

FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Org. App. / Misc Petn / Cont. Petn / Rev. App. 22/04

In O.A. 15/95

Name of the Applicant(s) Th. Ibohal Singh

Name of the Respondent(s) Mr. D. P. Tora

Advocate for the Applicant Mrs. S. Sarma, Mr. U. Das, Mr. B. Debnath

Counsel for the Railway / CGSC

ORDER OF THE TRIBUNAL

OFFICE NOTE

DATE

14.6.04.

This Contempt proceeding petition has been filed by petitioner praying for drawing up Contempt proceeding against the contemners for their willful and deliberate violation of the judgment and order dated 21.01.2004 passed by this Hon'ble Tribunal in O.A. 15/95.

Heard before the Hon'ble Court for further orders.

Section officer

Officer

The above Contempt has been filed for violation of the judgment & order dated 22.1.2004 in R.A 15/95 passed on 22.1.01 by this Hon'ble Tribunal and also passed in P.C. No. 4963/01 by the Hon'ble High Court. Now the applicant

8.50

Present: The Hon'ble Mrs. Bharati Roy, Judicial Member and Mr. K. V. Prahladan Administrative Member.

The learned counsel for the applicant submits that he will personally serve the copy of the C.P. to the alleged contemner.

List on 25.6.04 for orders.

K. V. Prahladan
Member (A)

B. Roy
Member (J)

Present: Hon'ble Mr. K. V. Sachidanandan Judicial Member Hon'ble Mr. K. V. Prahladan, Administrative Member.

When the matter came up for hearing the learned counsel for the Respondents has shown a letter dated 24.6.04 stating that there was communication gap between learned counsel Shri Choudhury, Gauhati High Court and the Respondents. Therefore the Respondents could not take further steps. The learned counsel for the Respondents prays for three months time to implement the order. Three month time is too long. One month time is granted to implement the order. Copy of the letter No. 22012/19/95-IES-II dated 24.6.04 handed over by Mr. A. Deb

contd/-

20.7.04. Roy shall be kept in records.

List on 22.8.04. for orders.

K. Prahledan
Member(A)

Member(J)

lm

27.8.04.

Present: Hon'ble Mr. D. C. Verma
Administrative Member.

Hon'ble Mr. K. V. Prahledan, Adminis-
trative Member.

The order dated 21.1.2000

passed in O.A. No. 15 of 95 the
direction has been modified as
per order passed by the Hon'ble
High Court ^{W.P.(C) No. 4963 of} ~~Contempt Appeal~~ 2001
thereby the applicant was ^{to} make
representation which was ^{to be} decided
by the Central Government under
rules and regulations ^{Government} of service. According ^{to} to the
learned counsel for the applicant
the representation was made ⁱⁿ May
2003. But the Respondents have not
yet taken any decision there-
in. Mr. A. K. Choudhury, Addl. C.G., S.C.
for the Respondents seeks two
months ^{further} time to file reply to the
petition. We noticed that more
than one year ^{have already been} passed,
but they have not given
any decision to the applicant.
Such decisions are to be taken
expeditiously and inaction amounts
to Contempt. However, ~~as~~ ^{prayed} for,
one month time is granted to
the respondents to pass appropriate
order and the order shall be
communicated to the applicant.

List on 30.9.04 for orders.

K. V. Prahledan
Member

Vice-Chairman

lm

has been fined a contempt
of 17 of the A.T. Act 1985
for framing appropriate
order which was passed
in above mention cases.

Submitted for forum
of orders.

DR

W.S.
9/6/04

List before DB on
14.6.04 for orders.

DR
9.6.04

(SOT)

Learned Advocate
for the applicant
submits postal
receipt on 17/6/04.

DR
16/6/04: Received
over at 20/7/04
by.

28/7/04.

Received
by DR
28/7/04

Ag. 31/9/04

Notes of the Registry	Date	Order of the Tribunal
	6.10.04.	<p>Present: Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.</p> <p>Hon'ble Mr. K. V. Prahladan, Administrative Member.</p> <p>Heard Mr. S. Sarma learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, Sr.C.G.S.C. for the Respondents.</p> <p>Mr. A. Deb Roy, Sr.C.G.S.C. states that in matter of contempt there has to be specific appointment by the department concerned and it appears that no one has been appointed so far. The learned counsel for the applicant has filed postal receipt but it appears that the acknowledgment due has not been received. It is therefore considered necessary that the post office concerned be directed to inform whether the said letter had been delivered to the addressee and the date of receipt thereof. Stand over to 18.11.04. In case the applicant so desires, he may also take fresh steps for service to the Respondents through courier service and receipt of service of the same be filed before the Tribunal on the next date.</p>
<p><i>Received Bamoloma Deo behalf of Applicant 10/11/04</i></p> <p><i>No steps. 24/11/04.</i></p>		<p><i>R.K. Batta</i> Member</p>
<p><i>order dt. 14/12/04 issuing to learned advocate Mr. Batty the parties.</i></p> <p><i>28/12/04</i></p> <p><i>The learned Adv. Batty the applicant has not submitted courier service records 8pm. The couriers 3-1-05</i></p>	14.12.04.	<p>Present: Hon'ble Mr. Justice R.K. Batta Vice-Chairman.</p> <p>The learned counsel for the applicant has stated that the notice was sent to Contemner Respondent No.1 by Courier ^{she} which has placed courier receipt before me. The applicant may obtain the service record of the same from the Courier and shall be placed the same before the Tribunal on the next hearing. Stand over to 4th Jan. 2005.</p>
	1m	<p><i>R</i> Vice-Chairman</p>

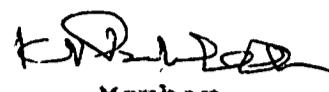
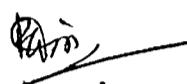
(A)

4.1.2005

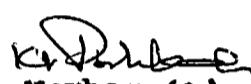
Let the matter be placed before
the next Division Bench.15.2.05.

An affidavit has
been submitted by the
Respondent No.1.

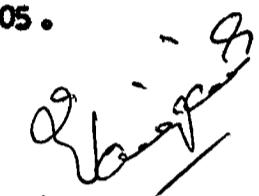
bb


Member
10.03.2005 Present : The Hon'ble Mr. Justice
G. Sivarajan, Vice-Chairman.The Hon'ble Mr. K.V.Prahладan
Administrative Member.


List on 14.03.2005.


Member (A)

bb


Vice-Chairman

14.3.2005

This Tribunal has issued a final
order in O.A.15/1995 as early as on
20.1.1999 with the following directions:

"Therefore in view of the above,
we find sufficient force on the
contention of Mr. Sharma and we are
of the opinion that the Triennial
Cadre Review ought to have been
held at the interval of 3 years as
this was not done as held by the
Kannakulam Bench the year of allot-
ment earlier than 1986. Regarding
deputation reserve quota as this
was not done we give direction to
the respondents to compute the
cadre strength promotional quota
after giving deputation reserve
quota and give the benefit of
promotion quota to the applicant
in the manner he is entitled to."

