaya, Forest & Environment Department, with reference to his letter No.FOR.86/94/155 dated 30-8-95 for information.
2. Shri Sunil Kumar, IFS., Conservator of Forests (HQ), Shillong, for his information and necessary action.
3. Shri G.C. Das Choudhury, IFS., Divisional Forest Officer, Khasi Hills Wildlife Division, Shillong - He is directed to take over charge from Shri C.P. Marak, IFS., of the post of Planning Officer (Forests) on or before the date and time specified above. Otherwise, also he should assume charge of the post of Planning Officer (Forests), Meghalaya, immediately after expiry of date and time specified above.
4. The Accountant General (Accounts/Audit), Meghalaya, Shillong.
5. P.S. to Minister of Forests for favour of information of the Minister.
6. The Principal, State Forest Service College, Byrnihat, for information and necessary action.
7. Shri A.K. Goyal, Deputy Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, Lodi Road, New Delhi, for favour of information with reference to their message No. 12026/5/95-IFS-I dated 16-8-95.

Principal Chief Conservator of Forests,
Meghalaya, Shillong.

Date of application for the copy.	Date fixed for notifying the requisite number of Stamps and Folios.	Date of delivery of the requisite Stamps and Folios.	Date on which the copy was ready for delivery	Date of making over the copy to the applicant
3. 11. 95	—	—	6. 11. 95.	6. 11. 95



IN THE COURT OF THE MUNSIEFF AT SHILLONG

MISC. CASE NO. 28 (H) OF 1995

Shri Maljon Sangma

...

...

Petitioner

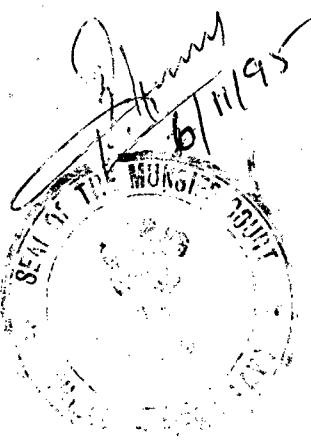
= Versus =

The State of Meghalaya
and others

...

...

Opp. Parties.



Alm...

This is an application u/s
 94 cpe read with Order 39, Rule 1 & 2
 cpe read with section 151 CPC, filed
 by Shri Malyan M. Sangma, Secretary,
 General, All India Union Union,
 Headquarters, Shillong, supported by
 an Affidavit and praying to the
 Court to consider the facts and
 circumstances of the case and to
 grant an Ad-interim Injunction
 restraining the OPs from giving effect
 of the orders of the / giving / protesting /
 deputing of Shri C. P. Marak, IAS,
 Planning Officer (Forests), Meghalaya
 in any manner whatsoever to the
 Govt of India, Ministry of En-
 vironment and Forests as per the
 Govt Notification No. FOR. 86/94/128,
 128-A & B, dated Shillong, the 24th
 August, 1995 and to maintain Status
 Quo as on the 24th August, 1995
 till final disposal of the case and
 from doing any thing that may adver-
 sely affect the interest of the Officer
 and to pass such further orders
 as deem fit and for fees for the
 ends of justice.



This Petition is filed
along with the Little Suit. The
Petitioner also filed another
Petition u/s 80(1) CPC praying
to the court to waive the requirement
of Section 80(1) CPC in the matter
of serving of the required Notice
on the OP as the matter is very
urgent.

The Little Suit and the
Injunction Petition (Misc Case) and
the Petition u/s 80(1) CPC were
filed before this court on
11-9-95 and moved before this
court on the same date by Shri
~~16. B. T. Ray~~ T. Ray Singh, Advocate,
assisted by Shri 16. B. Paul,
Advocate for the Plaintiff / Petitioner.

After the argu from the
learned counsels for the Petitioner/
Plaintiff and on going through the
Petition and the Plea, the court
is satisfied that the matter is
urgent and that the Plaintiff
wants an immediate relief
against the defendants / OPs.



So considering the urgency and immediate nature of the relief sought by the Plaintiff against the defendants, the Petition of the Plaintiff filed u/s 80(1) CPC is considered by this court and the prayer of the Petitioner / Plaintiff for varying the requirement of section 80(1) CPC in the matter of serving the Statutory Notice on the OPs was allowed. ~~to be~~
~~made~~

And in pursuance of the order u/s 80(2) CPC, "leave of the court" was granted to the Plaintiff to institute the instant suit against the defendants / OPs who are the State of Meghalaya and its officials.

Whereafter, the instant suit was registered as Title Suit No. 27 (H) of 1995.

And in view of the order passed by this court in the main Title Suit, that is in T. S. No. 27 (H) of 1995 granting "leave of the court" to institute the suit against the State of Meghalaya and its officials u/s 80(2) CPC and varying of serving the Statutory Notice to the OPs / defendants as required u/s 80(1) CPC, the Aft. Injunction Petition was admitted and allowed to be filed as a Misc. Case. Accordingly the Injunction Petition was registered as Misc. Can. No. 28 (H) of 1995.

Where the Injunction Petition was moved before this court on 11-7-95 by

Shri T. Raj. Lingappa, Advocate, assisted by
Shri B. Paul (Senior Advocate) for and on
behalf of the Petitioner. After viewing the
from the learned counsel for the Petitioner
and on perusal of the Petition, this court
is satisfied that the OPs are the State Govt.
of Meghalaya and its Officials.

But in view of the provision of
30(2) CPC, no urgent or immediate relief
was granted to the Petitioner / Plaintiff,
whether interim or otherwise on the day
when this Injunction Petition was moved.
Because in view of the aforesaid provision
of law, this court is of the view that
no urgent or immediate relief can be
granted by this court to the Petitioner
at the first stage, without first going
to the State Govt. or the Public Officers.

a reasonable opportunity of showing
Cause in respect of the relief prayed for
by the Petitioner / Plaintiff in the Petition
and without showing the Show Cause
from the parties.
So, this court passed an order
on 11-9-95 in this case / Injunction
Petition directing the Petitioner to
issue Notice to the OPs calling upon them
to show Cause if any as to why the
prayer of the Petitioner / Plaintiff should
not be granted and in the mean time



transfer / placing of services of or dispen-
tion of Shri C. P. Marak, IFS, Planning
Officer (Forests), Government of Meghalaya,
Shillong at the disposal of the Govt. of
India, Ministry of Environment & Forests
for appointment as Lecturer in the State
Forest Service College, Bynihat vide the
Notification / Order dated 24-8-95
and subsequent Notification / Order
or any other act made or to be made
should not be deferred / stayed /
suspended or and or as to why
a "Status Quo" shall not be granted
as on 24-8-95 till final disposal
of the Petition / suit filed by the
Plaintiff / Petitioner in the Public
Interest Litigation, fixing 15-9-95
for Show Cause by the OPs.



On 15-9-95, the counsel for the
OPs filed a Petition No. 441/95, praying
for 10 days' time for filing Show
Cause. No Show Cause was filed by
the OPs on 15-9-95. The court allowed
the prayer of the learned counsel for
the OPs. When it was fixed on
28-9-95 for Show Cause by the OPs.

1/95
Went

41

On 28-9-95 the OPs are
present through their counsel about
65 no Show Cause is filed by the OPs.
No Petition also is filed by the OPs
in the fore adj. until on 10th Feb. 1996
that the OPs (OP No. 1 & 2) have not
filed their Show Cause in spite
of reasonable time and opportunity
was given, the court framed an order
on 28-9-95 asking the OPs to
maintain "Status Quo" as on 24th
August, 1995 including the facilities
and other privileges thereto en-
joyed by the Officer and
directed the OPs not to do anything
that may adversely affect the interest
of the said Officer till final disposal
of the Petition, fixing 19-10-95
for Show Cause by the OPs.

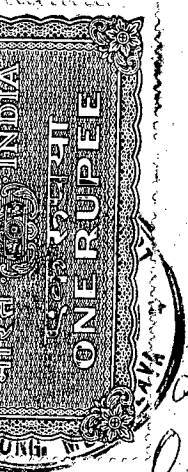
Thereafter the OPs No. 1 & 2 have
filed an Appeal Petition before the
District Judge, Shillong against the
Order dated 28-9-95 passed by the
court. This Appeal Petition was
admitted by the Appellate court
and it was registered as Misc
Civil Appeal No. 10 (H) of 1995. And the

After hearing the parties on the Appeal Petition, the District Judge passed an order on 16-10-95 directing the OPs to file their respective Show Cause either on 19-10-95 or by latest on 25-10-95.

This court also is directed to hear the matter, decide and dispose the matter concerning the Misc. Case by 31-10-95 with the report to the ^{Appellate} Court. This court is also directed by the Appellate Court not to grant adjournment and the date fixed for disposal ~~is to~~ ^{be} strictly complied with. ~~As per~~ ^{As per} direction of the App.

With this order and direction, the case record was sent back to this court by the Appellate Court.

As per the order and direction of the Appellate Court, the OP No. 1 & 2 have filed a joint Show Cause on 19-10-95 but the OP No. 3 and 4 did not file their Show Cause. The copy of the Show Cause of the OP No. 1 & 2 was received by the Petitioner on 19-10-95. Then it was fixed for filing Show Cause by the OP No. 3 & 4.



was filed by the OP No. 3 & 4 on
23-10-95. Thereafter it was fixed
on 25-10-95 for hearing on the Show
Cause of the OP No. 1 & 2.

The Show Cause on injunction
Petition / Misc Case was heard on
25-10-95 and 26-10-95 at length
from the learned counsel for the
Petitioner and the OP No. 1 & 2. On
25-10-95, Shri Subhash Chakrabarty,
Advocate and Central Govt's Standing
Counsel at Shillong was called for.
He was present before the Court on
25-10-95. But he was not present
on 26-10-95 when called for as
he was not available in the Bane
and in and around the Court. So the

OP No. 3 & 4 were not represented by
the CGSC at the time of hearing
of the Show Cause and no submission /
hearing was made for and on
behalf of the OP No. 3 & 4 ~~on 25-10-95~~
and on 26-10-95.

Heard Submission from
Shri G. Bhattacharya, Advocate.



In this submission, the first
contention of the Shri B. B. Hallachgar,
APP is that all powers of the Civil
Court are taken away by the provision
of Section 114 of the Central Adminis-
tration Tribunal Act, 1985.
Referring to the para-12 of the
Shri Cam filed by the OPs, the learned
APP submitted that the All India
Services Act, 1951 provided for
constitution of All India Service ~~and~~
and in pursuance of the provisions
of this Act, (1) The India Service
of Engineers (Immigration & Power,
Buildings, Roads), (2) Indian Forest
Service and (3) Indian Medical and
Health Services were constituted
with effect from the date of notification
by the Central Govt.



The learned APP submitted that
the Indian Forest Service (C.A.B.) Rules
1966, provides that the deputation of Cadet
Officers may with the concurrence of the
State Govt. or the State govt concerned
and the Central Govt, be deputed for service
under the Central Govt. or under State
Govt. or under a Company, association or
body of individuals, whether incorporated

or not, which is wholly or substantially
owned or controlled by the Central Govt
or by any other State Govt."

The learned APP argued that in
view of the provision under Indian Forest
Service (Cadre) Rules, 1966, prior notice
is not required to be served to the com-
mended government servant nor his consent
is required to be obtained ~~from~~ before
transferring the government servant to the
disposal of the Govt. of India. The
learned APP submitted that on many
occasions, Shri C. P. Manna had applied
for central deputation posts.

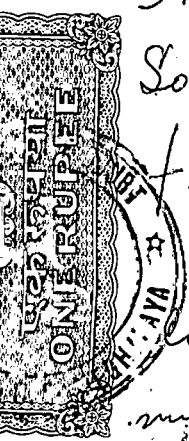
Second contention of the
learned APP is that the Petitioner
has no locus standi to file this case
because the Petitioner is not the
aggrieved party. It is that by the
provision of the Specific Relief Act,
the Petitioner has no personal interest
in the matter. Shri C. P. Manna should
have been made a party to the
suit/case represented by Shri Malje
Sangma and the Petitioner is not
personally involved.

Third contention of the APP
is that this case is bad u/s 80
CPC. No notice was served to the
Union of India, so it is bad in
law.

For this by the learned APP
Shri Subramanian contended that the 10
Petitioners should have taken permission
from the court u/o 1, Rule 8 etc
to file the suit in public interest.
A person who files the suit must
involve his interest, here in this
case it is not the case. The Petitioners
interest is not involved.

The learned APP also contended
that the injunction is to be granted
when there is the existence of 3 (three)
main ingredients. Relying on a case
law reported in GLR, 1982, Volume 1,
Page 793 the learned APP submitted
that Shri C. P. Manak should go to
CAI. The Civil Court has no jurisdiction.
So there cannot be any prima-
facie case.

As regards the balance of
convenience the learned 'APP' sub-
mitted that the balance of convenience
will be more towards the OPs than
towards the Petitioner. In other words
if the injunction is granted restraining
the OPs from transferring / posting
Shri C. P. Manak on deputation, it
will be more in balance in convenience.



Att'd
Dhruv

-48-

to the OPs than to the Petitioner. The APP contended that in this case there is no comparable injury, loss and damage to be caused to the Petitioner.

Referring to the rule on Order 8, and 9 of the Show Cause, the learned APP submitted that Shri C P Marah was released on 24-8-95 and Shri G. C. Das Chandhury assumed charge on 24-8-95, Shri C. P. Marah is responsible for this laches, so no injunction can be granted and no "Status Quo ante" can be passed by this court.

The learned APP relied this submission in a ruling / decision in a case law reported in GLR-1986, volume - 2, page - 83 in "Sushil Das - Petitioner - Vs - State of Tripura & Others - Respondents" wherein the High Court observed that "in granting injunction, the Court can only restore Status quo as on date but cannot establish



a new state of things."

12

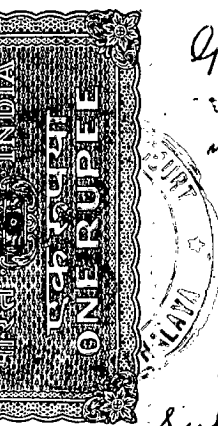
The learned APP also relied on
G.L.R. - 1992, Volume - 2, Page - 331
in "Nurul Amin - Petitioner - Vs -
State of Assam & others - Respondents"

Scope and limit and the court's
power to examine order of transfer.

In this case, the High Court
observed "Court can interfere
with the order of transfer if the
transfer is mala fide or in violation
of the mandatory statutory Rule -
Petitioner has to make definite
allegation of mala fide and wilful
deviation from the same."

He also cited and referred
to another case law reported in
G.L.R. - 1985, Volume - 1, Page - 28
in "Shri Kaloo Jaggi - Vs - Noman
Chandran Barua & others."

Lastly, the learned APP
submitted that the concerned Govt.
servant for whom the Petitioner
has filed this case, is a member
of ~~the~~ Indian Forest Service and the
concerned government servant being



9/5/95
Alston

73 any matter relating to his appointment, transfer and all other matters related thereto lies within the jurisdiction of the Central Administrative Tribunal (CAIT) and therefore, this court has got no jurisdiction to try and entertain the matter. And according to the learned APP, the matter is the subject of Art. 226 of the Constitution. Therefore, the learned APP prayed that the earlier order should be set aside and the case should be dismissed with cost to the answering OPs.

Heard from Shri K. B. Paul, Advocate & counsel for the Petitioner. Shri Paul, counsel for the Petitioner admitted in his submission admitted that Shri C. P. Manohar is a member of the All India Service, that is the Indian Forest Service. But he denied that the employee of the Central Govt or All India Service cadres are not able to the Civil Court.

The learned counsel for the Petitioner submitted that this case is filed by the Secretary, General, All India Q. and A. Union.

and not only. ¹⁴
For the provisions of the Constitution of
All India Garo Union, The Secretary
General of the All India Garo Union
~~submitted~~ is empowered to file
a suit / to sue and be sued
in the interest of the public which
affect the interest of the public in
general and a member of the
Garo Community in particular.

He submitted that this is a
Public interest litigation and not a
representative suit. Therefore, the
contented that the provision of Order
1, Rule 8 CPC does not apply in this
case. And as such no prior permission
of the court is required to file the
Public interest litigation.

In support of this contention
the HC for the Petitioner referred and
cited a case law reported in
AIR (Kerala) - 1994, page -
C. M. Divassy, Petitioner - vs -
State of Kerala, Respondent
The HC for the Petitioner in
this submission clarified that in this
case - on this C. M. Divassy



75 / H.C. for and on behalf of
Shri P. J. Alexander, D.P., Kerala
in Public interest litigation.

The second contention of the
H.C. for the Petitioner is that in this
case, there is no requisition of the
services of Shri C.P. Murali by the
Central Govt. particularly by the
Ministry of Environment & Forests,
Govt. of India and no concurrence
of the Govt. of Assam was given to
the Govt. of Meghalaya. And since
the case is filed by the Secretary
General, All India Garo Khasi,
in public interest litigation, the
court has got the fullest jurisdiction to
entertain this petition and to try the case.



The H.C. for the Petitioner also
cited and referred to a case law
reported in G.L.R. - 1972, page - 334
in "Chargalal Jain, Petitioner - vs -
Gautam Municipal Corporation."

Relying on this case law,
the learned counsel for the Petitioner
contended that the Petitioner has got
the locus standi to file this case.

this is a case of Public interest
litigation. In a Public interest
litigation the aggrieved party
should not be the enemy party.

As regards section 80 CPC, the
learned counsel for the Petitioner submitted
that the Petitioner has filed an application
u/s 80(1) CPC praying to the court for
waiver of the requirement of serving a
statutory notice on the OPs and for
granting this leave of the court to the
petitioner to sue. And the court
has granted the leave of the court to
the petitioner to sue and the serving of
notice as required u/s 80(1) CPC
was allowed to be waived.

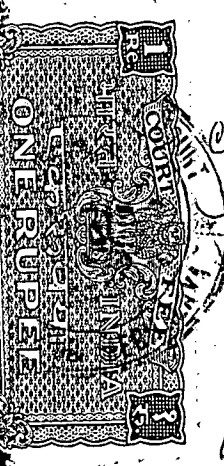
Referring to Rule 6 of IFS which
lays down the provision for concurrence
of the Joint Cadre ~~Department~~ and the
counsel for the Petitioner submitted
that the concurrence of the Govt. of India
and the Govt. of Assam is mandatory.

But in this case there is no concurrence
of the Govt. of India and the Govt. of
Assam. Therefore the ~~disputations~~ ^{transfer} of Shri
C. P. Manali on ~~disputations~~ ^{transfer} is
done with ulterior motive and as such
the transfer is mala fide and illegal.
It is also submitted that the
disputations, ~~from~~ the suggestion of the



7-2 ~~person~~ of the IFS Officers working under the State Govt. of Meghalaya should be made by the borrowing department or the Govt. and the borrowing department should place the terms and conditions of deputation, option should be given to the incumbent concerned and their option and consent must be obtained by the lending department and the appointment should be given / issued by the ^{borrowing} lending department. And as per Rule 11(A) of the IFS Act, 1966, without concurrence of the Joint Cadre and the Govt. of India, no transfer can be done.

2 The learned counsel for the Petitioner submitted that the transfer, posting and deputation of Shri C. P. Mahto is not legally tenable because the prior notice and consent of the Officer was not taken from him before issuance of the impugned order.