Respondents have filed Review

Application No.15/1999 which was rejec-
ted as per order dated 22.1.2001. Res-
pondents then took up the matter before
the High Court by filing W.P.(C) No.
4963 of 2001 which was dismissed as per
judgment dated 10.6.2003. It is the
grievance of the applicant in the C.P.



Contd.

Notes of the Registry] Date Order of the Tribunal

14.03.2005

present: The Hon'ble Mr. Justice G.Sivarajan,
Vice-Chairman.

The Hon'ble Mr. K. V. Prahладан,
Member (A).

Post on 22.6.2005.

Parikh
Member

Parikh
Vice-Chairman

bb

22.6.2005

Post on 2.9.2005.

Parikh
Member

Parikh
Vice-Chairman

29.6.05

Additional affidavit
submitted by the
Respondent/Contemnor.

bb

22.9.05.

Post the matter before the next
available Division Bench.

Parikh
Vice-Chairman

im

7.10.2005

Heard Ms.B.Devi, learned counsel
for the applicant and Mr.A.K.Chaudhuri,
learned Addl.C.G.S.C. for the respondents
Mr.Chaudhuri seeks for some more time.

Post on 24.11.2005.

Parikh
Member

Parikh
Vice-Chairman

bb

24.11.2005

Mr. S. Sarma, learned counsel for
the applicant and Mr. A.K. Chaudhuri,
learned Addl. C.G.S.C. for the respondents
are present.

Post before the next Division
Bench.

Parikh
Vice-Chairman

mb

04.01.2006 Present : Hon'ble Mr. Justice
G. Sivakajan, Vice-Chairman
Hon'ble Mr. N.D. Dayal,
Administrative Member.

On behalf of Mr. S. Sarma,
learned counsel for the applicant an
adjournment is sought. Mr. A.K.
Chaudhuri, learned Addl. C.G.S.C.
for the respondents also seeks for
some time. Post on 24.2.2006.

9
Member

9
Vice-Chairman

23-2-2006

mb

No compliance report

to be filed for 24.2.2006

bn

post the matter on 8.3.2006 before
the Division Bench.

9
Vice-Chairman

F-3-06

bb

No compliance report
has been filed.

my

8.3.2006

This Contempt Petition has been
filed by the petitioner against the
alleged contemner/respondent for non-
compliance of the order of this Tribunal
dated 21.01.2000 passed in O.A. No.
15/1995.

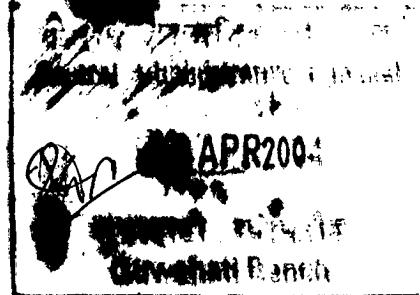
When the matter came up for hearing
Ms. B. Devi, learned counsel for the
applicant submits that the contemner/re-
spondent has already complied with the
order of this Tribunal vide order
dated 28.2.2006 and therefore, the ap-
plicant does not want to pursue the C.

Recording the said submission te
C.P. is closed and notice issued in a
will be discharged. A copy of the order
dated 28.2.2006 will be kept on record

9
Vice-Chairman (J)

bb

9
Vice-Chairman (A)



Filed by
the petitioner through
Mukherjee
Advocate

= 1 =

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

C.P. No.....22/03.
O.A.No.15/95

Th. Ibobi Singh.
.....Applicant
-VS-

Union of India & Ors.
.....Respondents

IN THE MATTER OF

An application under Sec 17 of the
Administrative Tribunal Act, 1985
for drawing up contempt proceeding
against the contemners for their
willful and deliberate violation of
the Judgment and order dated
21.01.2000 passed in OA No.15/95 ;
22.01.2001 passed in R.A No 15/99 by
this Hon'ble Tribunal and 10.04.2003
passed in WP(C) No 4963/2001, passed
by Hon'ble High Court.

-AND-

IN THE MATTER OF

An application praying for
appropriate execution of the
Judgment and order dated 21.01.2000
passed in OA No.15/95 ; 22.01.2001
passed in R.A No 15/99 by this
Hon'ble Tribunal and 10.08.2003

= 2 =

passed in WP(C) No 4963/2001, passed by Hon'ble High Court, invoking the power under Rule 24 of the Central Administrative Tribunal (procedure) Rules 1987.

-AND-

IN THE MATTER OF

Th. Ibobi Singh, IFS,

Petitioner/Applicant.

-VS-

1. Sri Pradipto Ghosh.

The Secretary, Ministry of Environment of Forest, New Delhi.

Contemner/ Respondent.

The humble application on behalf of the petitioner above named.

MOST RESPECTFULLY SHEATH

1. That the petitioner/applicant praying for correction of Year of Allotment and for granting benefit of promotion quota after working out the deputation quota after working out the deputation reserve posts in the concerned cadre, preferred the O.A No 15/95 and subsequently R.A No 15/99 before the Hon'ble High Court. The Hon'ble Tribunal was pleased to allow the said O.A as well as the R.A vide its judgment and order dated 21.01.2000 and 22.01.2001. The respondents being aggrieved by the said judgments preferred Writ Petition before the Hon'ble Guwahati High Court, which was registered and numbered as WP(C) No 4962/2001. The Hon'ble High Court after hearing the parties to the proceeding was please to allow the said Writ Petition partly, directing the respondents to consider the case of the petitioner

= 3 =

for State Deputation Reserve post.

Copies of the judgments and order dated

21.01.2000 and 22.01.2001 and 10.08.2003

are annexed herewith and marked as

ANNEXURES-1,2, AND 3 respectively.

2. That the petitioner immediately on receipt of the copy of the judgment submitted the same before the concern authority on vide his representation dated 3.5.2003 praying for implementation of the same, but till date nothing has been done in this matter even after the expiry of the several months.

A copy of the representation dated 3.5.2003 is annexed herewith and marked as Annexure-4.

4. That the petitioner begs to state that the aforesaid representation filed by the petitioner was dully forwarded by the Under Secretary (DP) Govt of Manipur by letter dated 24.05.2003. The respondents/condemners have full knowledge about the passing of the said judgment and order dated 10.4.2003 passed in WP(C) No 4963/2001, but in spite of this the respondents have acted in a contemptuous manner. The respondent for such inaction and willful violation of the said Judgment and order dated 10.4.2003 made themselves liable to be punished under contempt of Court's Act.

5. That the petitioner begs to state that the condemners have acted in violation of the judgments (Annexure-1,2 and 3) in

= 4 =

not in not considering the case of the petitioner within the stipulated time frame and as such they are liable to be punished severely for their such action invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provision under Central Administrative Tribunal (Contempt of Court's) Rules 1992 as well as the provisions contained in the contempt of Court's Act 1971.

6. That the petitioner begs to state that inspite of repeated requests the Respondents have acted contrary to the Annexure-1,2 and 3 judgment and the contemner is continuing his such inaction even after expiry of the stipulated timeframe. It is therefore is a fit case for invoking Rule 24 of the Central Administrative Tribunal (Produced) Rule 1987 directing the Respondents to implement the Annexure-1 Judgment and order dated 8.4.2003 passed in OA No.220/02.

7. The this application has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to initiate appropriate contempt proceeding against the contemners for their willful and deliberate violation of the Judgment and order dated 21.01.2000 passed in OA No.15/95 ; 22.01.2001 passed in R.A No 15/99 by this Hon'ble Tribunal and 10.08.2003 passed in WP(C) No 4963/2001, and to punish them severely invoking the power under section 17 of the Administrative Tribunal Act, 1985

= 5 =

read with Central Administrative Tribunal (Contempt of Court) Rules 1992 as well as the provisions contained in the contempt of courts Act, 1971 with a further direction towards the contemners to implement the said Judgment and order dated 21.01.2000 passed in OA No.15/95 ; 22.01.2001 passed in R.A No 15/99 by this Hon'ble Tribunal and 10.08.2003 passed in WP(C) No 4963/2001, .

DRAFT CHARGE

Whereas Sri Pradipto Ghosh, the Secretary, Ministry of Environment of Forest, New Delhi, has willfully and deliberately violated the Judgment and order dated 21.01.2000 passed in OA No.15/95 ; 22.01.2001 passed in R.A No 15/99 by this Hon'ble Tribunal and 10.08.2003 passed in WP(C) No 4963/2001, and as such he is liable to be punished severely invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provisions under Central Administrative Tribunal (Contempt of Courts) Rules 1992 as well as the provisions contained in the Contempt of Courts Act, 1971

AFFIDAVIT

I Th Ibobi Singh , aged about 48 years, at resident of Keishamthong Irom Pukhri Mapal, Imphal -795001. Manipur, do hereby solemnly affirm and state as follows;

1. That I am the petitioner and I am acquainted with the facts and circumstances of the case. I am competent to swear this affidavit.
2. That the statements made in this affidavit and in the accompanying application in paragraphs 3,4,5,
6, 7. are true to my knowledge ; those made in paragraphs 1,2 being matters of records are true to my information derived therefrom. Annexures are true copies of the originals and grounds urged are as per the legal advice.

And I sign this affidavit on this the 31st day of ...March of 2004.

Identified by me :

Usha Das,
Advocate

Th. Ibobi Singh.

Deponent.

Solemnly affirm and state by the deponent who is identified by Miss U.Das. Advocate. on this the 31st day March 2004.

Siddhanta Banerjee
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

- 8 - 74.

Annexure -

Original Application No. 15 of 1995.

Date of decision : This the 20th day of January 1999.

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

Hon'ble Shri G.L.Sanglyine, Administrative Member.

Th. Ibobi Singh,
Divisional Forest Officer,
Northern Forest Division,
Kangpokpi, Manipur

Applicant.

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India, represented by the Secretary to the Government of India, Ministry of Environment and Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
2. Union Public Service Commission, represented by the Chairman, U.P.S.C. Dholpur House, Shahjahan Road, New Delhi.
3. The State of Manipur, represented by the Secretary, Department of Forests, Government of Manipur, Imphal, Manipur.
4. The State of Tripura, represented by the Secretary, Department of Forests, Government of Tripura, Agartala, Tripura.
5. V. Ramkanta, Dy. Conservator of Forests (Presently on Deputation to the State of Karnataka), C/o Principal Chief Conservator of Forests, Karnataka, Bangalore.
- A Kumar, Dy. Conservator of Forests, (Presently on deputation to the Govt. of India), C/o Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
7. G.Krishnan, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.

Contd....

Attested
By
Advocate

[Signature]

- 9 -

8. Balbir Singh, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.
9. G.S. Kadu, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.
10. Surender Kumar, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.
11. P.N. Prasad, Divisional Forest Officer, Chandel, Manipur.
12. R.K. Srivastava (Presently on deputation to the Govt. of India), Asstt. Inspector General of Forests, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
13. Jagabandhu Mishra, Divisional Forest Officer, Tamanglong, Manipur.
14. Koroilhouvi, Divisional Forest Officer, Social Forestry Division I, Manipur, Imphal.
15. A.K. Roy, Divisional Forest Officer, on deputation to the TFDPC Ltd., Tripura, C/o PCCF, Tripura, Agartala.
16. A. Rastogi, Divisional Forest Officer, Tripura, on deputation to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
17. P.K. Pant, Divisional Forest Officer, Tripura, C/o PCCF, Tripura, Agartala.
18. B.N. Mohanty, Divisional Forest Officer, Manipur, presently on deputation to Orissa as DCG, Office of the Regional CCF, Bhubaneswar.
19. D.J.N. Anand, Divisional Forest Officer, Jaribam, Manipur.

Respondents.

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

X/2
Contd...

Attested
Vas
Advocate

BARUAH J. (V.C.)

The applicant at the material time was a member of Manipur Forest Service and was holding the post of Assistant Conservator of Forests. In the year 1985 he became eligible for consideration for promotion to Indian Forest Service (for short the IFS). However he was not considered for promotion due to the non-availability of post in that year. For the subsequent years namely for the years 1986, 1987, 1988 and 1989 he was not recruited. In the year 1989 the applicant was a lone member selected for appointment to the IFS by way of promotion. This year also he could not be appointed due to non-availability of post. In the next year he was selected and promoted to IFS by Annexure-IV Notification dated 30.8.1990. By Annexure VI Order dated 6.9.1992 his year of allotment was given as 1986 and the same was communicated to the applicant on 29.8.1993. Prior to that the applicant submitted a representation in the year 1991 apprehending that the authority might give incorrect year of allotment. He claimed that his year of allotment ought to be 1984. After the Annexure-VI order the applicant submitted yet another representation (Annexure-VII A) dated 16.3.1993. This representation was not disposed of. Thereafter in the month of

Contd...

*Attested
Under
Adv.*

November/December 1993 he visited Delhi Office and he came to know that his said representations had not yet been forwarded to the Head Office for taking step in the matter. Accordingly Delhi Office advised the applicant to file a fresh representation.

On being so advised he submitted a fresh Annexure-VIII representation dated 17.1.1994. Even after submission of Annexure-VIII representation nothing had been done. Hence the present application.

2. In due course respondents have entered appearance. Union of India, respondent No.1 has filed written statement. In the written statement respondent No.1 has refuted the claim of the applicant. According to the respondent No. 1 the year of allotment was rightly assigned in strict compliance with the provision of Rule 3(2) (6) of IFS Regulation of Seniority Rules 1968. In paragraph 10 of the written statement respondent No.1 has stated regarding the Triennial Cadre Review. We quote the relevant portion of the paragraph 10 :

"10. After the proposals have been received, these are examined by the Cadre Review Committee which, among others, is represented by State officials also. Based on the recommendations of the Cadre Review Committee, necessary changes are made in the strength and composition of a particular cadre. It is admitted that the last Review of the strength and composition of the Manipur-Tripura cadre of the IFS was notified on 22.11.90. It is submitted that the issue of Triennial Cadre Review having not been held during 1985-1990, cannot be agitated by the applicant at this belated stage."