In this context, the learned counsel also submitted that there are precedents and examples in Meghalaya that IFS Officers who have opted and willing to go on deputation outside their parent cadre have not been allowed to do so on the plea of shortage of experienced tribal Officers in Meghalaya. Therefore, the L/C

alleged that ~~the~~ transfer of Shri
 C. P. Marale is arbitrary, illegal
 and against the Rules of law
 and natural justice. The learned
 counsel contended that the principle
 of equality before the law or
 equal protection of laws are not
 strictly maintained in the spirit
 of Article 14 of the Constitution of
 India. So it is highly apprehen-
 ded that the OPs may forcibly
 remove Shri C. P. Marale from the post
 of Planning Officer (Forests) and they
 may do anything that may adversely
 affect the interest as well as tribal
 people's interest.



In view of these facts and
 circumstances, the learned counsel for the Petitioner
 prayed that the court to grant
 an injunction against the OPs restraining
 them from giving effect to the order of
 transferring / posting / deputation of Shri
 C. P. Marale IFS to Planning Officer (Forests),
 Mughalaya in any manner whatsoever,
 till the disposal of the main title suit.
 In support of the prayer, the learned counsel also
 referred and cited the ruling / decision

1/10/54

- 55 -

in the law reported in 4LR -
2, 1990, page 30 in "Employers
vs State Insurance Corporation & Appellants
vs Martin & Harrison (Pvt) Ltd,
Respondents."

After a full length submission
from the learned counsel for the
Petitioner and the APP, I have gone
through the rulings / decisions cited
by both parties.

~~Subsequent to the~~

Thus, I have perused,
examined and reviewed the content
of a ruling / decision in a case
law reported in 4LR - 1986, volume - 2,
page 83 in "Sushil Das, Petitioner
vs State of Tripura & Others - Respondents",
cited by the APP. In the same, I find that
the Honorable High Court in this case,
observed that "in granting injunction
the court can only restore status
quo as on date but cannot estab-
lish a new state of things".
I have perused of a case law
reported in 4LR - 1992, volume 2, page
331 cited by the APP in
"Nurul Amin, Petitioner - vs - State
of Assam & Others, Respondents."

I submit that in this case the High Court observed that "Court can interfere with the order of transfer if the transfer is mala fide or in violation of the mandatory statutory provisions - with the Petitioner who to make the defendant's allegation of mala fide and undue deviation from the same."

While going through the rulings / decision cited by Shri K. B. Paul, J.C for the Petitioner of a case law reported in 4th R. 1920, page - 30

~~Employers State Insurance Corporation (E.S.I.)~~, Appellant - Vs - ~~Martin & Harris (Pvt.) Ltd.~~



Martin & Harris (Pvt.) Ltd. Respondent, I find that in this case, it is concerned with the meaning of persons employed in connection with the sale and distribution of the products of the factory within the meaning of Section 2(9) of the Act.

I find that this cited case law is not at all relevant to the facts and circumstances.

In 4th R. 1992, page - 334, Chhagan Lal Jain & others - Petitioners - Vs - Chhagan Lal Jain & others - Municipal Corporation - OP, it is seen that the matter

which decided in the case of 1970 is a mere party. In the case, the relevant decisions are - (i) There must be a right to some relief against such party in respect of the matter involved in the proceeding in question and (ii) it should not be possible to pass an effective decree in the absence of such party. I find that the facts and circumstances of the case are not at all relevant to the instant case.



On going through the content of a case law reported in AIR (Kerala), 1994 in "C.M. Divassy Petitioner - Vs - State of Kerala - Respondent", it is seen that this case is related to a Writ Petition under Article 226 of the Constitution of India, regarding posting of an Sd/- P.J. Alexander on the Kerala Gaud Police, Kerala. At the same time, P.J. Alexander filed an application before the Executive Bench of the Central Administrative Tribunal, Chennai. He sought a direction to post him as DGP.

In this case, the Kerala High Court ~~observed~~ overruled the preliminary objection raised by P. J. Alexander that the public interest Petition filed by one C. M. Narasay seeking to restrain the Govt. from posting Alexander as the ~~to~~ District General of Police was not maintainable.

In this case, the Kerala High Court observed that Alexander being a member of the IPS has to get his grievances regarding his service redressed through the Tribunal. His claim for promotion will certainly fall within the jurisdiction of the Tribunal.



In this case, the Kerala High Court held that "only a person who is seeking a post or holding a post and who is aggrieved by any thing done to him in matters connected with his promotion or other service conditions has the locus standi to approach the Tribunal."

But as regards the approach of Shri C. M. Narasay, the Petitioner before the High Court under Article 226 of the Constitution of India, the Kerala High Court held that

new
to
short

"It cannot be held to be barred"
And it is observed that "the Public
interest litigation before the High
Court involves the rights of the Consti-
tution of India may also ~~involve~~
involve questions that may come within
the purview of the Act and jurisdiction
of the Tribunal. The High Court cannot
decline to exercise its jurisdiction
on that ~~ground~~ ground."

On going through the Petition
and the Plaint, it is seen that the
Plaintiff in para 2 of the Petition
stated that the Petition is filed
by the All India Gano Union, Head-
quarters, Shillong as a matter of
Public interest litigation in a
representation character with a view to
safeguard the real interest of the people
at large and also to protect and
safeguard the small body of tribal
IFS Officers serving in the State of
Meghalaya particularly with a view to
safeguard the real and bonafide
interest of the Gano Union.
Similarly in para 6(ii) of
the Impugned Petition, the
Petitioner stated that "This Union is



inexcusably committed to file this suit /
 Petition on a matter of Public Interest
~~litigation~~ (PIL) before this Court. This
 statement is supported by affidavits from the State and the Petitioner /
 Plaintiff in para - 2 of the Plea and
 para - 6 (ii) of the Petition, supported by affidavits
 nature of the Petition filed by the
 Petitioner / Plaintiff before this Court, it
~~struck~~ struck my mind and roused
 my conscience as to whether this



suit and the Petition filed by the
 Petitioner / Plaintiff is a "representative
 suit" or a Public Interest Litigation.
 If the suit is a "representative
 suit", the Plaintiff / Petitioner should have
 complied with the provision of Order 1,
 Rule 8 CPC as contended by the learned
 A.P.P. On going through the record, I
 find that the Plaintiff has not com-
 plied with the provision of Order 1, Rule
 8 CPC. Therefore, I am of the
 opinion that this suit is not a
 representative suit. And this Misc. Can.
 No. 28 (H) of 1995 entered by me on the
 main suit became this Misc. Can.
 Injunction Petition arose out of the main
 suit, that is T.S. No. 27 (H) of 1995.

And if this Petition is a Public
Intest litigation as stated by the
Petitioner/Plaintiff, this Court has no
jurisdiction in the matter.

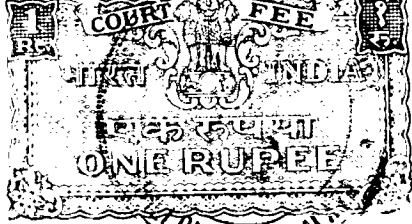
In the absence of any decision
in the matter in question by our High Court,
I am to rely on the decision of
Kerala High Court in the matter as



As reported in NLR (Kerala), 1974 in
C.M. Kerassu, Petitioner - vs - State of
Kerala, Respondent. The contents of which
I have already discussed in the
preceding paras.

From the decision of the Kerala
High Court in the ~~apogized~~ ^{apogized} case law, I am
satisfied and convinced that the
Public Intest litigation can be
filed by the Petitioner ~~at~~ under Article
226 of the Constitution of India ~~only~~
which comes within the writ jurisdiction
of the High Court only.

Therefore, I hold that this
Court has no jurisdiction to entertain
this Petition and to grant relief to the
Petitioner as prayed for by him.
Hence this Injunction Petition
filed in Public Intest litigation
(CPIL) is ~~is~~ rejected. It is



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- 27 -

therefore ordered that the Petitioner be
returned to the Petitioner so as to
enable him to present / file the
Petition / such other Public interest
litigation Petitioner before an ~~competent~~
appropriate Court having competent
jurisdiction in the matter.

Accordingly the Status Quo
order dated 28-7-95 passed by
the Court stands revoked and the
Mere Case of ands disposed of.

1/11/95

1/11/95

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B. S. Mann
6/11/95

Court Clerk & Asst. to D. G.
Shillong

1/11/95

Date of application for the copy	Date fixed for notifying of the requisite number of Stamps and Folios	Date of delivery of the requisite Stamps and Folios	Date on which the copy was ready for delivery	Date of making over the copy to the Applicant.
8-11-95	-	-	9-11-95	10-11-95

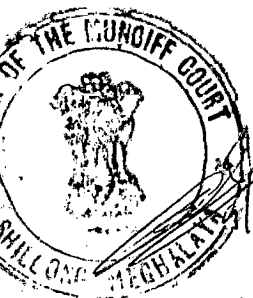
IN THE COURT OF MUNSIFF,
AT SHILLONG.

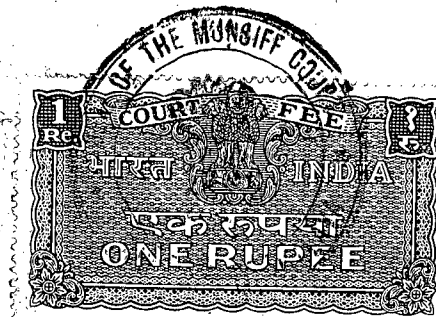
Misc case no 28(CH) 95

Plaintiff - M. M. Sangma

- Versus -

State of Megh





1-11-95. Received and saw a Petition

No. 551/95, dated 1/11/95,
filed by Shri G. Bhattacharya,
APP filed for and on behalf
of the OP, praying to the court to
allow the OP to take a photo
copy of the judgment/ order passed
today, at the cost of the OP.

This Petition is moved before
the court today by Shri G. Bhattacharya,
Chargé, APP.

Prayer of the Petition is
allowed. He may obtain the copy at
his own cost.

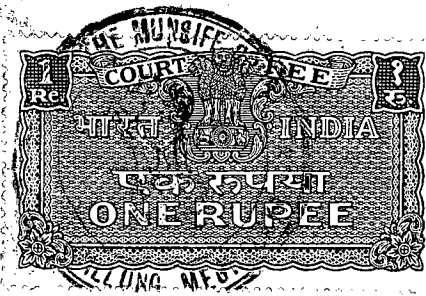
[Signature]



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[Signature]
9/11/95
Sheristadar
Court of Munsiff/Asstt. to D. C.
Shillong

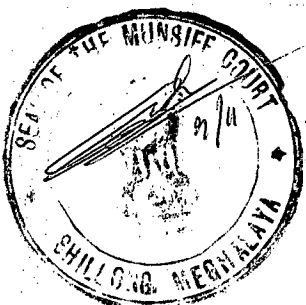
*Attorn
to
Shri G. Bhattacharya*



T.S. No. 27 (14) of 1995.

2-11-95. Both parties are found
absent to day and the court
any step.

In view of my
finding and decision in
Misc Case No. 28 (14) of 1995 and as
per order dated 1-11-95 passed
by this court in the said
case, I ~~find~~ ^{hold} that this ~~suit~~
court has no jurisdiction



Attended
9/11/95
M. M. M.



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to try this suit, under the Plaintiff's
present charge. However, it is hereby
ordered that the Plaint of
this suit be returned to
the Plaintiff so as to enable
him to present / file this
Plaint & before an appro-
priate court having competent
jurisdiction in the matter.

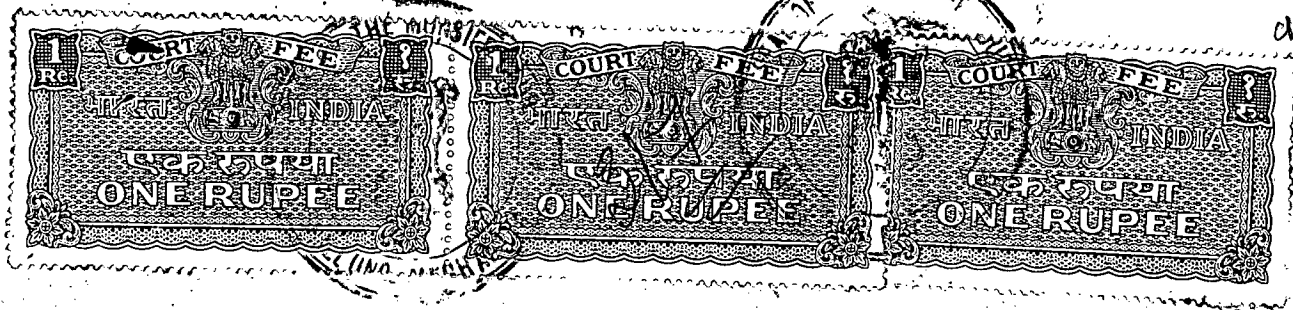
Accordingly this suit
stands disposed of



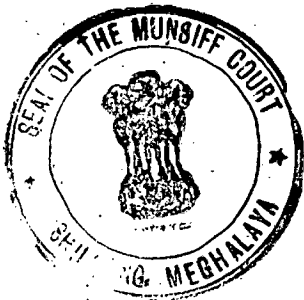
CERTIFIED TO BE TRUE COPY

Julius Stah
9/11/95
Sheristadar
Court of Munsiff/Asstt. to D. C.,
Shillong

*Atty
N. S. S.*



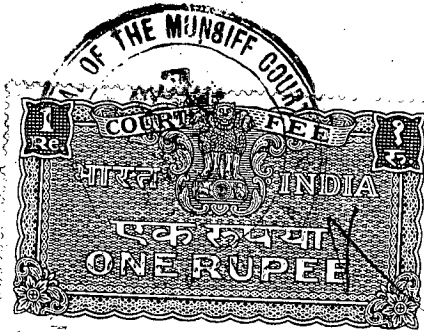
Later today received and seen
 another Petition No. 552/95,
 dated 1-11-95, filed by Shri
 Malyon M. Sangma, The Petitioner
 praying to the Court to stay the
 operation of the order dated 1-11-95
 passed by this Court for a period
 of 30 days with effect from today,
 the 1st November, 1995 to enable the
 Petitioner to prefer an Appeal / Revision
 Petition against this order.



CERTIFIED TO BE TRUE COPY

Julius B. B. B.
 Sheristadar
 Court of Munsiff/Asstt. to D. C.
 Shillong

Attest



This Petition is moved to day
by Shri T. Roy Sanyal, Advocate
& counsel for the Petitioner. Hand
his submission.

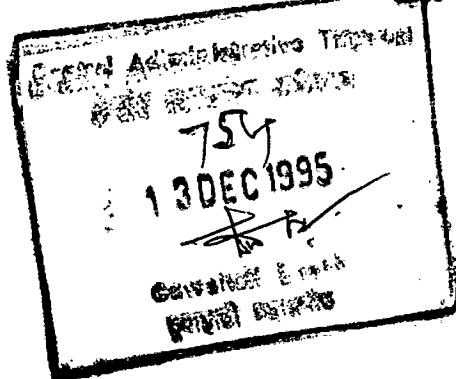
Prayer of the Petitioner is
allowed. Hence the operation of the
order dated 1-11-75 passed by
this Court is stayed / kept in abeyance
for a period of 30 days from
today up to 30-11-75.
Put up the C.R. on
1-12-75.

[Signature]



CERTIFIED TO BE TRUE COPY
[Signature]
9/11/75
Sheristadar
Court of Munsiff/Asstt. to D.C.
Shillong

[Handwritten signature]



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH.

In the matter of :

O.A. No.259/95

Sri C.P. Marak, IFS.

... Applicant.

Vs.

Union of India & Ors.

... Respondents.

Written Statement on behalf of Respondents

No.2 and 3 -

1. That the Answering Respondents (hereinafter called the Respondents) denied the statements and grounds made in various paragraphs of the application save and except those which may be specifically admitted herein in this written statement.
2. That with regard to the statements made in paragraph 3 of the petition, the Respondents state that the applicant was relieved from the Office of the Principal Chief Conservator of Forests; Meghalaya on 2.9.95 and the applicant has filed the instant application only on 29.11.95. Since the applicant evaded handing over charge and as such Sri G.C.Das Choudhury, IFS assum charge of the post of Planning Officer(Forest) on 2.9.95.

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Respondents no 2 and 43
B
Jhanku
Smt
Binita
Adm
Gg
Mogha
18/12/95

2.

3. That the Respondents denied the statements made in paragraph 4.1 and state that the applicant's representation against the order was not acceded to by the State Government and it was conveyed to the Answering Respondents by letter dated 30.8.95, and it was not rejected by the Principal Chief Conservator of Forests, Meghalaya as stated by the applicant. I further state that the order of transfer dated 24.8.95 is in conformity with the Indian Forest Service (Cadre ^{Rules} ~~Books~~), 1966 and as such the order impugned is not violative of any mandatory provisions of the law and is in conformity with the executive instructions and guidelines issued from time to time.

4. That the Respondents denied the statements made in paragraph 4.2 of the application and state that the petitioner is a member of the Indian Forest Service which is an All India Service created under the provisions of Article 312 of the Constitution. All India Service as per Article 312 of the Constitution, are services which are common to the Union and the States. Thus, any member, who joins the service is bound to serve the ~~India~~ ^{Union} Government as well as the States to which he is allotted. In fact, the appointment ^{to} ~~of~~ any of the All India Service is contingent to ones willingness to serve any where in India and abroad. The petitioner had agreed to this condition and was given the appointment to the Indian Forest Service only after he willingly and voluntarily opted to serve the Government any where in India and

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abroad. I further state that neither prior notice was required to be serve to the applicant nor his consent required to be obtained before transferring him to the Government of India.

5. That with regard to the statements made in paragraph 4.5 of the application the Respondents state that after transfer of the applicant to Shillong from Tura, there is no change in his head-quarter.

6. That with regard to the statements made in paragraph 4.6 of the application the Respondents state that the petitioners family life has in no way been disrupted since after his transfer from Tura to Shillong, there is no change in the head-quarter or official residence of a Bachelor Officer (i.e. the applicant).

7. That with regard to the statements made in paragraph 4.7 of the application the Respondents state that since ~~the~~ G.C.Das Choudhury, IFS, assumed charge of the post of Planning Officer (Forest) with effect from 2.9.95, question of granting ^{sick} ~~sick~~ leave to the applicant by the Government of Meghalaya does not arise and as such no leave was ever granted.

8. That with regard to the statements made in paragraph 4.8 of the application the Respondents state that the statement that the applicant was ^{sick} ~~sick~~ from

4.

2.9.95 to 29.9.95 are not correct in view of the fact that the applicant appeared before the Principal Chief Conservator of Forests, Meghalaya, on 2.9.95 at 10.30 a.m. in his official chamber and thereafter left the office.

9. That with regard to the statements made in paragraphs 4.9 and 4.10 of the application the Respondents state that Sri G.C.Das Choudhury, IPS, assumed charge of the post of Planning Officer, (Forest) on 2.9.95, immediately after 1600 hours, while in the Title Suit No.27(H)/95, the learned Munsiff passed an order dated 28.9.95 asking the Respondents to maintain status quo as on 24.8.95. The learned Munsiff subsequently on 1.11.95 revoked the order of status quo dated 28.9.95. I further state that the Respondents have no knowledge about the order dated 2.11.95 passed in Title Suit No.27(H)/95, no notice has been received in this connection by the Respondents.