Attested
W/o
Adv.

Contd...

In paragraph 14 of the said written statement it is stated that there could be some reasons beyond the control of the State Government for not holding meetings in consultation with the Union Public Service Commission on regular yearly basis. In any case, this matter could not be agitated at this belated stage.

The other respondents including the State of Manipur have not filed any written statement. Besides these, the applicant also claimed about the 33.33% deputation reserve quota. This was however not done in spite of the claim of the applicant. A specific averment has been made in the Original Application but there has been no reply to the same. The respondent No.1 in its written statement remained silent in the matter. The other respondents as stated hereinbefore have not filed any written statement.

3. We have heard Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C.

4. Mr. Sharma submits that it has not been explained as to why after 1985 when the applicant became eligible for promotion he had not been considered for promotion to IFS for the subsequent years viz. 1986, 1987, 1988 and 1989. The written statement filed by the respondent No.1 has not dealt with

Contd...

Attested
W.D.
Adv.

this matter. Only in paragraph 14 of the written statement the respondent No.1 has stated that there could be some reasons beyond control of the State Government for not holding meetings for selection during those years as quoted above. The respondent No.1 may not have proper knowledge in the matter. It is the State Government who have such knowledge. Unfortunately the State Government has not taken steps for filing any written statement. Except that nothing has been mentioned. Mr. Sharma on this point submits that because of non-selection in those years the applicant was deprived of his promotion. The second submission of Mr. Sharma that last Triennial Cadre Review was held on 29.3.85 and the next Cadre Review ought to have been on 29.3.88 i.e. after 3 years as contemplated in Rule 4(2) of IFS Cadre Rules but no proper reason has been assigned for not doing so thereby the applicant was deprived of his legitimate due. On this ground Mr. Sharma submits that at least as per the above Rule 4(2) of the IFS Cadre Rule, Cadre Review ought to have been in March, 1988. The State Government had in fact sent proposals on 7.4.1987. The third submission of Mr. Sharma is that the promotion quota was not fixed as required against the 33.33% on deputation reserve against item 5 of IFS (Fixation of Cadre Strength) Regulations, 1966. In this connection Mr. Sharma has drawn our attention to a decision

Attended
H. C. W. No. 1
A.D.W.

reported in 1987 (4) SLJ (CAT) (K.K.Goswami vs. Union of India & Ors.). and another decision of Calcutta Bench of the Tribunal (Dhuti Kr. Basu & Anr. vs. Union of India & Ors.). Mr. Sharma submits that against both the judgements SLPs had been filed before the Apex Court and both the SLPs were dismissed by the Apex Court by Annexure-XI and XII orders dated 24.8.95 and 18.4.88. Mr. Sharma therefore submits that the decision of those Benches of the Tribunal have become final. As per the decisions of the Calcutta and Jabalpur Bench of the Tribunal, 33.33% promotion quota against deputation was required to be fixed. By the aforesaid two decisions the Tribunal gave direction to the respondents to compute the promotion quota in the State Forest Service. As this was not done according to Mr. Sharma the applicant was made to suffer. Had this been done the applicant would have been promoted much earlier.

5. Mr. Deb Roy on the other hand tries to support the action of the respondents. According to him the year of allotment has been rightly fixed. Regarding Cadre Review, Mr. Deb Roy submits that this could not be done by the State Government because the reasons beyond control of the State Government.

On the rival contention of the parties now it is to be seen whether the applicant is entitled to relief as claimed for as per the provision of

Contd...

Attested
now
Adv.

Rule 4(2) of Indian Forest Service (Cadre) Rules 1966. Under the said Rules, the Central Government is required to re-examine the strength and composition of each such cadre in consultation with the State Government concerned and may make such alterations therein as it deems fit. This must be done at the interval of 3 years. The sub-Rule (2) of Rule 4 of IFS (Cadre) Rules, 1966 is quoted below :

" (2) The Central Government shall at the interval of every three years, re-examine the strength and composition of each such cadre in consultation with the State Government concerned and may make such alterations therein as it deems fit :

Provided that nothing in this sub-rule shall be deemed to effect the power of the Central Government to alter the strength and composition of any cadre at any other time :

Provided further that the State Government concerned may add for a period not exceeding one year, and with the approval of the Central Government for a further period not exceeding two years, to a State or Joint Cadre one or more posts carrying duties of responsibilities of a like nature to a cadre posts."

A mere reading of sub-Rule (2) of Rule 4 of IFS (Cadre) Rules, 1966 it appears that Central Government is required to re-examine the strength and composition of each such cadre in consultation with the State Government at an interval of 3 years and may make alteration therein. The word 'shall' has been used in the said sub-Rule. This suggests that the provision is mandatory in nature. In this connection, Mr.

*Attested
H. N. Advocate*

16 - 10

Sharma has drawn our attention to a decision of Ernakulam Bench of this Tribunal in the case of Jacob P. Thomas Vs. Union of India & Ors. reported in SLJ (CAT) 1992 (3) 85. In the said judgement in para 14 the Tribunal observed as follows :

"14. Having considered the instructions of Government of India, one has now to consider whether the language used in Rule 4(2) compels one to reach a conclusion that the notification as a result of the triennial review should be effective from the third anniversary of the earlier notification. The expression used in Rule 4(2) is "at intervals of every three years" which mean that the interval between one fixation of cadre strength and another shall be three years, no more or no less. This is due to the fact that the expression "interval" is defined to mean intervening time or space in Concise Oxford Dictionary."

From the reading of this sub-rule 2 of Rule 4 of the Cadre Rules we also feel that the Rule suggests that it should be done immediately at the interval of 3 years and it is of mandatory nature. In that matter we are in respectful agreement with the decision of the Ernakulam Bench in this regard.

Regarding the computation of the deputation reserve quota as has been held by the Jabalpur and Calacutta Bench the deputation reserve quota are to be computed for the purpose of determining the strength of the promotion quota. Unfortunately this has not been done. We are also of the same

Therefore in view of the above, we find sufficient force on the contention of Mr. Sharma

12
Contd....

Attended
S. A. A. D.

and we are of the opinion that the Triennial Cadre Review ought to have been held at the interval of 3 years as this was not done as held by the Ernakulam Bench the year of allotment should be computed relating to the year of allotment earlier than 1986. Regarding deputation reserve quota as this was not done we give direction to the respondents to compute the cadre strength promotional quota after giving deputation reserve quota and give the benefit of promotion quota to the applicant in the manner he is entitled to.

With the above direction the Original Application is allowed. Considering the facts and circumstances of the case we, however make no order as to costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (AUMN)

Certified to be :
স্বামী প্রিয়া

Signature
স্বামী প্রিয়া
Central A.
কল্পনা পাতা
Guwahati-6, Assam
পূর্ব ভারত, ৭৮১০০৬

Attested
পা.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Review Application No. 15 of 1999 (In O.A.15/95)

Date of Order : This the 22nd Day of January, 2001.

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

The Hon'ble Mr K.K.Sharma, Administrative Member.

Union of India & Others . . . Petitioner

By Shri A.Deb Roy, Sr.C.G.S.C.