10. That while denying the correctness of the statements made in paragraph 4.11 of the application the Respondents state that Sri G.C.Das Choudhury has assumed charge of the post of Planning Officer(Forest) on 2.9.95, and has been discharging of the duties of Planning Officer (Forest), regularly since then. The claim of the applicant that he is still holding the post of Planning Officer (Forest), Meghalaya is not correct as alleged or otherwise.

11. That the Respondents denied the statements made in paragraph 4.14 of the application. The Respondents state that the applicant has been released only after the approval of the Government of India. The Respondents further state that for the 2 constituent states i.e., Assam and Meghalaya, the Central Deputation Reserve post have been earmarked for each State. For the State of Meghalaya, the Central Deputation Reserve for IFS is fixed at 3 numbers. Including the applicant, only two Central Deputations post have been utilised so far by the Government of Meghalaya. From the Assam Wing also a number of IFS Officers are already on deputation to Government of India. The procedure adopted in the present case is in no way different from the procedure adopted in case of other Indian Forest Service Officers deputed to Government of India, from time to time. Moreover, a copy of Memo No.FOR.86/94/128-B dated 24.3.95 has been endorsed to the secretary, Joint Cadre Authority, and the Commissioner and secretary to the Government of Assam, Personnel (A) Department, Dispur, Assam.

A copy of the Government of India's telegram dated 14.8.95, regarding their concurrence and Government of India's notification No.16016/2/95-AIS(II)-A dated 9.11.95 are annexed hereto and are marked as Annexures-1 and 2 respectively.

12. That with regard to the statements made in paragraph 4.15 of the application the Respondents state that the applicant had made the representation to the Government of India on 1.9.95 against the order of transfer. The same was rejected by the Government of

6.

India by their State Express Telegram No.A.12026/5/
95-IFS-1 dated 12.10.95.

Regarding consent of the Officer, i.e., the applicant, Rule 6 - Deputation of Cadre Officer doesnot provide for prior consent of the officer concerned.

A copy of the aforesaid telegram is annexed hereto and is marked as Annexure-3.

13. That with regard to the statements made in paragraph 4.16 of the application the Respondents state that deputation of IFS Officers against various posts is based on their bio data, in consultation with Government of India from time to time. It is pertinent to point out that the petitioner, All India Service Officer is evading to move from Shillong to Byrnihat which is situated within the State of Meghalaya only. The training of Forest Officers of North Eastern Regional States at Byrnihat is an important task which has to be imparted by a mixture of Tribal and Non-Tribal Officers, well versed with the traditions and customary laws of the Tribal people. Hence the urgency for the services of the applicant at Byrnihat.

14. That with regard to the statements made in paragraph 4.17 of the application the Respondents state that the applicant after completing his tenure as Divisional Forest Officer, Garo Hills Forest Division, was transferred to Shillong, in the office of the Principal

Chief Conservator of Forests, Meghalaya, since then he has been serving in the same head quarter and in the same office complex. More over, he has been in occupation of the same residential quarter at Shillong.

The office memorandum referred to by the applicant covers cases within the State of Meghalaya and not for deputation post with Government of India. Further it does not put a bar on transfers within three years but only states that because of financial reasons ~~such~~ such transfer should be avoided and if it becomes necessary to transfer an officer within three years, the approval of the Chief Minister should be obtained.

15. That the statements made in paragraph 4.18 of the application are not correct and are hereby denied. Deputation of the Officer comes under the purview of the Indian Forest Service (Cadre Rules), 1966.

16. That the Respondents denied the statements made in paragraph 4.19 of the application and state that Sri G.C. Das Choudhury, IFS, assumed charge of the post of Planning Officer(Forest) immediately after 1600 hours on 2.9.95.

17. That with regard to the statements made in paragraph 4.20 of the application state that no interim order in this case would be desirable in the interest of proper management of Indian Forest Service Cadre and the Central Deputation post would suffer causing tremendous loss to the nation in providing essential services such as the training of Forest Officers.

8.

18. That the Respondents denied the statements made in paragraph 4.21 of the application.

19. That the Respondents denied the statements made in paragraph 4.22 of the application and state that the said statements are not correct as alleged or otherwise.

20. That the Respondents denied the grounds set forth in paragraph 5.1 to 5.2 of the application and state that said grounds are neither tenable nor are borne out by the facts and circumstances of the instant case.

21. That the statements made in paragraph 6 of the application, the Respondents state that the applicant's prayer was examined by the Government of Meghalaya and by the Government of India and found that there is no ~~coherent~~ ^{Cogent} grounds to consider his case.

22. That with regard to the statements made in paragraph 7 of the application the Respondents state that the applicant did not personally file any application before any Court between 24.8.95 and 29.11.95 and have been relying on the proceedings of the Title Suit in the nature of the public interest filed by the Secretary General, All India Garo Union, Shillong.

23. That with regard to the relief made in paragraph 8 of the application the Respondents state that the relief

9.

sought for ought to be rejected since not sustainable by any law and the Cadre ^{Rules} ~~Rules~~ governing the deputation of the officers to the Government of India. Any relief granted ~~it~~ would be detriment to the interest of the National Institute i.e., State Forest Service College, Byrnihat and would cause tremendous loss to the Training schedule in the College at Byrnihat.

... Verification.

VERIFICATION

I, Balvinder Singh, son of *Shri Jagdeep Singh*
aged about *53* years, residing at Shillong,
do hereby verify that the statements made in
this Written Statement are true to my knowledge
and belief and I verify this Written Statements
on this *12th* day of December, 1995 at
Gauhati.

Balvinder Singh

ANNEXURE-1.

STATE	EXPRESS	TELEGRAM
PRINCIPAL SECRETARY (FORESTS) GOVT OF MEGHALAYA SHILLONG		
PCCF GOVT OF MEGHALAYA SHILLONG		

F.NO.12026/5/95-IFS-I DATED 14TH AUGUST 95 FROM A K GOYAL DS(.)
SHRI C P MARAK IFS AM : 03 APPROVED FOR APPOINTMENT AS LECTURER SFS
COLLEGE BURNIHAT (.) HE MAY KINDLY BE RELIEVED IMMEDIATELY WITH
INSTRUCTIONS TO REPORT FOR DUTY TO PRINCIPAL SFS COLLEGE BURNIHAT
(.) FORMAL OFFER OF APPOINTMENT FOLLOWS (.) MATTER MOST URGENT

PARYAVARAN
NEW DELHI

N.T.B.T.

(A.K. GOYAL)
DEPUTY SECRETARY TO THE GOVT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS
PARYAVARAN BHAWAN, CGO COMPLEX
LODHI ROAD, NEW DELHI - 110003

DATED THE 14TH AUGUST, 1995

- Atul
15/8/95

No.18016/2/95-AIS(II)-A
Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

New Delhi, the 9.11.95

NOTIFICATION

G.S.R. No.....In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 (61 of 1951) read with sub-rule (2) of Rule 4 of the Indian Forest Service (Cadre) Rules, 1968, the Central Government, in consultation with the Governments of Assam & Meghalaya, hereby makes the following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1968, namely:-

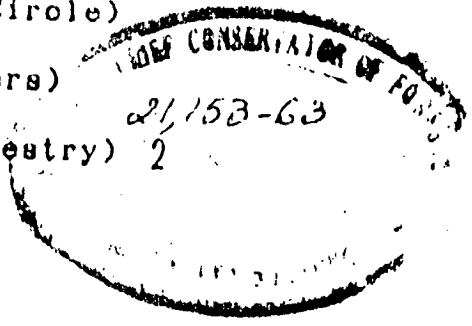
1. (1) These regulations may be called Indian Forest Service (Fixation of Cadre Strength) Seventh Amendment Regulations, 1995.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1968, for the heading "Assam-Meghalaya" and the entries occurring thereunder, the following shall be substituted namely :-

"ASSAM-MEGHALAYA"

1. Senior Posts under the State Govt.	72
<u>Posts under the Government of Assam</u>	
Principal Chief Conservator of Forests	1
Chief Conservator of Forests (Protection)	1
Chief Conservator of Forests (Wildlife) & Chief Wildlife Warden	1
Chief Conservator of Forests (Social Forestry)	1
Chief Conservator of Forests (Research, Training & Working Plans)	1
Conservator of Forests (Territorial)	6
Conservator of Forests (Development)	1
Conservator of Forests (Economic Circle)	1
Conservator of Forests (Headquarters)	1
Conservator of Forests (Social Forestry)	3
Conservator of Forests (Wildlife)	1
Conservator of Forests (Border)	1

4/11/95
24/11
KL
All India
Govt



Field Director - Project Tiger, Manas	1
Director, Kaziranga National Park	1
Principal, NEF Rangora College, Jalukbari	1
Deputy Conservator of Forests (Territorial)	22
Deputy Conservator of Forests (Wildlife)	2
Deputy Conservator of Forests (Assam State Zoo)	1
Working Plan Officer	3
Forest Utilisation Officer	1
Planning Officer	3
Silviculturist	1
	55
<u>Posts under the Government of Meghalaya</u>	
Principal Chief Conservator of Forests	1
Chief Conservator of Forests (Social Forestry & Environment)	1
Conservator of Forests (Territorial & Development)	1
Conservator of Forests (Wildlife)	1
Conservator of Forests (Social Forestry)	1
Conservator of Forests (Research & Training)	1
Deputy Conservator of Forests (Territorial) (Khasi Hills, Jaintia Hills, Garo Hills)	3
Deputy Conservator of Forests (Training)	1
Working Plan Officer	1
Planning Officer	1
Silviculturist	1
Director, B. J. P. National Park	1
Deputy Conservator of Forests (Wildlife) (East & West Khasi Hills Wildlife Division)	1
Deputy Conservator of Forests (Utilisation)	1
Deputy Conservator of Forests (Social Forestry)	1
	17
Total	72

1421
106 81

2.	Central Deputation Reserve @ 20% of Item 1 above	14
3.	Posts to be filled by promotion in accordance with Rule 8 of the Indian Forest Service (Recruitment) Rules, 1966, @ 33 1/3% of Items 1 and 2 above	28
4.	Posts to be filled by direct recruitment (1+2+3)	58 ✓
5.	Deputation Reserve @ 25% of Item 1 above	18 ✓
6.	Leave, Training Reserve & Junior Posts @ 20% of Item 1 above	14 ✓

Direct Recruitment, Posts		90
Promotion posts		28

Total Authorised Strength		118

Mitra
(Madhumita D. Mitra)
Desk Officer.

Note 1: Prior to the issue of this notification the total authorised strength of the Assam-Meghalaya Cadre was 104.

Note 2: The Principal Regulations were notified vide Notification No. 6/1/66 - AIS(IV), dated 31.10.1966 as GSR No.1072 in the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, has been amended vide Notification given below:-

S.No.	G.S.R. No.	Date of Publication
1.	1673	31.10.1966
2.	17	7.01.1967
3.	653	6.05.1967
4.	654	6.05.1967
5.	689	13.05.1967
6.	1083	8.08.1968
7.	1887	9.08.1969
8.	80	17.10.1970
9.	485	21.03.1970
10.	545	4.04.1970
11.	1802	24.10.1970
12.	135	24.01.1971
13.	138	24.01.1970
14.	685	8.05.1971
15.	45(E)	20.01.1972
16.	47(E)	20.01.1972
17.	48(E)	20.01.1972
18.	478(E)	4.12.1972
19.	182(E)	2.04.1973
20.	321(E)	27.08.1973
21.	391(E)	10.08.1973
22.	142	9.02.1974
23.	28(E)	2.02.1974
24.	273(E)	17.08.1974
25.	300(E)	5.07.1974

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26.	812	3.08.1974
27.	2227	16.08.1975
28.	71	17.01.1976
29.	407(E)	16.08.1976
30.	1084(E)	24.07.1976
31.	444(E)	6.07.1976
32. 02	750(E)	3.08.1976
33.	93(E)	28.02.1977
34.	631(E)	5.10.1977
35.	13(E)	6.01.1978
36.	380(E)	13.07.1978
37.	436(E)	29.08.1978
38.	486(E)	25.08.1980
39.	582(E)	30.09.1980
40.	626(E)	3.11.1980
41.	631(E)	4.11.1980
42.	20(E)	16.01.1981
43.	31(E)	23.01.1981
44.	84(E)	27.02.1981
45.	458	9.05.1981
46.	380(E)	23.05.1981
47.	376(E)	2.06.1981
48.	386(E)	9.06.1981
49.	602(E)	16.11.1981
50.	604(E)	17.11.1981
51.	653(E)	10.12.1981
52.	657(E)	11.12.1981
53.	294(E)	1.04.1981
54.	354(E)	26.04.1982
55.	356(E)	27.04.1982
56.	478(E)	31.05.1982
57.	530(E)	30.08.1982
58.	24(E)	12.01.1983
59.	126(E)	28.02.1985
60.	308(E)	26.03.1985
61.	327(E)	29.03.1985
62.	489(E)	12.08.1986
63.	286	12.04.1986
64.	654	20.08.1986
65.	763	20.09.1986
66.	798	27.09.1986
67.	796	27.09.1986
68.	835	4.10.1986
69.	837	4.10.1986
70.	880	18.10.1986
71.	164	14.03.1987
72.	407	30.05.1987
73.	619	15.08.1987
74.	802	31.10.1987
75.	826	7.11.1987
76.	835	14.11.1987
77.	836	14.11.1987
78.	432(E)	6.04.1988
79.	546(E)	4.05.1988
80.	404	21.05.1988
81.	834(E)	3.08.1988
82.	352(E)	10.03.1989
83.	832	11.11.1989
84.	916	16.12.1989
85.	933	30.12.1989
86.	590	22.09.1990
87.	603	29.09.1990

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473
527
565
584
538(E)
685(E)
687(E)
514
513
321(E)
213
278
284

8.12.1990
8.12.1990
5.03.1991
13.04.1991
24.08.1991
14.09.1991
5.10.1991
19.10.1991
6.08.1993
4.11.1993
4.11.1993
22.10.1994
22.10.1994
31.03.1995
29.04.1995
10.08.1995
3.08.1995

Watta

(Madhumita D. Mitra)
Desk Officer

To

The Manager,
Government of India Press,
Mayapuri, Ring Road, New Delhi.

*Alena
Pr*

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No.18016/8/94-AIS(II)A

New Delhi, the

9. 11. 95

Copy forwarded for information to :

1. The Chief Secretary, Governments of Assam & Meghalaya, Dispur/Shillong (5 copies each).
2. All State Governments & Union Territories.
3. The Chief Conservator of Forests, Assam/Meghalaya, Dispur/Shillong (5 copies each)
4. The Chief Secretaries of all remaining State Governments.
5. The Comptroller and Auditor General of India, New Delhi (with 3 spare copies)
6. The Secretary, Union Public Service Commission, New Delhi. (with 5 spare copies)
7. All the Accountants General.
8. Director, Forests Research Institute and College, Dehradun (with 2 spare copies)
9. The Lok Sabha Secretariat (Committee Branch), New Delhi.
10. The Rajya Sabha Secretariat (Committee Branch), New Delhi.
11. The Ministry of Environment & Forests (IFS.II Section), New Delhi (with 20 spare copies)
12. The Ministry of Environment & Forests, Deputy Secretary (IFS), New Delhi.
13. Ministry of Home Affairs (UTS Section), New Delhi.

M. Mitra

(Madhumita D. Mitra)
Desk Officer

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spare copies - 150

ANNEXURE 3.

STATE

EXPRESS

TELEGRAM

FOREST SECRETARY
GOVERNMENT OF MEGHALAYA
SHILLONG

REPEAT *

PRINCIPAL CHIEF CONSERVATOR OF FORESTS
GOVERNMENT OF MEGHALAYA
SHILLONG

NO.A.12026/5/95-IFS-I (.) FROM AK GOYAL DIRECTOR (.) REGARDING CENTRAL
DEPUTATION APPOINTMENT OF MR CP MARAK INDIAN FOREST SERVICE ASSAM-
MEGHALAYA AS LECTURER STATE FOREST SERVICE COLLEGE BURNIHAT (.) MR MARAKS
REPRESENTATION DATED FIRST SEPTEMBER 1995 HAS BEEN CAREFULLY CONSIDERED
(.) HIS REQUEST FOR CANCELLATION OF CENTRAL DEPUTATION POSTING NOT REPEAT
NOT AGREED TO (.) KINDLY ENSURE FORMAL RELIEF OF MR MARAK AS PER STATE
GOVERNMENT RELIEVING ORDER OF TWENTYFOURTH AUGUST WITH DIRECTIONS TO REPORT
TO DUTY AT BURNIHAT (.) KINDLY REPLY COMPLIANCE (.)

PARYAVARAN

N.I.T.
NO. A.12026/5/95-IFS-I

(A.K. GOYAL)
DIRECTOR

MINISTRY OF ENVIRONMENT AND FORESTS
PARYAVARAN BHAWAN, CGO COMPLEX
LODI ROAD, NEW DELHI-110 003
DATED THE 12TH OCTOBER, 1995

Copy of telegram sent by post in confirmation :

1. The Forest Secretary, Govt. of Meghalaya, Shillong.
2. The Principal Chief Conservator of Forests, Govt. of Meghalaya, Shillong.

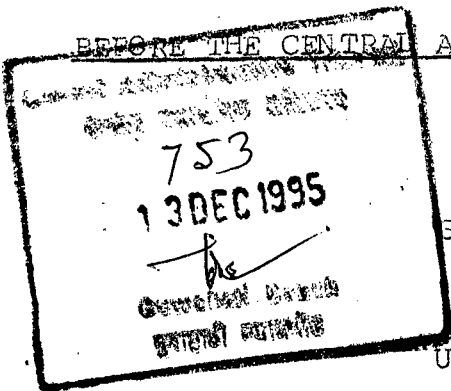
(A K Goyal)
Director

*Alleged
Poo*

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Filed by Mr. Applicant
through
B. Mehla
Advocate
13.12.95

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH



O.A. No. 259/95

Shri C.P. Marak, IFS ... Applicant

- Versus -

Union of India & Ors.... Respondents

REJOINDER TO THE WRITTEN STATEMENT SUBMITTED ON BEHALF
OF RESPONDENT NOS. 2 & 3

The applicant begs to state as follows :

1. That the applicant has gone through the copy of the written statement filed by the respondent Nos. 2 and 3 and have understood the contents thereof. Save and except the statements which are specifically denied hereinbelow other statements made in the written statement are categorically denied. Further the statements which are not borne on records are also denied and the respondents are put to strict proof thereof.
2. That with regard to the statements made in paragraphs 1 and 2 of the W.S., the applicant begs to state that the order purportedly relieving him from the post of Planning Officer (Forests) was sent to him by registered post at his leave address and he received the same only on 7.10.95 ; but before the said date i.e. 7.10.95, the learned Munsiff, Shillong passed an ad-interim injunction order on 28.9.95 directing the opp.parties/ defendants therein to maintain status-quo as on 24.8.95 i.e. the date of the impugned order. Thus on the strength of the said order of injunction, the applicant continued to remain in the post of Planning Officer. It is

Contd...P/2.

categorically denied that the applicant had evaded the handing over charge and as such Shri G.C. Das Choudhury, IFS ~~is~~ assumed charge of the post of Planning Officer on 2.9.95. A bare perusal of the impugned order reveals that he was allowed to function as Planning Officer (Forests) in addition to his own duties. Thus it is not a regular appointment of any incumbent to the post of Planning Officer (Forests). It is emphatically stated that till date, no regular appointment has been made to the post of Planning Officer (Forests). The respondents contested the Title Suit No. 27(H)/95 (Misc. Case No. 28(H)/95 and are aware of the order of injunction passed on 28.9.95. Till date they have not challenged the said order of injunction. Although subsequently, the order of injunction was vacated by order dated 1.11.95, but by another order dated 2.11.95 the learned Munsiff stayed the operation of the said order dated 1.11.95 for a further period of thirty days with effect from 1.11.95. Thus the order of injunction continued to be in force till 30.11.95 and the respondents are well aware of this position. Further before the ~~applicant~~ 7.10.95, the applicant has resumed the duty as Planning Officer (Forests) by submitting his joining report after availing earned leave on medical grounds with effect from 2.9.95 to 29.9.95 with request to suffix 30.9.95, 1.10.95 to 4.10.95 being holidays.

Copies of the order passed by the learned Munsiff dated 28.9.95 and the joining report dated 5.10.95 are annexed herewith as ANNEXURES 7 and 8 respectively.

3. That with regard to the statements made in paragraph 3 of the W.S., the applicant begs to state that

the representation was only stated to be disposed of by the Government of Meghalaya vide Annexure-4 to the O.A. issued by the Principal Chief Conservator of Forests, Meghalaya (Respondent No.3) without endorsing any copy ~~to the~~ of the order, if any purportedly passed by the State Government. In any case, the annexure-4 order depicts total non-application of mind inasmuch as on the face of it, same is cryptic and does not assign any reason as to why his request against the deputation has not been acceded to. It is denied that the order of transfer dated 24.8.95 is in conformity with the Indian Forests Service (Cadre) Rules, 1966. As per the practice ~~and~~ procedure and principle being followed in the matter of sending a member of the All India Services on Central Deputation, the following steps are required to be taken as pre-requisite -

*The Central Government sends notice of vacant deputation post to the State Government concerned which in turn circulates the same to the members of All India Services upon which the concerned officers are required to exercise option/willingness by filing up a prescribed form indicating therein their choice of preference. After the above exercise, nomination is sent ~~by~~ the State Government concerned to the Central Government with recommendation.

It is only after that formal order of Central Government deputation is issued by the Central Government to be renotified by the State Government. This is also explicit on the face of the Annexure-1 order of the Central Govt.

annexed to the written statement in which the Central Government has stated "Formal offer of appointment follows" (Emphasis added). No such formal offer of appointment has followed thereafter and the applicant has not received any such formal offer of appointment. On the other hand making a departure from the aforesaid formalities, the respondent No. 3 has issued the impugned order.

As regards the aforesaid formalities being followed through out the country and also in, the State of Meghalaya, the applicant begs to ~~state~~ annex some of the documents as ANNEXURES-9, 10, 11 and 12

The above formalities have not been observed in case of the applicant ~~he~~ and he has been sought to be sent on Central deputation straightway by the impugned order. Thus the requirement of obtaining option/willingness from the incumbent who has sought to be sent on central deputation has not been followed in case of the applicant.

4. That with regard to the statements made in paragraph 4 of the W.S., the applicant denies the contentions made therein. Although he belongs to the All India Services, the respondents cannot take action against him in an arbitrary manner as has been done in the instant case. Further he being in the joint cadre of Assam Meghalaya and presently being an officer under the Government of Meghalaya, he is also entitled to certain benefits, one of which he derives ~~from~~ vide office memorandum No. FEA.83/93/145 dated 4.7.94. By the said office memorandum

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the Government of Meghalaya has laid down the policy and decision that the transfer of all officialsholding transferable posts from one station to another before completion of three years will not be permitted except transferred under extra-ordinary circumstances whith the ~~xxx~~ prior approval of the Chief Minister. In case of the applicant, no such prior approval has been obtained even though his transfer is stated to be under extraordinary circumstances. Further being a member of the All India Services, the applicant is also entitled to certain benefits as has been extended by none other than the Government of India vide Office Memorandum No. 14017/21/83-AIS.II dated 3.2.84. Under the said office memorandum the allowances and facilities for civilian employees of the Central Government serving in the North Eastern Region as was extended vide office memorandum No.20014/3/83-E.IV dated 14.12.83 has been extended to the members of All India Services. The said allowances and facilities were further notified vide office memorandum No. 20014/16/86/E.IV/E.II(B) dated 1.12.88 issued by the Government of India. Pursuant to the said notification, the Government of India again issued another office memroandum No. ~~1410~~ 14017/1/89-AIS(II) dated 25.1.89 making applicable the benefits extended vide O.M. dated 1.12.88 to the officers of All India Services. Under the said O.Ms. the applicant is entitled to posting to a station of his choice ; but in the instant case, no such option was called for from the applicant before the impugned order was issued.

Copies of the aforesaid O.Ms. dated 14.12.83, 3.2.84, 1.12.88 and 25.1.89 are annexed hereto as ANNEXURES-13, 14, 15 and 16 respectively.

A copy of the O.M. dated 4.7.94 is annexed herewith as ANNEXURE-17.

5. That the applicant denies the statements made in paragraphs 5 and 6 of the W.S. and reiterate and reaffirms the statements made in paragraphs 4.5 and 4.6 of the O.A. It is categorically denied that ~~the~~ after the transfer of the applicant there is no change in his head quarter. In this connection; it is stated that by the impugned order, his headquarter has been changed to Byrnihat (Assam) ~~to~~ from Shillong (Meghalaya).

6. That with regard to the statements made in paragraph 6 7 of the W.S., the applicant while reiterating and reaffirming the statements made hereinabove, begs to state that Shri G.C. Das Choudhury is not a regular incumbent to the post of Planning Officer (Forests) as indicated in the impugned order, Shri Das Choudhury is only to hold additional charge of the post of Planning Officer and as stated above, till date no regular appointment has been made to the post of Planning Officer (Forests).

7. That with regard to the statements made in paragraph 8 of the W.S., the applicant while reiterating and reaffirming the statements made by the applicant in paragraph 4.8 of the O.A. denies that he was not sick on 2.9.95 to 29.9.95. His visit to the office of the Principal Chief Conservator of Forests Meghalaya on 2.9.95 at 10.30 A.M. can never mean that he was not sick with effect from 2.9.95 to 29.9.95. On 2.9.95 the applicant had visited the office

of the Principal Chief Conservator of Forests, Meghalaya to submit his application for casual ^{earned} leave to visit his attending physician. It will be pertinent to mention here that the applicant was subsequently hospitalised at Military Hospital and was also operated upon during the aforesaid period.

8. That with regard to the statements made in paragraph 9 of the W.S. while denying the contentions made by the respondents and reiterates and reaffirms the statements made in the O.A. The applicant begs to state that as already pointed out above, the learned Munsiff passed order dated 2.11.95 has stayed the operation of the order dated 1.11.95 till 30.11.95 meaning ~~h~~hereby the status quo order as on 24.8.95. The date of the impugned order continued till 30.11.95. It is denied that the respondents have no knowledge about the order dated 2.11.95 inasmuch as they contested the suit and all along appeared in the case. The order dated 2.11.95 was also served on them.

9. That with regard to the statements made in paragraph 10 of the W.S., it is categorically denied that Shri GC Das Choudhury has assumed charge of the post of Planning Officer (Forests) on ~~2x11~~ 2.9.95 and has been discharging his duties of the Planning Officer (Forests) regularly since then. A bare perusal of the impugned order dated 24.8.95 belies the contentions of the respondents.

10. That with regard to the statements made in paragraph 11 of the W.S. the applicant denies the contention made by the respondents. As already pointed ~~about the~~

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out above, as per own order of the Central Government vide Annexure-1 of the W.S., the formal offer of appointment appointing the applicant to the post of Lecturer, State Forest Service College, Bymihat is to be followed. But till date no such formal offer of appointment has been issued. But on the other hand, the respondents in their ~~officer's offer of appointment~~ over enthusiasm has issued the impugned order and also have sought to release him from the post of Planning Officer (Forests) without complying with the requirement of formalities and without waiting for the formal offer of appointment to be issued by the Central Government. As regards the statements that a copy of the impugned order has been endorsed to the Secretary, JCA ~~of the~~ and the Commissioner & Secretary to the Govt. of Assam, Personnel, (A) Department, the applicant states that mere endorsing a copy does not conform to the requirements of Rule 6(1) read with Rule 11-A of the I.F.S. (Cadre) Rules, 1966. There is gross violation of the aforesaid rules and on this score alone the impugned order is not sustainable.

11. That with regard to the statements made in paragraph 12 of the W.S., the applicant begs to state that he is surprised to know that the Government of India has purportedly rejected his representation on 1.9.95 without endorsing any copy of rejection and/or telegram dated 12.10.95 to the applicant. This is for the first time, the applicant has come to know about the existence of such a telegram from the Government of India ~~and~~ inasmuch as neither the Government of India nor the

IN THE COURT OF SHRI E. K. SARMAR, MUNSIF AT SHILLONG

TITLE SUIT No. 27(H) of 1995
MISC CASE No. 23(H) of 1995.

Shri Maljoa M. Sangma,
Secretary General,
All India Goro Union,
Headquarters Shillong,
Amzad Ali Road, Loham,
Shillong - 793 001.

.....PETITIONER/PLAINTIFF

Versus

1. The Govt. of Meghalaya,
represented by the Principal
Secretary to the Govt. of
Meghalaya, Forests and
Environment Deptt. Shillong.

2. The Principal Chief Conservator
of Forests, Meghalaya, Shillong.

3. The Govt. of India,
represented by the Secretary to
the Govt. of India, Ministry of
Environment and Forests, Paryavaran
Bhavan, C.G.O. Complex, Lodhi Road,
New Delhi - 110 003.

A N D

4. The Secretary Joint Cadre,
Authority and Commissioner and
Secretary to the Govt. of Assam
Personnel (A) Deptt. Assam Civil
Sectt. Dispar, Gauhati.

...OPP. PARTIES/DEFEN-
DANTS.

of

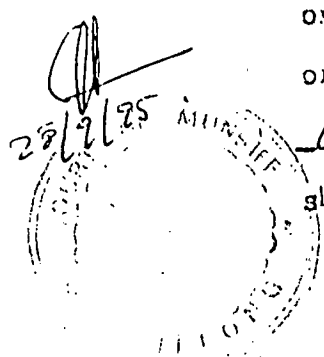
WHEREAS in spite of the Notice duly served on you
and ample time granted to you asking you to Show Causes,
if any, on the 15.9.95 and thereon till on to 23.9.95
and whereas you have failed to submit the Show Cause
on the dates fixed therefor, this Court doth hereby
once again asked you to Show Causes, if any on or before
19th October, 1995 as to why the Ad-interim Injunction
shall not be granted, as prayed for by the Petitioner

....2/-

Attested

[Signature]
Advocate

18/12/95




124 97

by the petitioner restraining you from giving effect to the Notification No. FOR.36/94/123,123-A & B dated 24th August, 1995 in the matter of placing the services of Shri C.P.Marak, IFS, Planning Officer (Forests) Govt. of Meghalaya, transferring him and placing his services on deputation, at the disposal of the Govt. of India, Ministry of Environment and Forests, for appointment as Lecturer, State Forest Service College, Dimaithat, and from doing anything in furtherance thereof, till final disposal of the Suit/Petition.

In the meanwhile, it is hereby ordered that the opposite Parties shall maintain the 'Status Quo' as on the 24.8.1995 including facilities and other privileges hitherto enjoyed by the Officer and shall not do anything that may adversely affect the interest of the Officer till final disposal of this Petition/Suit filed by the above-named Plaintiff/Petitioner in the Public Interest litigation.

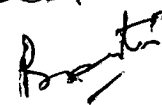
Given under my hand and seal of this Court on this the 23th day of September, 1995.



23/9/95
JUDGE, SHILLONG

Memo. No. AIGU/SG-4/2/1995-96/301-302, Dt.Shillong, the 30th Sept., 1995.

1. Copy to the Conservator of Forests, Social Forestry & Environment Circle Meghalaya, Shillong for information and compliance with the Court's order in the matter of restoring the privileges & facilities (giving possession of ML/01-252 alongwith a Driver) hitherto enjoyed by Shri. C.P.Marak, IFS PO(Forests) Meghalaya.
2. Copy to Shri.C.P.Marak, IFS PO(Forests) Meghalaya, Shillong for information and necessary action to exercise legal rights.

Attested.


Advocate
13/12/95


(M.M.Sangma)
Secretary-General, AIGU Hqrs
Shillong, Meghalaya.

COPY

ANNEXURE.- 8

98

To, *Principal Chief*
The Conservator of Forests (Hq)
Meghalaya, Shillong.

Subj:- Submission of Joining Report.

Sir,

I beg to state that I have resumed duty as Planning Officer (Forests) Meghalaya on 5. 10. 1995 (Fore-noon) after availing Earned leave on medical grounds w.e.f. 2.9.95 to 29.9.95 with a request to suffix 30.9.95, 1.10.95 to 4.10.95 being holidays.

Enclosed, please find the Certificate of Transfer of Charges in triplicate copies for favour of your kind information and necessary action.

Dated Shillong,
the 5th Oct '95

Yours faithfully,
[Signature]
(C.P. Marak, IFS).
Planning Officer (Forests)
Meghalaya, Shillong.

*Anwar
(E.K. Marak)*

1. Copy to the Conservator of Forests, Social Forestry & Environment Circle Meghalaya, Shillong for information with a request to continue the facility of transport/vehicle arrangement for discharge of duty.

Attested
[Signature]
Advocate
13/12/95

[Signature]
Planning Officer (Forests)
Meghalaya, Shillong.

CERTIFICATE OF TRANSFER OF CHARGES

To

No.

In

Forests & Environment

SECRETARY TO THE GOVERNMENT OF MEGHALAYA, DEPARTMENT
ACCOUNTANT GENERAL, ASSAM, MEGHALAYA, NAGALAND, TRIPURA
EXECUTIVE ENGINEER, DIVISION

Principal Chief Conservator of Forests Meghalaya.

Sir,

With reference to Rules 145 of the Assam Financial Rules we, the undersigned, have the honour to report that we have this 5th (fifth) day of October '95 at 10.30 AM o'clock in the fore - noon, respectively, delivered over and received charge of the office of the Planning Officer (Forests) Meph. of Ojo the PCCF Meghalaya in the East Khasi Hills District

[I have occupied the official residence allotted to me with effect from day of 19 ..]

(C. P. Marak, IAS)
Relieving Officer,
Meghalaya, Shillong

to be struck out and initialled when there is no official residence

[I have vacated the official residence allotted to me with effect from day of 19 ..]

Relieving Officer •

And, with reference to Rule 82(a) (vi) of the Assam Financial Rules, I (the Relieving Officer) acknowledge to have received

Rs. (.....) of the Permanent Advance and that the full amount of such advance is due from and to be accounted for by me.

Relieving Officer's { Signature
Designation

District.

* The signature should be legibly written, as when they cannot be deciphered, great deal of delay arises in dealing with these certificates.

P.D.S. (Press Wing)—111(1) F.30/90—1000—9.6.90.

Attested

B. M. L.

Advocate

13/12/95

M/T
17-
100
ANNEXURE-9
12A

GOVERNMENT OF MEGHALAYA
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS:
MEGHALAYA :::: SHILLONG.

NO. MFE.12/38

Dated Shillong, the 27th Nov/95.

From:

The Conservator of Forests, (HQ).,
Meghalaya, Shillong.

To,

ALL Indian Forest Service Officers etc.,
Meghalaya.

Sub:-

EMP.NELM-NT of IFS Officers for the posts
at the level of Director, Deputy Secretary
and Under Secretary at the Centre-
Nominations -- Regarding.

Enclosed, please find herewith a copy of
Government of India's letter No.A/12034/5/90-IFS-I
dated 9.11.90 along with enclosures for favour of
information and necessary action.

Sri C. P. Haski
Do Jant Hill Division
Tura.

Conservator of Forests, (HQ).,
Meghalaya, Shillong.

T.P/-

Pramila
me

Attested
Anwar
Advocate
1.12.95

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- (v) Officers recommended should, on the basis of their records and the nature of their experience, be suitable for being appointed to posts in the Central Secretariat or other equivalent non-Secretariat posts. It would be desirable if the names of the officers who have served in difficult areas/sensitive posts in their own service or who have served for at least 2 years in locations in the North Eastern States of India are given the due consideration and their names included in the lists of officers recommended for Central deputation. Those officers whose record is not very good need not be sponsored.
- (vi) Officers who are recommended for Central deputation should be able to hold the posts at the Centre for their normal tenure without being disturbed by recall to the Cadre on promotion.
- (vii) The claims of eligible women officers and SC/ST eligible officers may be given due consideration and names of such officers included in the list of officers recommended for Central deputation.
- (viii) Government of India's decision to debar officers for five years from consideration against future vacancies at the Centre in case they fail to join after they have been selected for a particular assignment may be kept in mind and if the services of an officer cannot be spared for Central deputation during 1991, his name need not be suggested.
- (ix) Selected officers should be relieved within two weeks of the receipt of orders for Central deputation.
- (x) The officers recommended for Central deputation will have to serve anywhere in India. Any conditional recommendation i.e., for posting only at a specific station(s) will not be accepted.
- (xi) The officers recommended for Central deputation will have to be clear from vigilance angle and names of officers against whom Vigilance/Disciplinary Enquiries are pending/contemplated need not be recommended.
- (xii) The CR Dossiers and service particulars of the officers already serving at the Centre at a particular level and are eligible for next higher grade as per the above eligibility criteria may also be sent to enable the Dept. of Personnel and Training to find suitable higher posting for such officers.
- (xiii) The full service particulars of the officers (as per Annexure I) and the Executive Record Sheets (as per Annexure II) of the officers whose names are recommended for Central Deputation may please be sent along with your nominations

contd...4

Attended

[Signature]

Advocate

13/12/95

- (xiv) You may please forward along with your recommendations the Confidential Reports upto 31.3.1991. In the absence of such reports it will not be possible to consider the concerned officer for Central deputation. On the first page of the Character Roll, a typed list of the posts held from time to time by the officer may also be attached. This will help to locate suitable posting for the officers.
- (xv) Names of officers retained by the Department of Personnel & Training for Central deputation during 1990 who could not be provided with a suitable post at the Centre till 31.12.1990 will not be considered for Central deputation during 1991 unless they are recommended afresh by you and retained by the Dept. of Personnel & Training for Central deputation during 1991.

4. You are requested to ensure wide publicity amongst all the IFS officers of your State cadre to this communication and nominations forwarded to this Ministry by 15 December, 1990 latest.

Encl: Annexure I
and II

Yours faithfully,

(Nand Lal)

Deputy Secretary to the Govt. of India

Copy for information to all the IFS Officers working in the Ministry of Environment and Forests through:

DIG/FC; DIG/FP; DIG/SU; Dir(PT)/JD/WL;
DS(A)/NWDB;

Copy to All the Regional Offices under the Ministry of Environment and Forests

Copy to Notice Board.