- Versus -

Shri Ibobi Singh . . . Opposite party.

By Advocate Sri S.Sarma.

O R D E R

CHOWDHURY J. (V.C)

This is an application under Section 22(3) (f) of the Administrative Tribunals Act 1985 praying for review of the judgment and order dated 20.1.1999 passed by this Tribunal in O.A.15/95. The opposite party/applicant submitted an application under Section 19 of the Administrative Tribunals Act 1985 praying inter alia for a direction on the respondents to assign the applicant 1984 as his year of allotment and place him just above the respondent No.5. The aforementioned O.A was adjudicated upon and disposed of by the Tribunal on 20.1.1999 with a direction on the respondents for allotting the year of allotment earlier than 1986 and to compute the cadre strength of the promotional quota after giving deputation reserve quota and to provide the benefit of promotional quota to the applicant in the manner he was entitled to. The Tribunal considering the facts and circumstances set out in the pleadings and taking note of the relevant rule, more particularly sub-rule 2 of Rule 4 of IFS Cadre Rules found that the rule of Triennial Cadre Review of the cadre strength is mandatory in nature and for that purpose referred to the

Arrears

decision of the Ernakulam Bench of the Tribunal in the case of Jacob P.Thomas vs. Union of India & Ors., reported in SLJ (CAT) 1992 (3) 85. The Tribunal also relying upon the decision of the Calcutta and Jabalpur Bench of the Tribunal and on the facts and circumstances of the case also expressed opinion that a deputation reserve quota were to be computed for the purpose of determining the strength of the promotion quota. The Union of India hence preferred this Review Application with a petition for condonation of delay. The delay was condoned in a separate Misc.Petition. This review application has been filed questioning the legality of interpretation of the cadre rules by the Bench, the correctness of the inferences drawn in the light of the decision of the Ernakulam Bench of the Tribunal in Jacob P.Thomas (supra). The counsel for the petitioner submitted that the aforementioned decision is not a good law and the Apex Court expressed its misgivings. The learned counsel submitted that the judgment rendered by the Ernakulam Bench in O.A.138/91 was challenged by the Union of India by way of a SLP, which was numbered as SLP(Civil) No.432 of 1993 and the Hon'ble Supreme Court in its order dated 14.7.1994 expressed its fervid reservation as to the correctness of the view taken by the Tribunal in the matter. However, since the respondent has retired on 28.2.94, the Hon'ble Supreme Court refrained from going into the merit of the matter leaving the Union of India to agitate the question of law in some appropriate proceeding in future. Mr A.Deb Roy, learned Sr.C.G.S.C next submitted that the claim of the applicant for computation of promotion vacancy by taking into account state deputation reserve was not pleaded in the Original Application and even otherwise the aforementioned claim was patently time barred in view of the judgment

Attested
over
Adv.

rendered by the Chandigarh Bench of the Tribunal in O.A. 1122-HR of 1996, Vinod Kumar Jhanjhria vs. Union of India & Ors. disposed of on 14.10.97. Mr Deb Roy also referred to the decision of the Supreme Court in Civil Appeal No. 2370-2371 of 1987, K.J.Singh vs. State of Manipur and others dismissed and disposed of by the Supreme Court on 8.2.1995 refusing to interfere in the decision of the Tribunal rejecting the claim of those applicants there for antidating the year of allotment.

2. We have heard the learned counsel for the petitioner as well as Mr S.Sarma, learned counsel appearing for the opposite party at length but we do not find any scope for exercising the power conferred on the Tribunal under Section 22(3) (f) of the Act. The procedure and powers of the Tribunal are indicated at Section 22. Sub-section 3 of Section 22 provides that a Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the matters enumerated in clause (a) to (i) of sub-section 3. Under sub-section 3(f) of Section 22 the Tribunal is vested with the power of reviewing its decision. The power of review of the Tribunal is therefore, not absolute or unfettered. It is restricted to the powers conferred to the same powers as are vested in the Civil Court under the Code of Civil Procedure. The power of the civil court for reviewing its decision is enumerated in Section 14 read with Order XLVII. A decree or an order may be reviewed from which no appeal has been preferred though an appeal is allowed, or from which no appeal is allowed and who, from the discovery of now and important matter or evidence which, after the exercise

Attested
W.M.
A.D.

of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason. The grounds canvassed in this application are against the correctness of the decision rendered by the Tribunal and for that purpose Mr Deb Roy, the learned Sr.C.G.S.C referred to the decisions mentioned above. It is not a question of discovery of new and important evidence, which were not available to the applicant after exercise of due diligence when the order was passed. Mr Deb Roy however, submitted that it is a case of an error apparent on the face of the record. Since the decision rendered by the Bench earlier is contrary to the decisions rendered by the Supreme Court as well as by the Tribunal. No one is free from error. Under our legal system erroneous decisions can be corrected in the appropriate forum but the same cannot be labelled as error apparent on the face of the record. An error apparent means a manifest error which stares on the face of the record without requiring any elaborate argument on the issue. The distinction between an erroneous decision and an order vitiated by error apparent on the face of the record is ~~wholly~~ ~~and~~ not chimerical.

An erroneous decision can only be corrected by the superior court either on appeal, revision or otherwise and not by the same court in exercise of review. In M/s Thungabhadra Industries Ltd. vs. Government of Andhra Pradesh, reported in AIR 1964 SC 1372, it was held that 'there is a distinction between a mere erroneous decision and a decision which could be characterised as vitiated by "error apparent". A review is by no means an appeal in disguise whereby an

contd..5

Attested
N.S. Ban
Adv.

erroneous decision is reheard and corrected, but lies only for patent error. The aforementioned decision is followed in a number of subsequent decisions by the Supreme Court and still holds the field. In Ajit Kumar Rath vs. State of Orissa and others, reported in (1999) 9 SCC 596 citing the provisions under Section 22(3) (f) of the Act the Supreme Court observed as follows :

"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power

the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.

Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

Mr Deb Roy next submitted that a review can also be made for any other sufficient reason, for the ends of justice. The expression is wider in terms and to attain the ends of justice the Tribunal is competent to review its decision in the light of the decisions referred to him before the Tribunal. We are afraid such interpretation will defeat the scheme of Order 47. The expression "sufficient reason" is to be read in the light of two other conditions set out in Order 47. In other words the "sufficient reason" is to be read *eius dem generis* i.e. analogous to those specified in Order 47 Rule 1. *Eius dem generis* rule is a tool relied upon in the construction of Laws. Where general words follow

cond., 6

After steel
was
A.M.

23

and enumerating a person or thing by words of particular or specific meaning such general rules are not to be construed in the widest extent but are to be held as applying to persons for things of the same general kind or class those are specifically mentioned. As far back as 1992 the Privy Council in Chhajju Ram vs. Neki and others, reported in AIR 1922 Privy Council 112, while interpreting Order 47 Rule 1 of the CPC held that "Rule 1 of Order 47 must be read as in itself definite of the limits within which review is to be permitted and that reference to practice under former and different statutes is misleading. So construing if they interpret the words "any other sufficient reason" as meaning a reason sufficient on grounds at least analogous to those specified immediately previously."