Attended

Advocate

13/12/88-

202

Executive Record of officers belonging to the Central Services
Group 'A'

Instructions: (i) Please fill the boxes only for item Nos. 4,5,6
14 and 17 (examp: for inserting dates:
1st Sept 1942 will be filled as 01.09.42)

(ii) Item Nos. *3*9*11 and*12 are NOT to be filled.
Further, Item Nos. 10 has already been filled.

(iii) For other items information may be furnished
in BLOCK letters on the dotted lines.

1. NAME	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
2. SERVICE	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
3. IDENTITY NO	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
4. SEX	(Pl. enter 'M' for male or 'F' for Female. <div style="border: 1px dashed black; width: 150px; height: 20px;"></div>)					
5. DATE OF BIRTH	D	D	M	M	Y	Y
6. DATE OF APPOINTMENT TO THE SERVICE	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
7. STATE OF DOMICILE	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
8. MOTHER TONGUE	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
9. PRESENCE IN PANEL:	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
10. RETIREMENT AGE	<div style="border: 1px dashed black; width: 100%; height: 20px;"></div>					
11. DATE AT CENTRE						
12. EXPIRY OF TENURE						

contd....

Attended

Advocate

13/12/95

13. LANGUAGES KNOWN 1. _____
 (OTHER THAN MOTHER TONGUE) 2. _____
 3. _____
 4. _____

--	--	--	--	--

14. COMMUNITY
 Code: SC -A
 ST -B
 Others -C

--

Please insert the relevant code in the box.

15. EDUCATIONAL QUALIFICATIONS

Degree/Diploma	Subject	Division
Graduate		
Post Graduate		
Doctorate		
Diploma		
Certificate		
Others		

--	--	--	--	--	--	--	--	--	--

16. TRAINING (In India and abroad)

Year	Institution and subject of Training	Duration (in weeks)	Country
1.			
2.			
3.			
4.			
5.			

contd....3

Attstred

Advocate

13/12/95

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105108

17. DATE OF CONTINUOUS APPOINTMENT TO:

1.					STS (3000-4500)
2.					J AG (3700-5000)
3.					Selection Gde of JAG (4500-5700)
4.					SAG (5900-6700)
5.					Addl. Secy level (7300.7600)
6.					Secy. Level (8000/-)
7.					Rs.....
8.					Rs.....
9.					Rs.....
10.					
Grade not speci- fied above.	11.				
	12.				

*The date of continuous drawal of pay of Rs. 5,900 and more in any scale of pay.

Attested

contd.,...4

*For
Advocate,
13/12/95*

** JAG level onwards:

13/12/95-

GOVERNMENT OF MEGHALAYA
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS:
MEGHALAYA: SHILLONG.

NO. MFE. 12/38

Dated Shillong, the 19th January 1991

From:

The Conservator of Forests (HQ)
Meghalaya, Shillong.

To,

All Indian Forest Service Officer etc Meghalaya

Sub:

Nomination of Indian Forest Officer for
appointment on deputation to Central Government.

Enclosed, please find herewith a copy of Govt. of
India's Letter NO. A/12026/15/90-IFS-I Dt. 3/12/90 along with enclo-
sures for favour of information and necessary action.

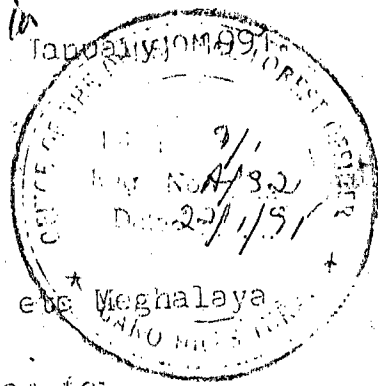
Conservator of Forests (HQ),
Meghalaya, Shillong.

Attended

Bmhi

Advocate

13/12/95



-28- -27-

NO. A 12026/15/90-IFS-I
Government of India
Ministry of Environment and Forests

138/111

Paryavaran Bhawan,
C.G.O. Complex
Lodhi Road, New Delhi - 3

Dated: the 3/12 1990

To

The Forest Secretaries,
All State Governments/U.Ts.

Subject :- Nomination of Indian Forest Service Officer for
appointment on deputation to Central Government.

Sir,

I am directed to say that this Ministry is in
immediate need of the services of suitable Indian Forest Service
Officers for appointments on deputation to Central Government
for the following posts :-

S.No.	Name of the Posts	No of post	Pay Scale	Headquarters	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1.	Director Forest Education, Dehra Dun	1	Rs. 4500-5700/- Special Pay Rs. 500/- P.M.	Dehra Dun	Vacant
2.	Conservator of Forests (Central) Regional Office, Lucknow	1	-do-	Lucknow	Likely to fall vacant
3.	Joint Director, Forest Survey of India, Northern Zone, Shimla	1	Rs. 4500-5700/- Special Pay Rs. 400/- P.M.	Shimla	-do-
4.	Joint Director, Forest Survey of India, Dehra Dun	1	-do-	Dehra Dun	Vacant
5.	Coordinator, High Level Conifers Research Centre, Shimla	1	-do-	Shimla	Likely to fall vacant
6.	Editor, Forest Research Institute, Dehra Dun	1	Rs. 4500-5700/-	Dehra Dun	Vacant
7.	Coordinator, Research Extension, Pilot Research and Demonstration in Growing Cash Crops, Ranchi	1	Rs. 4500-5700/- Special Pay Rs. 400/- per month	Ranchi	-do-
8.	Head of Division (Minor Forest Product) Pilot Research and Demonstration in Growing Cash Crops Ranchi.	1	Rs. -do-	Ranchi	Vacant
9.	Head of Division Community Forestry Institute of Deciduous Forests, Jabalpur.	1	-do-	Jabalpur	-do-

Contd.....2/-

Attended

Advocate

13/12/95

(1)	(2)	(3)	(4)	(5)	(6)
10. Head of Division (Silviculture and Management, Jabalpur.	1	Rs.4500-5700/- Special Pay Rs.400/-per months	Jabalpur	Vacant	
11. Head Division of Silviculture and Institute of Arid Zone Forestry Research, Jodhpur.	1	-do-	Jodhpur	-do-	
12. Head Division of Agro-Forestry Institute of Arid Zone Research, Jodhpur.	1	-do-	Jodhpur	-do-	
13. Head of Division Silviculture and Management, Institute of Rain Moist Deciduous Forestry Research, Jorhat.	1	-do-	Jorhat	-do-	
14. Shifting Cultivation Head of Division, Institute of Rain Moist Deciduous Forestry Research, Jorhat.	1	-do-	Jorhat	-do-	
15. Deputy Conservator of Forests (Project Tiger) Ministry of Environment and Forests, New Delhi	1	Rs.3000-4500/- Special Pay Rs.400/- per month.	New Delhi	likely to fall vacant	
16. Deputy Conservator of Forests, Regional Office Bangalore.	2	-do-	Bangalore	-do-	
17. Deputy Conservator of Forests, Regional Office Lucknow.	2	-do-	Lucknow	-do-	
18. Deputy Conservator of Forests, Regional Office Shillong.	1	-do-	Shillong	-do-	
19. Deputy Conservator of Forests, Regional Office Bhubaneswar.	1	-do-	Bhubaneswar	-do-	
20. Assistant Inspector General of Forests, N.W.D.B., New Delhi	2	-do-	New Delhi	-do-	
21. Deputy Director, Forest Survey of India, Dehra Dun	1	Rs.3000-4500/- Special Pay Rs.300/-per month.	Dehra Dun	-do-	
22. Deputy Director, Forest Survey of India, Calcutta	1	-do-	Calcutta	Vacant	
23. Minor Forest Products Officer, Forest Survey of India, Dehra Dun	1	-do-	Dehra Dun	-do-	
24. Deputy Conservator of Forests, High Level Conifers Research Centre, Shimla.	2	-do-	Shimla	-do-	
25. Logging Officer, Logging Development, Bangalore	1	-do-	Bangalore	likely to fall vacant	

Attstid

R. M.

Advocate

13/12/95

.....3/-

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(1)	(2)	(3)	(4)	(5)	(6)
26.	Deputy Director, Forest Survey of India, Bangalore	1	Rs.3000-4500/- Special Pay Rs.300/-per month	Bangalore	Likely to fall vacant
27.	Lecturer, State Forest Service College, Dehra Dun	2 ✓	Rs.3000-4500/- Special Pay Rs. 400/- P.M.	Dehra Dun	-do-
28.	Lecturer State Forest Service College, Burnihat	2	-do-	Burnihat	-do-
29.	Deputy Conservator of Growing Cash Crops, Ranchi	1	Rs.3000-4500/- Special Pay Rs.300/-P.M.	Ranchi	vacant
30.	Deputy Conservator of Forests, Institute of Forests, Genetics and Tree Breeding, Coimbatore	2	-do-	Coimbatore	-do-
31.	Assistant Silviculture Institute of Forests Deciduous, Jabalpur.	1	-do-	Jabalpur	-do-
32.	Mensuration Officer, Institute of Arid Zone Forestry Research, Jodhpur	1	-do-	Jodhpur	-do-
33.	Assistant Silviculture Institute Rain Moist Deciduous Research, Jorhat	2	-do-	Jorhat	-do-
34.	Deputy Conservator of Forests, Institute of Rain Moist and Deciduous Research Jorhat.	1	-do-	Jorhat	-do-
35.	Forest Economist, Institute of Rain Moist Deciduous Forest Research, Jorhat.	1	-do-	Jorhat	-do-

2. These posts are to be filled up by deputation of suitable Indian Forest Service Officers in similar or equivalent grades in the Indian Forest Service. The period of deputation of the posts at Serial No.1 to 14 will be five years and for those at Serial NO. 15-40 will be four years. Other terms and conditions will be the same as applicable to Indian Forest Service officers on deputation with the Central Government.

3. It is requested that particulars of suitable Indian Forest Service officers may kindly be furnished to this Department in the enclosed proforma alongwith their complete and upto date Confidential Reports dossiers to this Ministry immediately. Nominations must reach the undersigned latest by 31.1.1991.

Yours faithfully,

Sd/-

(Nand Lal)

Deputy Secretary to the Government of India.

Copy to :-

1. The Principal Chief Conservator of Forests, All State Governments/U.Ts.
2. The Director General, Indian Council of Forestry Research and Education, P.O. New Forest, Dehra Dun.
3. The Director, Forest Research Institute, P.O. New Forest, Dehra Dun.
4. The Director, Forest Survey of India, 25- Subhash Road, Dehra Dun.
5. The Regional Offices, Bangalore, Shillong Bhubaneswar. Chandigarh Lucknow and Bhopal.
6. All Indian Forest Service Officers working on deputation in the Ministry of Environment and Forests/National Wastelands Development Board, New Delhi.
7. Spare copies 30
8. Guard file

Admitted

Sd/-

(Nand Lal)

Advocate
13/1/95

B I O - D A T A

- 31-32-
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141
1. Name :
 2. Date of birth, :
 3. Age :
 4. Cadre :
 5. Year of allotment
 6. Qualifications :
 7. Experience :
 8. Present Post held :-
 9. Preference, if any : ✓
 10. Whether Vigilance
clearance Available

Attested

Randi

Advocate

13/12/95

21/7/93
32-34-
ANNEXURE-11
115
102
GOVERNMENT OF MEGHALAYA
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS: MEGHALAYA

NO. MFE. 12/38

Dated Shillong, the 16th Sept '93.

From:- The Principal Chief Conservator of Forests,
Meghalaya, Shillong.

To, All I.F.S. Officers in Meghalaya.

The Inspector General Forest Govt. of India Ministry of Environment & Forests has desired that biographical data of suitable Officers at the level of Chief Conservator of Forests/Conservator of Forests/Deputy Conservator of Forests for manning jobs in the various Ministries may be sent to him at the earliest possible. I have been given to understand that some slots are available in various Ministries to IFS Officers.

In this context you may submit your willingness, stating your special aptitude or areas of special interest so that Government of India can be informed accordingly.

Your reply should reach to the undersigned on or before 27.9.93 positively.

L.D.F.A.
Principal Chief Conservator of Forests,
Meghalaya, Shillong.
17/9/93
199

DL/

affected
Crown
Advocate
1-12-95

X 1255 CA 44 NEW DELHI 1 STE

THE PRINCIPAL CHIEF CONSERVATOR
OF FORESTS GOVT. OF
MEGHALAYA, SHILLONG.

F.NO. 12034/2/93 IFS I (.) FROM MR GOYAL DEPUTY SECRETARY (.)
DEPTT OF PERSONEL AND TRAINING MINISTRY OF PERSONNEL PUBLIC
GRIEVANCES AND PENSIONS HAVE INVITED NOMINATIONS OF SUITABLE IFS
OFFICERS FOR FILLING UP POSTS OF CHIEF VIGILANCE OFFICERS IN
VARIOUS ORGANISATIONS HAVING HEADQUARTERS IN DIFFERENT PARTS OF
THE COUNTRY (.) KINDLY NOMINATE SUITABLE IFS OFFICERS WHO ARE
ELIGIBLE TO HOLD POSTS OF DIRECTOR DEPUTY INSPECTOR GENERAL
INSPECTOR GENERAL AND JOINT SECRETARY IN GOVT OF INDIA ALONG WITH
THEIR COMPLETE BIO DATA CR DOSSIERS AND VIGILANCE CLERANCE (.)
THE OFFICERS SHOULD HAVE COMPLETED IN THEIR RESPECTIVE
CADRES REQUIRED COOLING OFF PERIOD (.) THE
NOMINATIONS SHOULD REACHED THIS MINISTRY NOT LATER THAN 20-12-1993.

Memo No.MFE. 12/38,

Dated Shillong, the 7 /December, 1993.

Copy forwarded to Chief Conservator of Forest & Social
Forestry & Environment, Meghalaya . All Conservator of Forests and
Divisional Forest Officers etc in Meghalaya for their 1 option.

[Signature]
Principal Chief Conservator of
Forests, Meghalaya, Shillong.

%%%%%

*Attended
[Signature]
1.12.95*

New Delhi, the 14th December, 1983

ICE MEMORANDUM

Subject : Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region - improvements thereof.

The need for attracting and retaining the services of competent officers for serving in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

1) Tenure of posting/deputation:

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training etc. in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

contd..

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Advocate

18/12/83

- ii) Weightage for Central deputation/training abroad and special mention in Confidential Records.

Satisfactory performance of duties for the prescribed tenure in the North East shall be given due recognition in case of eligible officers in the matter of -

- (a) promotion in cadre posts;
- (b) deputation to Central tenure posts; and
- (c) courses of training abroad.

The general requirement of at least three years service in a cadre post between two Central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North East.

A specific entry shall be made in the C.R. of all employees who rendered a full tenure of service in the North Eastern Region to that effect.

- iii) Special (Duty) Allowance:

Central Government civilian employees who have All India transfer liability will be granted a Special (Duty) allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs.400/- p.m. Special Allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

Attended

[Signature]

Advocate

18/12/85

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iv) Special Compensatory Allowance:

1. Assam and Meghalaya

The rate of the allowance will be 5 % of basic pay subject to a maximum of Rs.50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 1.7.1982 in the case of Assam.

2. Manipur

The rate of allowance will be as follows for the whole of Manipur:-

Pay upto Rs.260/-	Rs.40/- p.m.
Pay above Rs.260/-	15 % of basic pay subject to a maximum of Rs.150/- p.m.

3. Tripura

The rates of the allowance will be as follows :-

(a) Difficult Areas 25 % of pay subject to a minimum of Rs.50/- and a maximum of Rs.150/- p.m.

(b) Other Areas

Pay upto Rs.260/- Rs.40/- p.m.

Pay above Rs.260/- 15 % of basic pay subject to a maximum of Rs.150/- p.m.

There will be no change in the existing rates of Special Compensatory Allowances admissible in Arunachal Pradesh, Nagaland and Mizoram and the existing rate of Disturbance Allowance admissible in specified areas of Mizoram.

v) Travelling Allowance on first appointment:

In relaxation of the present rules (S.L.105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, incase of journeys for taking up initial appointment

contd..

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[Signature]

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12/12/95

to a post in the North-Eastern region, travelling allowance limited to ordinary bus fare/second class rail fare for road/rail journey in excess of first 400 Kms. for the Government servant himself and his family will be admissible.

vi) Travelling Allowance for journey on transfer:

In relaxation of orders below S.R. 116, if on transfer to a station in the North-Eastern region, the family of the Government servant does not accompany him, the Government servant will be paid travelling allowance on tour for self only for transit period to join the post and will be permitted to carry personal effects upto 1/3rd of his entitlement at Government cost or have a cash equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be, in lieu of the cost of transportation of baggage. In case the family accompanies the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

vii) Road mileage for transportation of personal effects on transfer:

In relaxation of orders below S.R. 116, for transportation of personal effects on transfer between two different stations in the North-Eastern region higher rate of allowance admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Government servant will be admissible.

viii) Joining Time with leave:

In case of Government servants proceeding on leave from

contd..

Attended

Advocate
13/12/95

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a place of posting in North Eastern region, the period of travel in excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible to return from leave.

ix) Leave Travel Concession:

A Government servant who leaves his family behind at the old duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North East to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North Eastern Region. In case the option is for the latter alternative, the cost of travel for the initial distance (400 Kms/160 Kms) will not be borne by the officer

Officers drawing pay of Rs.2250/- or above, and their families, i.e. spouse and two dependent children (upto 18 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala and Calcutta and vice-versa, while performing journeys mentioned in the preceding paragraph.

x) Children Education Allowance/Hostel Subsidy:

Where the children do not accompany the Government servant to the North Eastern Region, Children Education Allowance upto Class XII will be admissible in respect of children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the Government

contd..

Attended

*R. N.
Advocate*

13/12/95

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servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

2. The above orders except in sub-para (iv) will also mutatis mutandis apply to Central Government employees posted to Andaman and Nicobar Islands.

3. These orders will take effect from 1st November, 1983 and will remain in force for a period of three years upto 31st October, 1986.

4. All existing special allowances, facilities and concessions extended by any special order by the Ministries/Departments of the Central Government to their own employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office Memorandum.

5. Separate orders will be issued in respect of other recommendations of the Committee referred to in paragraph 1 as and when decisions are taken on them by the Government.

6. In so far as the persons serving in the Indian Audit and accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

SI/-

(S. C. Mahalik)
Joint Secretary to the Government of India.

10

All Ministries/Departments of the Government of India,
etc. etc.

Copy (with spare copies) to C. & A.G., UPSC etc.

Attended

Advocate

13/12/85

(COPY)

Immediate

No.14017/21/83-AIS.II
Government of India
Ministry of Home Affairs
Department of Personnel & A.R.

Date, New Delhi, 3 February, 1984.

To

- (1) The Chief Secretary to the Government of Assam, Dispur.
- (2) The Chief Secretary to the Government of Meghalaya, Shillong.
- (3) The Chief Secretary to the Government of Manipur, Imphal.
- (4) The Chief Secretary to the Govt. of Tripura, Agartala.
- (5) The Chief Secretary to the Govt. of Nagaland, Kohima.

Subject : Allowances and facilities for members of the All India Services serving in the States and Union Territories of North Eastern Region - Improvement thereof.

Sir,

I am directed to say that the Ministry of Finance (Department of Expenditure) have issued orders revising the existing allowances and facilities admissible to the various categories of Central Government employees serving in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Tripura, Nagaland and the Union Territories of Arunachal Pradesh and Mizoram vide their Office Memorandum No.20014/3/83-E.IV dated the 14th December, 1983. A copy of the Office Memorandum is enclosed.

2. The Central Government are of the view that the difficult conditions in which the members of the All India Services have to serve in the North Eastern Region are similar as in the case of Central Government employees posted there. While most of the Central Government employees are posted in the region on a tenure basis, members of the All India Services allocated to the cadres of the States in the region have to serve in the region for longer period. In fact most of them have to serve in these areas for their entire service period except when some of them may be on central deputation outside the North

contd..2

Attended

P. An
Advocate

13/12/95

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Eastern region. Obviously the need for improving the service conditions of members of the All India Services serving in the Region cannot be overlooked and if anything these should be better than those who are deputed for only short tenures of 3 years.

3. I am, therefore, to request the State Government to extend the orders contained in the Ministry of Finance, Department of Expenditure, Office Memorandum No. 20014/3/83-E. IV, dated the 14th December, 1983 to members of the All India Services serving in connection with the affairs of the State Government with effect from the dates these have been applied to Central Government employees.

Yours faithfully,

Sd/-

(Smt Alka Kalia)

Copy to:

Deputy Secretary to the Government of India.

1. Ministry of Home Affairs (U. Division - Sri Baldev Rai, DS(CPS) - along with a copy of the Ministry of Finance O.M. No. 20014/3/83-E. IV, dated the 14th December, 1983. It is requested that orders contained in the above referred O.M. may be adopted in the case of members of All India Services serving in connection with the affairs of the Union Territories in Arunachal Pradesh, Mizoram and Andaman and Nicobar Islands.
2. Office of the Registrar General of India, New Delhi.
3. Chief Secretaries to the Government of all States (except Assam, Meghalaya, Manipur, Tripura and Nagaland).
4. Office of the Comptroller and Auditor General of India.
5. Accountant General of All States.
6. The Director of Audit, Central Revenue, New Delhi.
7. Ministry of Finance, Deptt. of Expenditure, R. IV Branch
8. Ministry of Agriculture and Irrigation, Deptt of Agriculture (IFS Section).
9. Ministry of Home Affairs (IPS Section).

Sd/- Smt Alka Kalia

Deputy Secretary to the Government of India

Internal Distribution:

EO (CM), EO(F), EO(FH), AIS. I, AIS. III and AIS. IV Sections.

Advocate

Smt Alka Kalia

Advocate

13/12/95

Annexure II

- 42 -
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ANNEXURE-15

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F. No. 20014/16/86/E.IV/E.II(B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 1st December, 1988.

OFFICE MEMORANDUM

Subject : Improvement in facilities for Civilian employees of the Central Govt. serving in the States of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep.

.....

The undersigned is directed to refer to this Ministry's O.M. No. 20014/3/83-E.IV dt. 14th December, 1983 and 30th March, 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Govt. employees posted in North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. Accordingly the President is now pleased to decide as follows :-

(i) Tenure of posting/deputation:

The existing provision as contained in this Ministry's O.M. dated 14.12.83 will continue.

(ii) Weightage for Central deputation and training abroad; special mention in confidential records :-

The existing provision as contained in this Ministry's O.M. dated 14.12.83 will continue. Cadre authorities are advised to give due weightage for satisfactory performance of duties for the prescribed tenure in the North-East in the matter of promotion in the cadre posts, deputation to Central tenure post and courses for training abroad.

(iii) Special(Duty) Allowance:-

Central Govt. Civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 12½% of basic pay subject to a ceiling of Rs. 1000/- per month on posting to any station in the North Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or deputation(duty) allowance already being drawn subject to the condition that the total of such Special(duty) Allowance plus Special pay/Deputation(Duty) Allowance will not exceed Rs. 1000/- p.m. Special allowances like Special Compensatory(Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

.....2/

Attended.

[Signature]

Advocate

13/12/88

The Central Govt. Civilian employees who are members of Scheduled Tribes and are otherwise eligible for the grant of Special (Duty) Allowance under this para and are exempted from payment of Income-Tax under the Income-Tax Act will also draw Special (Duty) Allowance.

(iv) Special Compensatory Allowance:-

The recommendations of the 4th Pay Commission have been accepted by the Govt. and Special Compensatory Allowance at the revised rates have been made effective from 1.10.85.

(v) Travelling Allowance on First appointment :-

The present concessions as contained in this Ministry's O.M. dt. 14.12.83 will continue with the liberalisation that on first appointment T.A. should be admissible for the total distance, instead of for the distance in excess of first 400 kms. only.

(vi) Travelling Allowance for journey on transfer :

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(vii) Road mileage for transportation of personal effect on transfer:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(viii) Joining time with leave:

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

ix) Leave Travel concession:-

The existing concession as contained in this Ministry's O.M. dated 14.12.83 will continue.

Officers drawing pay of Rs. 5100/- or above, and their families i.e. spouse and two dependent children (Upto 18 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala/Aizwal/Lilabari and Calcutta and vice-versa; between Port Blair and Calcutta/Madras and vice-versa in case of postings in A & N Islands; and between Kavaratti and Cochin and vice-versa in case of postings in Lakshadweep.

(x) ~~Children Education Allowance/Hostel Subsidy~~
Children Education Allowance /Hostel subsidy:

Where the children do not accompany the Government servant to the North-Eastern Region, Children Education Allowance upto class XII will be admissible in respect of children studying at the last station of posting of the employees concerned or any other station where the children reside. If children studying in schools are put in hostels at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

.....3/

Attended

Advocate

Advocate

18/12/85

- 3 -

The rules of Children Education Allowance/Hospital subsidy will be as in the DCFAT, O.M. 18011/1/87-Estt.(Allowances) dt. 31.12.87 as amended from time to time.

(xi) Concession regarding grant of House Rent Allowance to officers posted in the States of North Eastern Region, Andaman & Nicobar Island and Lakshadweep Islands.

The present concession, as contained in this Ministry's O.M. No. 11016/1/E, II(P)/84 dt. 29.3.84 as amended from time to time will continue to be applicable.

(xii) Telephone facilities:-

The officers who are eligible to have residential telephone may be allowed to retain their telephone at their residences in their last place of the posting subject to the condition that the rental and all other charges are paid by such officers.

2. The above orders will also apply mutatis-mutandis to the Central Govt. employees posted in Andaman & Nicobar Islands and Lakshadweep Island. These orders will also apply mutatis-mutandis to officers posted to N.E. Council, when they are stationed in the N.E. Region.

3. These orders will take effect from the date of issue.

4. In so far as the persons serving the Indian Audit & Accounts Deptt. are concerned these orders issue after consultation with the Comptroller & Auditor General of India.

5. Hindi version of this Memorandum is attached.

(A. AYARAKAN)

JOINT SECRETARY TO THE GOVT. OF INDIA.

To

All Ministries/Departments of Govt. of India, etc.

Copy (with usual number of spare copies) forwarded to C.O.A., U.P.S.C, etc, etc, as per standard endorsement list.

!!!

Attended

[Signature]

Advocate

13/12/95

Annexure V

ANNEXURE-16

No.14017/1/88-AIS(II)
Government of India/Bharat Sarkar
Ministry of Personnel, Pub. Grievances & Pensions
(Department of Personnel & Training)

New Delhi, the 25 January, 89.

To

The Chief Secretary, to
Governments of Assam-Dispur,
Meghalaya-Shillong,
Tripura-Agartala,
Nagaland-Kohima,
Mizoram-Aizwal,
Arunachal Pradesh-Itanagar.

Subject:- Improvement in allowances and facilities for
members of All India Services serving in the
North-Eastern States and Andaman and Nicobar
Islands and Lakshadweep.

Sir,

I am directed to refer to this Department's letter
No.14017/21/83-AIS(II) dated 3rd February, 1984, wherein the
State Governments were requested to extend the orders con-
tained in Ministry of Finance, Department of Expenditure
O.M.No.20014/3/83-E.IV dated 14th September, 1983, regarding
improvement in allowances and facilities for Civilian em-
ployees of the Central Government serving in the North
Eastern States to members of All India Services serving in
connection with the affairs of the State Government.

2. The Ministry of Finance, Department of Expenditure have
now issued orders vide their O.M. No.20014/16/86-E.IV-EIIB
dated 1st December, 1988, making improvements in the allow-
ances and facilities to the Central Government employees
posted in the North Eastern Region. A copy of the O.M. is
enclosed.

3. It is requested that the orders contained in the Min.
of Finance, Deptt. of Expenditure O.M. dated 1.12.88 may be
extended to members of All India Services serving in connec-
tion with the affairs of the State Government w.e.f. the
dates they have been applied to Central Govt. employees.

Yours faithfully,

(Smt. Valsali Hariharan)
Desk Officer.

Copy to MHA, UTS.

Advocate

13/12/88

ANNEXURE - 17
128
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NO.FEA.83/93/145
GOVERNMENT OF MEGHALAYA
FINANCE (ECONOMIC AFFAIRS) DEPARTMENT

OFFICE MEMORANDUM

Dt. Shillong, the 21st July, 1994.

It has come to the notice of the Government that some Government employees holding transferable posts are being frequently transferred and posted from one place/station to another even before completion of the minimum period of 3 years. This is contrary to the instructions contained in Personnel & A.R. (A) Department's O.Ms NO.PER.93/91/45 dt. 9-12-81 and NO.PER.58/85/4 dt. 1.7.85 and leads to avoidable expenditure on transfer T.A. etc and dislocation in Administration which the State can ill-afford in the current financial crunch. It has therefore been decided that transfer of all officials holding transferable posts from one station to another before completion of 3 years will not be permitted except transfer under extra ordinary circumstances with the prior approval of the Chief Minister.

Mitt 12/3/94
(RANGAN DUTTA)
Principal Secy. to the Govt. of Meghalaya,
Finance Department
1.7

.... 2/-

Retired

Ranbir

Advocate

13/12/95

Memo No.FEA.83/93/145-A, Dated Shillong, the 4th July, 1994.

Copy to :-

- 52
1. All Principal Secretaries/Commissioner and Secretaries/Secretaries to the Govt. of Meghalaya/ Heads of Departments. Receipts of the above communication may please be acknowledged.
 2. The Commissioner of Division for East and West Garo Hills etc. Districts Meghalaya Tura.
 3. The Commissioner of Division for East, West Khasi Hills and Jaintia Hills etc. Districts, Meghalaya.
 4. The Secretary to the Governor of Meghalaya, Shillong.
 5. The Commissioner & Secretary to Chief Minister, Meghalaya, Shillong.
 6. The P.S. to all Ministers/Minister of States, Meghalaya.
 7. The P.S. to the Chief Secretary to the Govt. of Meghalaya.
 8. All Departments in the Sectt. including P.W.D.
 9. All Deputy Commissioners.
 10. Personnel & A.R. (A) Deptt. for information with reference to their endt. dt. 27-6-94 in the file No.PER.58/85

By Order etc.,

Principal Secy. to the Govt. of Meghalaya,
Finance Department.

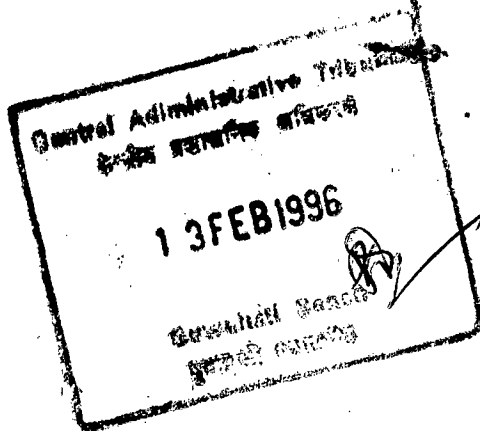
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Attended

[Signature]
13.12.95

Advocate

13/12/95



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Filed by

Respondents No. 2 and 3

of Gauhati

Smt. B. B. B. B.

Add. Government Advocate

Meenapada

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH.

In the matter of :

O.A. 259 of 1995

Sri C.P. Marak, IFS.

... Applicant

Versus

Union of India & Ors.

... Respondents.

An additional written statement on behalf
of the Respondents No.2 and 3 to the
Rejoinder filed on behalf of the applicant -

The applicant begs to state as follows :-

1. That a copy of the rejoinder filed by the
applicant to the written statement submitted on behalf
of the Respondents No.2 and 3 was received by the
Answering Respondents (hereinafter called the Respondents)
and having gone through the copy of the rejoinder the
answering Respondents understood the contents thereof.

2. That the Respondents denied the statements
made in various paragraphs of the rejoinder save and
except those which may be specifically admitted herein
in this ~~written~~ additional written statement.

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2.

3. That while denying the statements made in paragraph 2 of the rejoinder, Respondents reiterate and reaffirm the statements made in paragraphs 1 and 2 of the written statement filed by the Respondents. That the statement that the applicant Sri C.P. Marak had not receive the order of his posting until 7.10.95 is wholly unsustainable in as much as the acknowledgement showing delivery of the order by a special messenger at his personal residence on 2.9.95 clearly establishes that the applicant Sri Marak has received the order well ahead of the date claimed by the applicant.

A copy of the aforesaid acknowledgement receipt is annexed hereto and is marked as Annexure-4.

4. That while denying the correctness of the statements made in paragraph 3 of the rejoinder Respondents reiterate and reaffirm the statements made in paragraph 3 of the written statement filed on behalf of the Respondents. The Respondents further state that for sending an IFS Officer on deputation, willingness of the officers concerned is not required under the Indian Forest Service (Cadre Rules), 1966.

5. That while denying the correctness of the statements made in paragraph 4 of the rejoinder the Respondents state that there is no basis for the statement that "the Respondents cannot take action ...". There is no question of taking any action in the instant case, what has been done is a routine

matter of administrative discretion. The said ~~subject~~ step placing the petitioner's services at the disposal of the Government of India on deputation has been duly taken by the authorities concerned upon consideration of all relevant facts and circumstances of the entire matter.

The memorandum dated 4.7.94 in respect of special pay and allowances ^{is} admissible in respect of the Central Government Officers serving in the North-Eastern region. The said memorandum has no relevance to the facts and circumstances of the instant case.

The Respondents further state that the contents of Government of India's order annexed as Annexures-13, 14, 15 and 16 are not mandatory in case of All India Services Officers allotted to State Cadres in the North-Eastern States.

6. That in this connection the Respondents state that the instant case is not a case of transfer from one station to another and in the instant case the expenditure will be borne by the Government of India for the services having been placed at the disposal of the Government of India to meet the administrative requirements. In any event the facts of the instant case do not in any way warrant the grant of prior approval by the Chief Minister.

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4.

7. That the Respondents deny the statements made in paragraph 5 of the rejoinder and reiterate and reaffirm what has been stated in paragraphs 5 and 6 of the written statement filed by the Respondents.

8. That while denying the correctness of the statements made in paragraphs 6 and 9 of the rejoinder the Respondents reiterate and reaffirm what has been stated in paragraphs 7 and 10 of the written statement filed on behalf of the Respondents. The Respondents further state that the applicant is fully well aware of the Government ~~of~~ Notification placing the petitioner on deputation to Government of India and in fact Sri G.C. Das Choudhury assumed charge on 2.9.95 in pursuance of the order issued in this behalf by the Principal Chief Conservator of Forests asking Sri G.C. Das Choudhury to assume charge of the office of the Planning Officer, Forest, Meghalaya, Shillong after 1600 hours on 2.9.95 in the event of Sri Marak's failure to hand over charge to him in pursuance of the relevant notifications placing Sri Marak on deputation. Accordingly Sri Das Choudhury duly assumed charge of the office of the Planning Officer, Forest on 2.9.95 after 1600 hours.

9. That while denying the statements made in paragraphs 7 and 8 of the rejoinder the Respondents reiterate and reaffirm what has been stated in paragraphs 7 and 9 of the written statement filed by the Respondents.

10. That while denying the correctness of the statements made in paragraph 10 of the rejoinder the Respondents reiterate and reaffirm what has been stated in paragraph 11 of the written statement filed by the Respondents. The Respondents further say that there is no warrant for any consultation with the joint cadre authority in the matter of sending IFS officers on deputation. In no way the Rules governing service conditions of IFS officers laid down in such requirement. However, the fact of posting the applicant Sri Marak was conveyed to all concerned including the joint cadre authority by means of communications duly forwarded to all of these authorities. None of the authorities concerned has raised any objections at all.

11. That in this connection Respondents state that the applicant appears to be completely ignorant about the procedure followed by the Government of India, Ministry of Environment and Forests in cases of deputation to Government of India from various States of the Union. The officers selected/approved for appointment on deputation to the Government of India are relieved by the State Government concerned and they report to Government of India against the post for which their deputation has been accepted and accordingly, submit a joining report to the Government of India, Ministry of Environment and

163 134

Forest. Thereafter, a formal order of appointment follows. In the past, in all cases of deputation from Government of Meghalaya the same procedure has been adopted.

12. That in this connection the Respondents state that in the same manner by following the same procedure, the applicant Sri C.P.Marak has been duly sent on deputation to the Government of India for working as a lecturer at the State Forest Service College, Byrnihat. The posting order in the instant case is on past occasions has been duly issued by the Government of India.

13. That while denying the correctness of the statements made in paragraphs 12 and 15 of the rejoinder the Respondents reiterate and reaffirm what has been stated in paragraphs 13 and 17 of the written statement filed on behalf of the Respondents. The Respondents further state that the bio-data of all the IFS officers has already been computerised and stored in the Ministry of Environment and Forest, Government of India. From time to time the Government of India keeps on updating the bio-data of all IFS officers with the help of ^{various} ~~Forest~~ State Governments concerned. Therefore, the bio-data of Sri C.P.Marak, was already available with Government of India and as such there was no need for further correspondence on the subject. The statement that "rather it will be suffering on the part of the

applicant ... the impugned order will result to is great prejudice" are not correct as alleged or otherwise. That the statements to the effect that there is no training course in progress in the institute of the State Forest Service College, Byrnihat is not at all correct. On the contrary as is evident from the materials annexed hereto and marked collectively as Annexures-5 series, training courses not only for officers deputed from the State of Meghalaya, Assam but from different States of the country, in conformity with the notifications concerning organisations of training courses in the institute are progressing satisfactorily.

14. That in this connection the Respondents further say that the Principal Chief Conservator of Forests, Meghalaya has been invited to address the valedictory session of the course now in progress in the college.

A copy of the aforesaid letter is annexed to this additional written statement and is marked as Annexure-6.

15. That in conformity with the requirements laid down by the Government of India in the matter of deputation of IFS officers allotted to different States, officers from the State of Meghalaya and other States have been sent on deputation to Government of India for the purpose of employing their services in different training colleges including the one at Byrnihat in the instant case.

165 136
8.


16. That with regard to the statements made in paragraph 14 of the rejoinder the Respondents reiterate and reaffirm what has been stated in paragraphs 15 and 16 of the written statement filed on behalf of the Respondents.