4. The cadre rules are framed by the Central Government in exercise of powers under sub-section 1 of Section 3 of the All India Services Act 1951. The rules are statutory in nature and character. In this context it would not be improper to recall the decision of the Supreme Court in S.Ramanathan vs. Union of India & Ors., reported in 2000 AIR SCW 4549 and disposed of on 7.12.2000. In that case the Supreme Court observed as follows :

..... . it cannot be denied that if there has been an infraction of the provisions and no explanation is forth coming from the Central Government, indicating the circumstances under which the exercise could not be undertaken, the aggrieved party may well approach a Court and a Court in its turn would be well within its jurisdiction to issue appropriate directions, depending upon the circumstances of the case. When certain power has been conferred upon the Central Government for examining the cadre strength, necessarily the same is coupled with a duty to comply with the requirements of the law and any infraction on that score cannot be withheld down on the hypothesis that no vested right of any employee is being jeopardised.

That apart when Rules and Regulations provide for certain things to be done at a certain

After 1st
ver CM
AW

24

period, the same should normally be observed and if there has been a failure, the Court should compel the performance of that duty."

5. We have given our anxious consideration on the matter. From the discussion made above, we are of the considered opinion that this is not a case for exercising the review jurisdiction of the Tribunal conferred under Section 22 (3)(f) of the Act. The application is accordingly dismissed.

There shall, however, be no order as to costs in the facts and circumstances of the case.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)



pg

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (J)
C.A.T. GUWAHATI BANCH
Guwahati-781005

Attested
W.D.
Adm.

मानित करने की तिथि	दिनांक	मानित करने की तिथि	दिनांक
कानूनी अप्पलीकेशन के लिए कॉपी का नोटिस करने की तिथि।	दिनांक जिसमें आवश्यक स्टॅम्प और फॉलो दिये जाते हैं।	दिनांक जिसमें आवश्यक स्टॅम्प और फॉलो दिये जाते हैं।	दिनांक जिसमें कॉपी को अप्पलीकेशन के लिए दिया जाता है।

28/4/03 28/4/03 28/4/03 28/4/03

25-

THE GAUHATI HIGH COURT
(High Court of Assam Nagaland Meghalaya Manipur Tripura Mizoram
and Arunachal Pradesh)

WP(C) NO. 4963 OF 2001

The 10th day of April, 2003

PRESENT

THE HON'BLE THE CHIEF JUSTICE MR PP NAOLEKAR
THE HON'BLE MR JUSTICE AMITAVA ROY

Petitioner

The Union of India,
Represented by the Secretary to the Government
of India, Environment & Forests, New Delhi.

By Advocate:

Mr C Choudhury, Sr CGSC.

Respondents:

1. Shri Ibob Singh,
Divisional Forest Officer,
Northern Forest Division,
Kangpokpi, Manipur.

2. The Central Administrative Tribunal,
Gauhati Bench, Guwahati.

By Advocate:

Mr BK Sharma,

THIS WRIT PETITION HAVING BEEN HEARD ON
31ST DAY OF MARCH, 2003, THE COURT PASSED THE
FOLLOWING-

Admitted
Adv
Adv.

Contd...

JUDGEMENT

The petitioner herein, the Union of India, through its Secretary, Ministry of Environment and Forests, has challenged the judgments and orders dated 21.1.2000 and 22.1.2001 passed by the learned Central Administrative Tribunal, Gauhati Bench, in OA 15/95 and RA 15/99 thereby directing that the year of allotment of the respondent/applicant be computed earlier than 1986 and further he be granted the benefit of the promotion quota after working out the deputation reserve posts in the concerned cadre.

~~2~~ We have heard Mr C Choudhury, Sr CGSC, for the petitioner and Mr BK Sharma, senior counsel assisted by Mr HP Das for the respondents.

~~3~~ A brief sketch of the relevant facts would be necessary. The respondent/applicant was appointed as Assistant Conservator of Forest in the State Forest Service of Manipur on 2.5.78 and was thereafter confirmed in the said post with effect from 2.5.80. He became eligible for promotion to the IFS with effect from 1.1.85 under the Indian Forest Service (Appointment by Promotion) Regulation, 1966, on having completed eight years of continuous service in the substantive capacity in the State Forest Service. He was given officiating appointment as Deputy Chief Conservator of Forest against IFS cadre post with effect from 4.9.86 and he continued to hold the cadre post under Rule 9 of Indian Forest Service (Cadre) Rules, 1966. The officiation of the respondent / applicant in the cadre post was duly ^{approved} by the Central Government and the

Contd...

Attested
N.D.
A.D.

Union Public Service Commission for the period 1.8.86 to 30.6.89. The Government of Manipur, however, approved his officiating appointment with effect from 4.9.86 to 31.3.89. The further case of the respondent/applicant is that no meeting of the Selection Committee for the Manipur part of the Manipur-Tripura cadre was held in time as prescribed, to consider the cases of the eligible candidates of the State Forest Service Officers for appointment to the IFS by promotion in terms of Regulation (5) of the Indian Forest Service (Appointment by Promotion) Regulations, 1966. The triennial review of the cadre strength as required under the Indian Forest Service (Cadre) Rules, 1966 and the Indian Forest Service (Fixation of Cadre Strength) Regulation, 1966, for Manipur-Tripura was also due in the year 1985. The last triennial cadre review for the Manipur-Tripura cadre was done on 29.3.85 fixing the number of senior scale posts in the Manipur cadre at 19. The next cadre review was due after three years on 29.3.88 in terms of Rule 4(2) of the Indian Forest Service (Cadre) Rules, 1966. But it was not done, inspite of the fact that a proposal to the said effect had already been submitted to the Government of India, Ministry of Environment and Forest on 7.4.87 vide Government of Manipur, Department of Personnel letter No 2/11/29/DP, dated 7.4.87. It was only on 22.11.90, the triennial review was done vide notification dated 22.11.90, i.e., after a lapse of five years and eight months from the last review in the year, 1985. By the said cadre review the total number of senior scale posts in the Manipur part of the cadre was raised to 23 resulting in addition of two senior scale posts for promotion to the IFS.

4. The meeting of the selection committee was eventually held on 22.2.89 for consideration of the cases of

Contd...

*Attested
notary
Adv.*

the eligible State Forest Service Officers for promotion to the IFS. The name of the respondent was included in the select list. According to the respondent out of the eligible officers of the Manipur State Forest Service only his name appeared in the select list but he was not promoted. The selection committee met again on 7.4.1990 and the respondent was again selected. In the meanwhile, the respondent was officiating in the IFS cadre post as above. He was eventually promoted to the IFS on 30.8.90. The appointment to the IFS was in terms of Rule 8(1) of the Indian Forest Service (Recruitment) Rules, 1968 and Regulation 9(1) of the Indian Forest Service (Appointment by Promotion) Regulations 1966. Thereby the respondent was allotted Manipur-Tripura cadre in the IFS under Rule 5(1) of the Indian Forest Service (Cadre) Rules, 1966. After his promotion, the respondent apprehending that while fixing his seniority his officiating services in the cadre would not be taken into consideration, submitted a representation dated 30.12.91 pointing out that having regard to his officiating services in the cadre post, he is entitled to be granted "1984" as the year of allotment. The respondent, however, was sanctioned "1986" as the year of allotment. The respondent being aggrieved submitted representations but to no avail. He, therefore, in the said circumstances approached the learned Central Administrative Tribunal, Gauhati Bench, for redress. He prayed for an appropriate order to quash the decision of the Government of India granting "1986" as the year of allotment to him and sought for further directions for assigning "1984" as the year of allotment. The said application was registered as OA 15/95.