17. That with regard to the statements made in paragraph 16 of the rejoinder the ~~Rejoinder~~ Respondents states that under the facts and circumstances of the instant case the application is liable to be rejected as being not sustainable.

... Verification.

VERIFICATION

I, Balvinder Singh, son of Sri Jagdip Singh, aged about 53 years, residing at Shillong, do hereby verify that the statements made in the additional written statement are true to my knowledge and in belief and I verify this additional written statement on this 30th day of January, 1996 at Gauhati.


(BALVINDER SINGH)

Annexure - 4

Pro. (foesi) Sbg.

NPG: 57. at: 2/0/05.

2/9/95

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Brosch. Adm.



13,132-36
22 AUG 1955

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
STATE FOREST SERVICE COLLEGE
BURNHAL, PIN-793101

Issued Pursuant to the 11th of
August/1996.

STSC/BHT/10-68(95-96) Trg./ 752-59

10

1. The Secretary,
Department of Forest,
Govt. of Meghalaya, Shillong (Meghalaya).
2. The Principal Chief Conservator of Forests,
Government of Meghalaya,
Shillong. PIN - 793 001.

Sub: "Refresher Course" for In-service State Forest Service Officers during 1995-96 - nominating Officers for the courses regarding.

Ref: Director of Forest Education's letter No. 15-70/95-DFT,
Dtd. 1-7-1995.

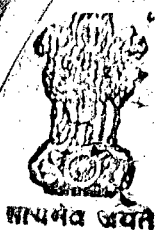
Sir,

I have the honour to inform you that, similar to last few years, this year also the Govt. of India, Ministry of Environment and Forests, New Delhi have decided to conduct 4 Nos. of "refresher Courses" of 2 weeks' duration, for the In-service State Forest Service Officers in this College. In this regards Director of Forest Education's letter No. cited above under reference may kindly be referred. A photocopy of the same alongwith a photocopy of syllabus is enclosed herewith for your ready reference. The courses will be conducted in this college as per programme given below:-

- | | | | | |
|---------------|---|------------|----|------------|
| 1. 1st Course | - | 11.9.1995 | to | 22.9.1995 |
| 2. 2nd Course | - | 13.11.1995 | to | 24.11.1995 |
| 3. 3rd Course | - | 04.12.1995 | to | 15-12-1995 |
| 4. 4th Course | - | 05.02.1996 | to | 16.02.1996 |

Therefore, you are hereby requested kindly to make necessary arrangement for nominating eligible officers for all the 4(four) courses as per guidelines and allotment made to your State vide above letter of the Director of Forest Education and intimate the names and addresses of the selected officers to this Office.

24
11/9/95



सत्यमेव जयते

-12- Annexure-5

Telephone : 81316 (G)
81317 (R)

Grams :

Telex :

महानगर

पर्यावरण एवं वन मंत्रालय

राष्ट्रिय वन सेवा महाविद्यालय

बुर्निहाट, पिन-793101

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT & FORESTS

STATE FOREST SERVICE COLLEGE

BURNIHAT, PIN-793101

No.

-2-

12.11.75

Dated

so that we can also directly keep in touch with the nominee(s). The selected Officers may kindly be directed to report at this College on the evening preceeding the date of start of the course positively so that they can attend classes on schedule date likely to be conducted from 8-30 a.m. The State Forest Service College, Burnihat is located 25 knts. away from Guwahati Rly. Station and situated at 13 miles point of Guwahati-Shillong Road. To reach the College one can travel by Shillong bound buses from Paltanbazar (near Guwahati Rly. Station) or one can avail hired taxi/autorickshaw from Paltanbazar. The nominated Officers may kindly be informed accordingly.

Yours faithfully

Deb Jyoti Prasad

(D. J. PRASAD)

Principal,

State Forest Service College

Burnihat ::::::::::: Assam.

Encls: as above.

Copy forwarded to the Deputy Director General of Forest (R T Government of India, Ministry of Environment & Forests, Laryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi for information.

2. The Director of Forest Education, Ministry of Environment and Forests, P.O. New Forest, Dehra Dun (U.P.) with reference to his lt.no. cited above under reference for information & necessary action.

Deb Jyoti Prasad

(D. J. PRASAD)

Principal,

State Forest Service College

Burnihat ::::::::::: Assam.

Relieved
for Adv. Cell

-13-
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
DIRECTORATE OF FOREST EDUCATION
P.O. NEW FOREST, DEHRADUN 249006

Amesur-5

No.15-70/95-DFT,

Dated 24th July, 1995

To

The Secretary (Forest)

The Principal Chief Conservator of Forests
Forest Department

Assam/Arunachal Pradesh/Hanipur/Meghalaya/Mizoram/
Nagaland/Sikkim/Tripura/West Bengal.

Sub : Two Week Special Refresher Courses for In-service
S.F.S. Officers to be conducted during 1995-96 at
State Forest Service College, Burnihat - Nominating
officers for the Courses - Reg.

* * * * *

Sir,

As you are aware that Government of India have started Two Weeks "Refresher Courses" since 1992 onwards for In-service S.F.S. Officers. These courses have been started with the objectives to update them with the latest trends in the field of Forestry so that they can discharge their duties more effectively and provide better services to the people. Four such courses are being organised at State Forest Service College, Burnihat (Assam) during 1995-96 as per details given below. The number of seats allotted to your State in these courses are being shown in the Annexure, copy thereof is attached herewith :-

1st Course	11.9.1995 to 22.9.1995
2nd Course	13.11.1995 to 24.11.1995
3rd Course	4.12.1995 to 15.12.1995
4th Course	5.2.1996 to 16.2.1996

Officers who have put in minimum of three years of services in S.F.S. and are below the age of fifty years are eligible for nomination to the above courses. These courses are residential and the expenses towards boarding and lodging of officers nominated is borne by Government of India. The State Government, however, shall have to bear their Travelling expenses from respective Headquarters to State Forest Service College, Burnihat and back. You may kindly nominate the eligible officers to these courses as per seats allotted vide attached Annexure.

.....2/.....

Amesur
for record

It is being experienced that a number of nominated officers do not report for training due to one reason or other. This results into great loss to the Government in terms of money, efforts and training resources. Kindly ensure that the officers nominated by your State report to the Course without failure.

The name of the officers being nominated may kindly be intimated to the Principal, State Forest Service College, Burnihat so that he can correspond directly with him. Officers be specifically be directed to report to the Principal, S.F.S. College, Burnihat on the evening preceding the date of start of the course positively. The nomination of officers for each course may kindly be confirmed urgently.

Yours faithfully,

Encl : As above

(D. PANDEY)
DIRECTOR
FOREST EDUCATION

/vkg/

1. Copy forwarded to Deputy Inspector General of Forest (P.T.), Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi - 110 003 for Information.

2. Copy forwarded to the Principal, State Forest Service College, Burnihat - 793 101 for information and further needful action with reference to his letter No.SFSC/BHT/10-68(TRG)/95-96/472, Dated 21st June, 1995.

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DIRECTOR
FOREST EDUCATION

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-15-
ANNEXURE

Annexure-5

STATEWISE ALLOTMENT OF SEATS IN TWO WEEKS SPECIAL "REFRESHER COURSES" FOR IN-SERVICE S.F.S. OFFICERS COMMENCING AT STATE FOREST SERVICE COLLEGE, BURNIHAT (ASSAM).

Sl. No.	State	No. of Seats allotted			
		1st Course 11.9.95 to 22.9.95	2nd Course 13.11.95 to 24.11.95	3rd Course 4.12.95 to 15.12.95	4th Course 5.2.96 to 16.2.96
1.	Assam	8	8	8	8
2.	Arunachal Pradesh	4	4	4	4
3.	Manipur	4	4	4	4
4.	Meghalaya	4	4	4	4
5.	Mizoram	3	3	3	3
6.	Nagaland	3	3	3	3
7.	Sikkim	2	2	2	2
8.	Tripura	2	2	2	2
9.	West Bengal	5	5	5	5
TOTAL		35	35	35	35

(D. PANDEY)
DIRECTOR
FOREST EDUCATION

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filed
noted

-16- Annexure-5 (2)
SYLLABUS FOR "REFRESHER COURSE" OF STATE FOREST SERVICE OFFICERS
(DURATION - 2 weeks)

173 164-180

S u b j e c t s	No. of Lectures	Course contents
I. Environment Conservation and Wildlife Management	(08)	
(a)	02	Wildlife (Protection) Act, 1972; National Parks, Sanctuaries & Biosphere reserves.
(b)	02	Biodiversity and Conservation of natural resources; International Conventions like CITES, IUCN, WWF etc.
(c)	04	Preparation of Wildlife Management Plans.
II. Forest Management	(06)	
(a)	02	Wood Substitution/ preservation.
(b)	02	Improved nursery/plantation techniques including seed collection/storage.
(c)	02	Silvicultural Systems and Bio-diversity Conservation
III. Forest Policy & Law	(08)	
(a)	02	National Forest Policy 1988 - a critical review.
(b)	03	Forest (Conservation) Act, 1988 & guidelines for framing proposals for getting clearance from Govt. of India.
(c)	03	Prevention of Forest Offenders.
IV. Forestry and Rural Development	(11)	
(a)	02	Extension Need, Methodologies, and experiences.

Amended
 16.5.2020
 A. V. S. A. V. S.

(b)	02	Forest Human Interface and Understanding Common Property Resource use.
(c)	02	Gender Issues in Forestry.
(d)	02	Forest Ecosystems and Tribals
(e)	02	Participatory Forest Management - Case studies
(f)	02	Participatory Rural Appraisal
(g)	02	Role of NGOs in Forestry and Eco development.
V. Computer Applications	(12)	
(a)	04	Learning Wordstar.
(b)	04	Learning Lotus.
(c)	04	Learning D Base
VI. Management Skills	08	Leadership, managing team; motivation, appraisal and development of staff; inter-personal relations & communication; Record keeping and monitoring.
VII. SEMINAR	01 day	Each participant would make a 15 minutes presentation of Case studies in any of the above subjects in respect of their State at Seminars to be held at the end of Course in one or two groups.

1. Field/lab visits to place of forestry interest 01 day

(The Course is to be run for 12 days)

Prepared by Dr. S. S. Advani

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D/A - Pleasure
to Govt with a portion
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Annexure 175
179
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GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
DIRECTORATE OF FOREST EDUCATION
P.O. NEW FOREST, DEHRADUN-248006

No.15-70/95-DFT,

Dated 24th July, 1995

To

The Secretary (Forest)

The Principal Chief Conservator of Forests
Forest Department

Assam/Arunachal Pradesh/Manipur/Meghalaya/Mizoram/
Nagaland/Sikkim/Tripura/West Bengal.

D/L

Sub : Two Week Special Refresher Courses for In-service
S.F.S. Officers to be conducted during 1995-96 at
State Forest Service College, Burnihat - Nominating
officers for the Courses - Reg.

* * * * *

Sir,

As you are aware that Government of India have started Two Weeks "Refresher Courses" since 1992 onwards for in-service S.F.S. Officers. These courses have been started with the objectives to update them with the latest trends in the field of Forestry so that they can discharge their duties more effectively and provide better services to the people. Four such courses are being organised at State Forest Service College, Burnihat (Assam) during 1995-96 as per details given below. The number of seats allotted to your State in these courses are being shown in the Annexure, copy thereof is attached herewith :-

1st Course	✓ 11.9.1995 to 22.9.1995
2nd Course	✓ 13.11.1995 to 24.11.1995
3rd Course	✓ 4.12.1995 to 15.12.1995
4th Course	✓ 5.2.1996 to 16.2.1996

Officers who have put in minimum of three years of services in S.F.S. and are below the age of fifty years are eligible for nomination to the above courses. These courses are residential and the expenses towards boarding and lodging of officers nominated is borne by Government of India. The State Government, however, shall have to bear their Travelling expenses from respective Headquarters to State Forest Service College, Burnihat and back. You may kindly nominate the eligible officers to these courses as per seats allotted vide attached Annexure.

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.....2/-----

Attended
for
Min. Cell

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It is being experienced that a number of nominated officers do not report for training due to one reason or other. This results into great loss to the Government in terms of money, efforts and training resources. Kindly ensure that the officers nominated by your State report to the Course without fail.

The name of the officers being nominated may kindly be intimated to the Principal, State Forest Service College, Burnihat so that he can correspond directly with him. Officers be specifically be directed to report to the Principal, S.F.S. College, Burnihat on the evening preceding the date of start of the course positively. The nomination of officers for each course may kindly be confirmed urgently.

Yours faithfully;

Encl : As above

(D. PANDEY)
DIRECTOR
FOREST EDUCATION

/vkg/

1. Copy forwarded to Deputy Inspector General of Forest (R.T.), Government of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi - 110 003 for information.

2. Copy forwarded to the Principal, State Forest Service College, Burnihat - 793 101 for information and further needful action with reference to his letter No.SFSC/BHT/10-68(TRG)/95-96/472, Dated 21st June, 1995.

DIRECTOR
FOREST EDUCATION

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 GOVERNMENT OF INDIA
 MINISTRY OF ENVIRONMENT & FORESTS
 STATE FOREST SERVICE COLLEGE
 BURNIHAT, PIN-791101

No SFSC/BHT/10-68/TRG/95-96/981

Page
Dated

To ✓ The Principal Chief Conservator of Forests,
Government of Meghalaya,
Shillong, Pin-793001.

Sub:- "Refresher Course" for in-service State Forest Service Officers
during 1995-96- nominating officers for the courses- regarding.

Ref:- This office letter No. SFSC/BHT/10-68/TRG/95-96/796-99 dtd. 14-9-95.
and post copy (Telegrams) No. 911-12 dtd. 31-8-95.

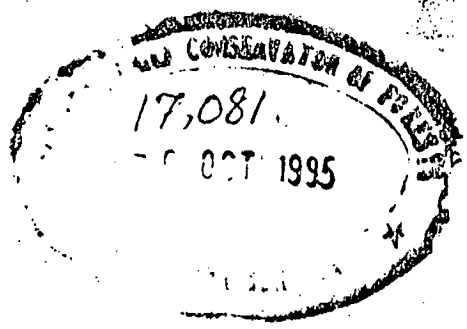
Sir,
With reference to the letters cited above under reference, I am
to inform you that the 1st refresher course conducted in this College
from 11-9-95 to 22-9-95 have been completed successfully and following
participant(s) has joined the course from your State as shown below.

Name of participants		Date of joining
1. Sri P. P. Giri.	-	11-09-95
2. Sri Badenlong Wahlang	-	11-09-95.
3. Sri William Liting	-	11-09-95.
4. Sri H. W. Nongrum	-	13-09-95.

Out of the 4(four) officers nominated from your State, the above
4(four) were participated in the course.

A part from the above, I am to inform you that the 2nd course
will be held from 13-11-95 to 24-11-95 and 3rd and 4th course will be
conducted from 4-12-95 to 15-12-95 and 05-02-96 to 16-02-96 respectively.
Therefore you are hereby requested kindly to make necessary arrangement
for deputation of participants for remaining courses and confirm their
joining in the courses. The course report of the 1st course will be sent
to you on preparation of the same within a short time.

This is for favour of your kind information and necessary action.



Yours faithfully,

Principal
 State Forest Service College,
 Burnihat, Assam.

Delivered
16.08.1995

STATE

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Annapur - 5

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SECRETARY,
FOREST DEPARTMENT,
GOVT. OF MEGHALAYA,
SHILLONG
MEGHALAYA

REFOURLET DATED 14-8-95 REGARDING DEPUTATION
OF SFS OFFICERS FOR ATTENDING REFRERHER COURSES AT
SFS COLLEGE, BURNIHAT(.) KIL AT AND THE SELECTION
OF OFFICERS AND SEND DETAILS LIST IMMEDIATELY(.)

RECEIVED
BURNIHAT

Not to be telegraphed dated
Burnihat the 31st of Aug'95.

(S.D. BURNIHAT)
Principal,
State Forest Service College,
Burnihat-793101, Assam.

No. SFSC/BET/10-6/77 (95-96)/
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
OFFICE OF THE PRINCIPAL, STATE FOREST
SERVICE COLLEGE, BURNIHAT.

Dated Burnihat the 31st August, 1995.

Post copy in confirmation is sent to the
Secretary to the Government of Meghalaya, Forest Department,
Shillong, Meghalaya

..... for his kind information in reference
to this office letter No. SFSC/BET/10-6/77 (95-96)/Trg/756-59
dated 14-8-95, regarding deputation of State Forest Service
Officers for attending Refresher Courses to be held at this College
from 11-09-95 onwards. In this regard it is requested kindly to
make necessary arrangement for sending the Officers for all the
(or) Courses and to send the details list of participants to
this office immediately. A photocopy of D.S. Letter No. 15-63/
SFT, dtd. 20-10-94 is also enclosed herewith for reference in
this regards.

✓ 2. Copy to the Principal Chief Conservator of Forest
Govt. of ... Meghalaya, Shillong-793 001.....

..... to this office letter
dtd. 14-8-95 for necessary action. A photocopy of D.S. Letter No. 15-63/
SFT, dtd. 20-10-94 is enclosed herewith for reference.

Encl (as stated).

14/880

SEP 1995



GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
STATE FOREST SERVICE COLLEGE
BURNHAKE, PIN-793101

SFSC/BHT/10-68/Trg/95-96/127C

To,

Sub:- "Refresher Course of 12 days duration for in-service State Forest Service Officers during 1995-96 - nominating Officers for the Course regarding.

Ref:- Your letter No. MPE.26/156 dtd. 12-10-95
07-09-95

Sir,

With reference to your letter cited above, I am to inform you that the 2nd Refresher Course of S.F.S. Officers is conducting in this College w.e.f 13-11-95 and this will run upto 24-11-95. The following Participant(s) has joined the course till 16-11-95(FN) as details below:-

This is for favour of your kind information and necessary action.

Yours faithfully

Principal

State Forest Service College,
Burnihat: Assam.

-000-



From:- D.J.Mitra, IFS,
Principal.

Annexure-6
RECEIVED
12/1/96
12/1/96
12/1/96

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
STATE FOREST SERVICE COLLEGE
BURNihat, PIN-793101

No. SFSC/BHT/10-68/Trg/95-96 / 9

Date
Dated 12/1/96.

Sub:- In-Service training course for the State Forest Service Officers- conducting seminars and holding of valedictory session.

Respected Shri Singh,

In connection with conducting Refresher Course, your kind presence is requested at State Forest Service College, Burnihat on 16-02-1996(Friday) from 1000 hrs to 1200 hrs. as Forestry expert for conducting the Seminar of participants in-service State Forest Service Officers and to attend valedictory session of said course as Chief Guest as well as after completion of seminar.

A line of confirmation will be highly appreciated.

Sincerely yours,

(D.J.Mitra)

TO
SHRI-BALVINDER SINGH, IFS,
PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
GOVERNMENT OF MEGHALAYA,
SHILLONG.

--000--

Handwritten notes and signatures at the bottom left corner.

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BEFORE THE HONORABLE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

ORIGINAL APPLICATION NO. 258 OF 1995

SHRI C.P. MARAK

APPLICANT

VERSUS

UNION OF INDIA & OTHERS .. RESPONDENTS

S. NO.	CONTENTS	PAGE NO.
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1.	Written statement in reply filed by Union of India, as Respondent ONE to the Application.	1 to 15
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THROUGH

(MD. SHAUKAT ALI)
ADDITIONAL CENTRAL GOVERNMENT STANDING COUNSEL,
CENTRAL ADMN TRIBUNAL: : GUWAHATI BENCH: GUWAHATI.

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12 MAR 1996

Central Administrative Tribunal
Guwahati Bench, Guwahati

Shaukat Ali

12 MAR 1996

Central Govt. Standing Counsel

Central Administrative Tribunal

Guwahati Bench, Guwahati

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BEFORE THE HONORABLE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

ORIGINAL APPLICATION NO. 259/1995

SHRI C.P. MARAK APPLICANT

VERSUS

UNION OF INDIA AND OTHERS .. RESPONDENTS

WRITTEN STATEMENT IN REPLY FILED ON BEHALF OF
RESPONDENT ONE TO THE ORIGINAL APPLICATION, BY A. K.
GOYAL, DIRECTOR, MINISTRY OF ENVIRONMENT AND FORESTS,
HAVING HIS OFFICE AT PARYAVARAN BHAVAN, CGO COMPLEX,
B-BLOCK, LODI ROAD, NEW DELHI -110003.

MOST RESPECTFULLY SHOWETH:

PRELIMINARY OBJECTIONS:

NON-EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. The answering respondent humbly submit that the present application suffers from the defect of non-exhaustion of statutory remedies by the applicant. The applicant, being an All India Service officer, is entitled to avail the remedies available to him by submitting a Memorial in the form and manner and the time limit prescribed under the relevant statutory provisions governing the All India Services, addressed to the President, against any order of the Central Government or of the State Government by which he was aggrieved. The applicant has not availed the remedies available to him. For this reason, it is submitted that the present application is premature and is barred on account of "non-exhaustion of administrative remedies" and deserves to be dismissed. Answering respondent humbly pray that due to the submissions aforesaid, the application may be dismissed with costs.

A. K. Goyal

BRIEF BACKGROUND:

2.1 The applicant herein, is an officer allocated to the Assam-Meghalaya Joint Cadre of the Indian Forest Service. The applicant belongs to 1983 Batch of the Indian Forest Service and underwent training as probationer, initially at the Indira Gandhi National Forest Academy, Dehra Dun (the then Indian Forest Service College) and thereafter in the Lal Bahadur Shastri National Academy of Administration, Mussoorie in the Foundational Course. On completion of the period of institutional training, the applicant reported for duty in the State of Meghalaya, , one of the constituent units of the Assam-Meghalaya Joint Cadre of the Indian Forest Service.

2.2 On the basis of nominations of the Indian Forest Service Officers received from the State Government of Meghalaya, vide their fax communication No.FOR/86/94 / 110- A, dated the 3rd June, 1995 (respondent number two to the present application), including the nomination of the applicant, the answering respondent considered the name of the applicant along with other nominations that were received from other State/UT Cadres, for appointment on central deputation against the forestry posts under the administrative control of the Central Government. Answering respondents are the Cadre Controlling Authority of the Indian Forest Service, and

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make appointments of Indian Forest Officers, drawn from various State cadres, to man forestry posts covered under the Central Staffing Scheme of the Ministry of Environment and Forests, for fixed tenures.

2.3 The applicant having been recommended by the Central Forestry Establishment Board, constituted under the Central Staffing Scheme for appointments on Central deputation, the answering respondent directed the respondent number 2, the State Government of Meghalaya, vide telegraphic communication No.12026/5/95-IFS.I, dated the 14th August, 1995 for immediate relief of the applicant for reporting to duty as Lecturer at the State Forest Service College, Burnihat (Meghalaya), against a Central Deputation Reserve post covered under the Central Staffing Scheme. The applicant having been ordered immediate relief by the State Government, Respondent No. 2, from his assignment in the State Forest Department to report to duty at Burnihat, had submitted an advance copy of his Representation Dated the 1st September, 1995 to the answering respondent praying for cancellation of his central deputation appointment. The same has been considered by the answering respondent and was rejected on merits and Respondent No. 2 was informed of the decision telegraphically, with a request to immediately relieve the applicant for reporting to duty at Burnihat.

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2.4 Indian Forest Service (Cadre) Rules, 1966, contain provisions enabling appointment of Indian Forest Officers of the State Cadres on Central Deputation, i.e., for appointment of officers against the central deputation reserve of the Service. Regulation 2 of the Indian Forest Service (Fixation of Cadre Strength) Regulations 1966 which provide for "strength and composition of cadres" of each State cadre includes, inter alia, the Central deputation reserve, which is 20 per cent of senior posts under the State Government. In accordance with the provisions contained in Rule 6 of IFS (CADRE) Rules, 1966, the Central Government after assessing the vacancy position against the forestry posts covered under the Central Staffing Scheme, seek nominations of eligible Indian Forest Service officers from the State cadres, for appointment against the forestry posts under the Central Deputation Reserve. The election and appointment of the applicant as Lecturer, State Forest Service College, Burnihat, by the answering respondent, is against one of the Central deputation Reserve posts covered under the above statutory provisions.

2.5 It is further submitted that while All India Service officers (the applicant is an All India Service Officer) are allocated to States/Joint Cadres and will mostly be required to serve under the State Government, the Government, however, retains the right to require them to serve any where in India or abroad; whether under the

Central Government, any State Government or a public enterprise or a local body substantially owned or controlled by the Central Government or by a State Government. Rule 6 of the Indian Forest Service (Cadre) Rules, 1966 contain the statutory provisions enabling appointment of officers of the Indian Forest Service on Central deputation. Appointment on deputation to the Central Government in respect of Indian Forest Service Officers do not require the consent of the officers either. In this connection, the provisions of rule 6 of IFS (Cadre) Rules, 1966 are relevant and are reproduced hereunder:-

"DEPUTATION OF CADRE OFFICERS"

(1) A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government.

(2) A cadre officer may also be deputed for service under:-

i) a company, association or body of individuals whether incorporated or not, which is wholly or

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substantially owned or controlled by a State Government, municipal corporation or a local body, by the State Government on whose cadre he is borne; and

ii) an international organisation, an autonomous body not controlled by the Government or a private body, by the Central Government in consultation with the State Government on whose cadre he is borne:

Provided that no cadre officer shall be deputed to any organisation or body of the type referred to in item (ii) except with his consent:

Provided further that no cadre officer shall be deputed under sub-rule (1) or sub-rule (2) to a post carrying a prescribed pay which is less than, or a pay scale, the maximum of which is less than, the basic pay he would have drawn in the cadre post but for his deputation."

In the light of the above provisions of the statutory rules governing the matter it will be seen that the appointment of the applicant as Lecturer in the State Forest Service College, Burnihat, a post covered under the Central Staffing Scheme of the Central Government, against Central Deputation Reserve of the IFS, by the answering respondent, is under the said statutory provisions. Consent of the applicant for appointment under the Central Government is not a requirement of the Cadre Rules.

PARAWISE REPLIES

3. In reply to averments in sub-paragraphs (i) and (ii) of Paragraph 1, it is submitted that the directions and decisions of the State Government of Meghalaya contained in their communications referred to, are on the basis of answering respondent's directions to the State Government for the relief of the applicant for taking up the Central deputation appointment as Lecturer, in the State Forest Service College, Burnihat and hence are admitted to the extent substantiated by records.

4. Averments in paragraphs 2 and 3 require no comments.

5. In reply to averments in para 4.1, it is denied that the actions of the answering respondent in the selection and appointment as Lecturer, State Forest Service College, Burnihat is a violation of the mandataory provisions of Law. The appplicant is an All India Service Officer and his service conditions are governed by the All India Services Act, 1951 and the Rules and Regulations made thereunder. His appointment against the Central deputation post is made in exercise of the powers conferred under the Central Government under IFS (Cadre) Rules, 1966 (hereinafter referred to as the 'Cadre Rules').

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6. Averments in sub-paras 4.2, 4.3 and 4.4 of Paragraph 4 are the concern of the Respondent number 2. The applicant being a Cadre Officer allocated to the Meghalaya Constituent Unit of the Assam-Meghalaya Joint Cadre of the Service, has to serve under Respondent No. 2. Averments concerning the applicant's caste and community are not relevant to the present application and need no comment.

7. In reply to averments in sub-paras 4.5 and 4.6 of para 4, it is submitted that the decisions of the State Government of Meghalaya are corollary to the decisions of the answering respondent who have directed the State Government to ensure immediate relief of the applicant to take up his Central deputation appointment as Lecturer, SFS College, Burnihat as public interest was involved in the answering respondent's decision.

8. Averments in sub-paras 4.7 and 4.8 of Para 4 will be appropriately met by Respondent No.2.

9. In reply to averments in sub-paras 4.9, 4.10 and 4.11 of Para 4, it is submitted that the applicant being an All India Service Officer, his service conditions are governed by the All India Services Act and the Rules and Regulations made thereunder and hence averments concerning

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his community are not relevant and hence need no comment. It is further submitted that the averments of the applicant regarding the legal proceedings before the Hon'ble Court of Munsiff at Shillong having no competent jurisdiction in the Service matters of the applicant, require no comment.

10. Sub-Para 4.12 of Para 4 being reiteration of the Statutory Provisions under the Cadre Rules, no comments are offered.

11. In reply to averments in Sub-para 4.13, it is submitted that appointments of IFS Officers drawn from State Cadres in utilization of the Central Deputation Reserve component of each State Cadre is regulated by the Central Government, that is, the Ministry of Environment and Forests (the answering respondent) and the appointments are made strictly in accordance with the provisions contained in the Central Staffing Scheme, notified by the Central Government. The Central Staffing Scheme, inter-alia, covers such of those aspects, ie., the Composition of the Selection Committees, the category, the scale of pay applicable and the number of posts covered under the Scheme, tenures against each appointment, the cooling-off requirements, etc. Thus, the contention of the applicant that there exist no guidelines for sending IFS Cadre Officers on deputation is baseless.



12. In reply to sub-paras 4.14 and 4.15, it is submitted that Respondent No. 2, the State Government of Meghalaya have been directed by the answering respondent to relieve the applicant to take up his Central deputation assignment and hence all decisions of the State Government are legally valid. The applicant's selection for Central deputation appointment has been made on the basis of nominations received from Respondent No. 2 and hence actions of both the answering respondent and of Respondent No. 2 are strictly in accordance with the provisions contained in the Cadre Rules. These statutory provisions do not require notice, option and willingness of the Cadre Officers, while such a consent is necessary for deputation of IFS Officers to any organisation or body of the type referred to in item (11) of sub-rule 2 of Rule 6 of Cadre Rules. (Paragraph 2.5 of this Written Statement, Supra). Averments of the applicant are thus, baseless and not based on facts.

13. While the averments in sub-para 4.16 have no relevance to the present application, answering respondent humbly submit that the methods of selection, appointment, etc., against the forestry posts covered under the Central Deputation Reserve of the IFS are strictly followed as per provisions contained in the Central Staffing Scheme, notified by the Central Government through a Resolution. Respondent No. 2, being the State Cadre Authority for the Indian Forrester Service, officers allocated to the Meghalaya

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Constituent Unit of the Joint cadre, has the exclusive jurisdiction and liberty to arrive at appropriate administrative decisions in the matter of nomination of IFS personnel for consideration for appointment against Central Deputation Reserve Posts. Decisions of the State Government, are on the basis of specific directions issued by answering respondent in their capacity as the Cadre Controlling Authority of the Indian Forest Service. Averments of the applicant are thus baseless and hence denied.

14. Averments in sub-paras 4.17, 4.18 and 4.19 are the concern of Respondent No. 2 and will be appropriately met by them.

15. In reply to averments in sub-para 4.20, it is submitted that the appointment of the applicant as Lecturer in the State Forest Service College, Burnihat is in public interest and in the exigencies of Service. Such of these decisions of the answering respondent taken on purely on administrative considerations cannot be questioned before any legal forum and hence it is humbly submitted that the present application may kindly be dismissed with costs. The College has a sanctioned strength of 1 Principal and 4 Lecturers to be manned exclusively IFS Central deputationists. Against this, only the Principal and one

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lecturer are positioned at present and the management of the College which imparts professional training to Foresters drawn from North East is becoming difficult day by day. Selection of the applicant as Lecturer on the basis of experience, qualifications, etc., is a conscious decision. The applicant is not entitled to any relief, an interim relief either, as being prayed for.

16. In reply to averments in sub-paras 4.21 and 4.22, it is submitted that the appointment of the applicant against the vacant post of Lecturer in the SFS College, Burnihat is an immediate requirement to meet the exigencies of Service, in view of the critical management position of the College which imparts institutional training to State Forest Service Officers. The averments of the applicant are without any basis and denied being baseless.

REPLY TO THE GROUNDS FOR RELIEF

17. Ground in sub-paras 5.1 and 5.2 of Para 5 is mis-conceived and baseless. Applicant's appointment against the Central Deputation Reserve of the Assam-Meghalaya Joint Cadre of the IFS is strictly in accordance with Statutory provisions governing such appointments.

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18. In response to Ground 5.3 of Para 5, it is submitted that the selection of the applicant to man the Central Deputation Post at Burnihat is on the basis of specific nomination received from Respondent No. 2 for which the applicant's consent is not required under the Cadre Rules governing the Service of the applicant.

19. Grounds 5.4, 5.5 and 5.6 will be appropriately met by Respondent No. 2 to the application. It is submitted that the applicant having been nominated by Respondent No. 2 for consideration for appointment against the Central Deputation posting after a careful decision on sparing his services, after due consideration of relevant administrative aspects and the requirements of the State Forest Department, subsequent decisions taken and directions issued by the answering respondent connected with the selection and appointment of the application against the central deputation posting will have over-riding primacy over Respondent No. 2 decisions. Thus, actions, decisions and directions of Respondent No. 2 taken in public interest are neither illegal, unconstitutional nor arbitrary. Hence, the grounds averred in support of the application deserve no merit and be dismissed with costs.

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20. In reply averments made in para 6 of the application, it is submitted that the applicant, as brought out by the answering respondent in preliminary objections

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submitted in paragraph one supra, has not availed of the statutory remedies available to him as an All India Service Officer. Thus, the application is premature and suffers from the melody of 'non-exhaustion of official remedies' and for this very reason alone, the application fails and cannot be entertained for grant of any relief or for any interim relief either. The application may be dismissed with costs.

1. Para 7 being formal, needs no reply.

2. In response to the averments made by the applicant in para 8 seeking reliefs under 8.1, 8.2, 8.3 and 8.4 and the interim relief being sought in para 9 of the application, it is submitted that the applicant has been considered and appointed on Central deputation on the basis of nominations received from Respondent No. 2. The decision of answering respondent in directing the applicant to report for duty at the SFS College, Burnihat on Central deputation is purely an administrative decision in the public interest and for ensuring effective and efficient management of the Indian Forest Service Cadre. It is humbly submitted that an administrative decisions taken in public interest cannot be challenged in a Court of Law. The applicant deserves none of the reliefs and the interim

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iefs being prayed for as he could not make out any case such a determination in his favour. The applicant has led to make out any case and hence the application, it humbly prayed, be dismissed with costs.

Paras 10, 11 and 12 of the applicant are formal and no reply.

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In view of the submissions made by the answering respondent as above, the answering respondent humbly pray before the Hon'ble Tribunal that the present application be dismissed with costs.

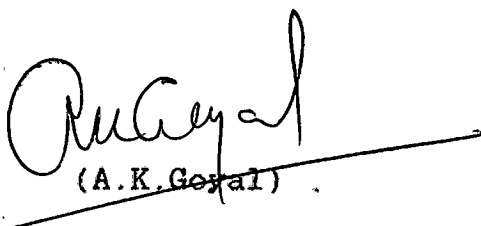
AYED ACCORDINGLY.

VERIFICATION

I, A.K.Goyal, son of Shri B.R.Goyal, working as Director in the Ministry of Environment and Forests, Yavaran Bhavan, Lodi Road, New Delhi-110003, do hereby solemnly verify that the contents of the aforesaid written statement are true to the best of my knowledge and information received and believed to be true on the basis of official records and nothing has been concealed.

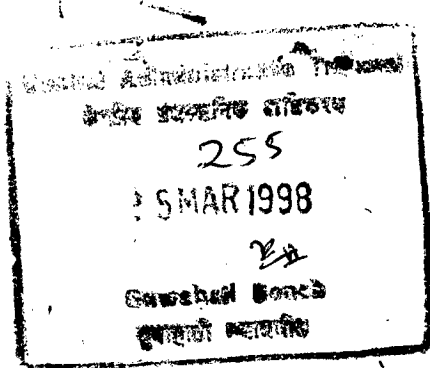
VERIFIED at New Delhi, the 27th February, 1996.

FOR RESPONDENT No. 1


(A.K. Goyal)

OUGH:

(Shaukat Ali)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH

O. A. 259/95

Sri C. P. Marak

-Vs-

Union of India and others.

The statement on behalf of the respondent of No. 4, the State of Assam is as follows :-

I, Shri A. B. Mahammad Eunos, son of late Shamsher Ali, at present Joint Secretary to the Government of Assam, Department of Forest, Dispur, do hereby solemnly state as follows :-

1. That I am the Joint Secretary to the Government of Assam, Department of Forest, Dispur. As part of my official duty, I look after cases pertaining to this Hon'ble Tribunal. As instructed by the Senior Government Advocate, Assam, I appeared in the Hon'ble Tribunal on March 20, 1998 in connection with the above Case.

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Filed by
Yamini K. Phukan
Abul Baswar Md. Eunos. Sr. Govt. Advocate
(Assam)
Joint Secretary to the
GOVT. OF ASSAM
Forest Department
Assam, Dispur, Guwahati-6.
25.3.98

-: 2 :-

2. That this Hon'ble Tribunal directed me on 20.3.98 to search whether the Forest Department of Assam and the Personnel (A) Department of Assam received the copy of the Notification bearing Memo No.FOR. 86/94/128-B dated Shillong the 24th August, 1995. This Notification is the subject matter of contention in the above Case.

3. That pursuant to this direction by this Hon'ble Tribunal, I made the necessary search. The Personnel (A) Department of the Government of Assam has also been contacted. Inspite of our best efforts, we could not find out any record of receipt of the copy of Notification No.FOR.86/94/128-B dated 24.8.95 issued by the Government of Meghalaya. The Personnel Department, Government of Assam also could not furnish any record of receipt of the same. This Hon'ble Tribunal is accordingly informed.

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Abul Basar Md. Eusuf

Joint Secretary to the
GOVT OF ASSAM
Forest Department
Assam, Dispur, Guwahati-6.

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- : 3 :-

V E R I F I C A T I O N .

I Shri A. B. Mahammad Eunus,
Joint Secretary to the Government of Assam,
Department of Forest, do hereby solemnly
state that the statements made in paras 1
and 2 of this statement are true to my
knowledge and those made in para 3 are true
to my information based on record which I
believe to be true.

And I signed this verification
at Dispur on this 25th day of March, 1998.

(Signature) _____

Abul Basar Md. Eunus

Joint Secretary to the
GOVT. OF ASSAM
Forest Department
Assam, Dispur, Guwahati-6,