5. In its written statement, the Union of India maintained that the respondent was rightly assigned "1986".

Contd...

Allected
W.D.A.
Adv.

as the year of allotment in accordance with the provisions of Rule 3(2)(c) of the Indian Forest Service (Seniority) Regulation, 1968. It was admitted that the respondent/applicant was given officiating appointment in the cadre post from 4.9.86. With regard to holding of meeting of the Selection Committee, it was pointed out that under the Indian Forest Service (Appointment by Promotion) Regulation, 1966, the meeting of the Selection Committee is required to be held ordinarily at the interval of not exceeding one year but there can be reasons beyond the control of the State Government for which the meeting of the Selection Committee may not be held annually. It took a stand that the respondent/applicant should not be permitted to agitate this issue relating to the year, 1988 at such a belated stage.

So far as the cadre review was concerned, it was contended that under Rule 4 of the Indian Forest Service (Cadre) Rules, 1966, though the strength and composition of each of the cadre of the Indian Forest Service is to be reviewed at an interval of three years in consultation with the State Government concerned, the proposal for such review has to come from the said State Government. It was admitted that the cadre review of Manipur-Tripuri cadre of the IFS was notified on 22.11.90. The Union India, however, maintained that the issue pertaining to non-holding of the triennial cadre during 1985 to 1999 should not be allowed to be raised after a lapse of so many years.

On the basis of the pleadings of the parties and after considering the materials available on record, the learned Tribunal by its judgment dated 20.1.99, held that as the triennial cadre review ought to have been held at the

Contd..

*Abdul
Wad
Adv.*

Government concerned and the Central Government having admittedly failed to act in terms of the mandate of the said Rules for no fault of the respondent/applicant, he cannot be denied the benefit of the increase in the cadre strength though made belatedly. He has argued that there is nothing on record to indicate there was any compelling circumstance for which the delay in the cadre review had occurred and, therefore, the learned Tribunal was perfectly justified in directing grant of the year of allotment to the respondent/applicant prior to 1986. With regard to the aspect of State deputation reserve, the learned senior counsel argued that in the facts and circumstances of the case, an appropriate direction permitting the respondent to submit a proper representation before the concerned authorities for consideration thereof in terms of the relevant Rules and Regulations would meet the ends of justice. In support of his submissions, Mr Shahn placed reliance on the decisions of the Apex court in TN Administrative Service Officers Association and another Vs Union of India and others, (2000) 5 SCC 728 and S Ramanathan Vs Union of India and others, (2001) 2 SCC 18.

10. We have considered the rival contentions of the parties. The pleadings of the parties along with the supporting documents as well as impugned judgments and orders have been perused. In the instant case, except the Central Government, other respondents have not filed their written statement. It is the pleaded case of the respondent/applicant that the necessary proposal for review of the cadre strength of the Manipur-Tripura cadre was duly submitted before the Central Government by the state Government vide its Department of Personnel's letter No 2 / 14 / 79 / IFS-DP, dated 7.4.1987. This fact has not been

Contd...

Attested
K. D. N.
N. D. N.

disputed by the Central Government, in its written statement. It has also not cited any exceptional circumstance, which had contributed to the delay in conducting the review of the cadre strength as proposed. In other words, there is no material on record to justify the delay of the cadre review which otherwise is to be done mandatorily at the interval of every three years under Rule 4(2) of the Indian Forest Service (Cadre) Rules, 1966. Our attention has not been drawn to any fact that there has been any material allegation in the circumstances between 1988 and 1990 to suggest that if cadre review had been conducted ^{even} in 1988, the strength of the cadre would not have been increased. It is also not in dispute that the respondent has been selected for being promoted to IFS since 1989.

11. In S Ramanathan (supra) a similar grievance resulting from delay in the cadre review was raised before the Apex court. It, while holding that the language of Rule 4(2) is peremptory in nature, ruled that if there is any infraction thereof and no explanation is forth coming from the Central Government indicating circumstances under which the exercise could not be undertaken, the aggrieved party may approach the Court which in its turn would be well within its jurisdiction to issue appropriate direction depending upon the circumstances of the case. In that case, the triennial review was due in the year 1987 but the exercise was initiated in the year 1989 and finally the cadre strength was reviewed in the year 1991 increasing the same. In the said backdrop of facts, the Apex court, therefore, directed the Central Government as well as the State Government to consider promotion of the State cadre officers on the basis of re-determined strength of the cadre treating the same to be in the year 1989 and further that if on such

Contd...

Attested
Ranjan
Adv.

34

reconsideration they were entitled to any relief by way of promotion on the basis of the quota available to them in the end or the same be accorded. In the instant case, the grievance of the respondent/applicant is that, due to the failure on the part of the Central government to conduct the triennial cadre review in time his promotion to IFS was delayed thus resulting in loss of seniority in service. As observed herein above, the Central Government has failed to satisfactorily explain the delay in conducting the cadre review which otherwise in terms of the mandate of Rule 4(2) of the Indian Forest Service(Cadre) Rules, 1966, it was obligated to do at an interval of three years from the date of the last review, i.e., 25.3.85, more particularly, when a proposal to that effect had already been submitted by the concerned State Government in the year 1987. The law having prescribed a thing to be done in a particular way, has to be performed in the manner prescribed. No department, therefore, can be approved in absence of any cogent and compelling reason. There is none in the instant case. We have examined the reasonings recorded by the learned Tribunal in this regard. We are of the considered view that the learned Tribunal did not commit any error in arriving at its conclusion relating to this aspect of the matter and we concur with the same.

12. With regard to the aspect of State deputation reserve, we feel guided by the observations of the Apex court in TN Administrative Officers Association and another(supra). The petitioner Association therein had sought for a direction to the respondents to encadre of State deputation reserve posts, ex-cadre posts and temporary posts manned by the members of the Indian Administrative Service in the IAS cadre. After examining the claim of the

Contd...

Attested
N.D.
A.D.W.

Association, the Rules and Regulations pertaining thereto, the Apex Court held that only because the State Government had created some posts and had allowed the same to be manned by IAS officers, a mandamus should not be issued to the Central Government to encadre the said posts as the same would run counter to the statutory provisions governing the creation of cadre and fixation of cadre strength. Liberty was, however, granted to the petitioner Association to submit a representation before the Central government furnishing the particulars of the posts which according to them were fit to be encadred and it was directed that if such a representation was filed, the Central Government would consider the same in consultation with the State Government and take appropriate decision thereon.

13. Considering the pleadings of the parties and the state of law as above, in the instant case, we too are of the view that the respondent is not entitled to an order directing the Central Government to compute the deputation reserve posts and provide the benefit of promotion to him after working out the promotion quota based thereon. The respondent/applicant may submit a representation before the Central government with regard to the State deputation reserve posts and his claim in connection therewith under the Rules and Regulation governing his service and if such a representation is filed, the Central Government in consultation with the State Government concerned would consider and dispose of the same in accordance with the relevant Rules and Regulations. In view of the above direction issued by the learned Tribunal in the impugned judgment concerning State deputation reserve is set aside.

Contd.

Attested
R. D. Ray
A. D. N.

In the light of the above discussion, the petition
is, therefore, partly allowed to the extent indicated herein
above. There would be no order as to costs.

Sir A Roy Set P P Naicker
Tuncy Chick Jut

7/1/56
24/4/03

CERTIFIED TO BE TRUE COPY

Date 23-4-2003
Superior Court of Madras
Court of Session
Admitted U/S 76, Cr. I, 1878

28/4/03

Attested
W.S.A.
Adv.

Annexure - 4

37

India
The 3rd May, 2003

To

The Secretary, the Government of India,
Ministry of Environment and Forests,
Parivaran Bhawan, C.C.D. Complex,
Lodhi Road
NEW DELHI-110003

(Through Proper Channel)

Sub:- Fixation of correct Year of allotment - Request for

Ref:- Judgment and order dated 10.4.03 passed in WP(C) No.4963 of 2001 of the Hon'ble Gauhati High Court and Judgment and order dated 20.1.99 passed in O.A. No. 15/95 of the CAT, Guwahati Bench.

Sir,

With reference to the above, I, with due deference and profound submission, beg to state the following for your kind perusal and necessary action thereof.

1. That being aggrieved by wrong fixation of my year of allotment as 1986, I had approached the Hon'ble CAT, Guwahati Bench by filing O.A. No.15/95 which had been allowed by judgment and order dated 20.1.99 by holding that I am entitled an year of allotment earlier than 1986.

The Judgment and Order dated 20.1.99 is enclosed as
Annexure - 1

2. In the said judgment it was held that the triennial cadre review ought to have been notified immediately on completion of three years of earlier review held on 29.3.85 i.e. 29.3.88 for which proposal was duly sent by the State Government on 7.4.87, but instead the triennial cadre review was notified only on 22.11.90. The Hon'ble Tribunal had held that the Triennial Cadre Review notification should relate back to its due date i.e. 29.3.88, and my year of allotment should be computed earlier than 1986 as my name was in the select list and I was on approved officiation in Cadre post with effect from 4.9.86 to 30.6.89 with the concurrence of the Govt. of India and the Union Public Service Commission as conveyed vide Govt. of India, Ministry of Environment and Forests letter No. 17020-1/86-IFSH dt.1.2.89.

Attested
W.D.W.
H.D.W.

3. That as per the above mentioned judgment of the Hon'ble Tribunal, Guwahati Bench, I submitted a representation to you on 22.3.99 requesting to implement the aforesaid order of the Hon'ble Tribunal within a reasonable time.
4. That the application for the review of the judgment dated 20.1.99 of the Hon'ble Tribunal filed by the Union of India registered as RA 15/99 was dismissed by the learned Tribunal by its order dated 22.1.01. Even at this stage no action was taken up to rectify my year of allotment in the light of the judgment of the Hon'ble Tribunal.
5. That the writ petition WP(C) No. 4963 of 2001 filed by the Union of India, challenging the judgments and orders dt.21.1.2000 and 22.1.2001 passed by the learned CAT, Guwahati Bench in OA 15/95 and RA 15/99 in the Hon'ble Gauhati High Court was pending disposal since 2001. While the Hon'ble Gauhati High Court did not pass a stay order to the judgments and orders passed by the Hon'ble Tribunal, rectification of my year of allotment was not done by the Govt. of India till date.
6. That relying upon the judgment of the Apex Court in S Ramanathan Vs Union of India and others, (2001) 2 SCC 118 the Hon'ble Gauhati High Court has now passed the judgment on 10.4.2003 in connection with WP (C) No 4963 of 2001 to the effect that the Central Govt. has failed to satisfactorily explain the delay in conducting cadre review which otherwise in terms of mandate of Rule 4(2) of the Indian Forest Service (Cadre) Rules, 1966, it was obligated to do so at an interval of three years from the date of last review i.e. 25.3.85, more particularly when a proposal to that effect had already been submitted by the concerned State Govt. in the year 1987 and as such concurred the judgment and order passed by the Hon'ble Tribunal, Guwahati bench.

The Judgment dated 10.4.03 passed by the Hon'ble Gauhati High Court is enclosed as Annexure - II.

In the premises aforesaid, it is most respectfully prayed that -

- i. The directions issued by the Hon'ble Tribunal in its order under reference in O.A. No 15/95 dated 20.1.99 and also judgment passed by the Hon'ble Gauhati High Court in WP (C) No 4963 of 2001 dated 10.4.2003 may please be implemented without any further delay.
- ii. My right be protected by way of giving earlier and appropriate year of allotment and seniority i.e. 1984 as per relevant rules.
- iii. Other necessary action be taken up and necessary order be issued as directed by the Hon'ble Court.

Attested
N.S.
A.D.

39 -

In case of any delay in the matter, the same will seriously tell upon my service carrier and I may be compelled to file contempt petition before the Hon'ble Gauhati High Court/CAT Guwahati Bench.

Should you be pleased to implement the aforesaid order of the Hon'ble Tribunal and Gauhati High Court within a reasonable time without causing any delay as has been prayed for, I shall remain bound to you in deep gratitude.

Yours faithfully,


Th. Ibobi Singh

Conservator of Forests/ Working Plan,
Research & Training,
Manipur, Imphal

Copy to:-

1. The Chief Secretary, Government of Manipur
2. The Principal Chief Conservator of Forests, Government of Manipur
3. Shri G.D.Devnani
Under Secretary to the Govt. of India,
Ministry of Environment & Forests, Paryavaran Bhavan
C.G.O. Complex, Lodhi Road
NEW DELHI-110003 (Advance copy with Annexures) for favour of information
and necessary action.

9c

Attended
over
Adv.



VAKALATNAMA.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH:

C.P. NO. 22/04. (C.P. 15/95)
OF 2003

..... Sh. Shobhi Singh .. APPLICANT (S).

VERSUS.

..... Sri. Pradip Chakraborty .. RESPONDENTS.

Know all men present that the above named
do hereby nominate, constitute and appoint
Sri.... S. Sarma , ... Mrs. U. Das & Mrs. B. Debnath ... Advocates and such of the undermentioned Advocates as shall accept
the Vakalatnama to be my/our true and lawful Advocate to appear
and act for me / us in the matter noted above and in the connection
there with and for that purpose to do all acts whatsoever in
that connection including depositing and drawing money , filling
in or taking our papers, deeds of composition ect. for me / us
and on my /our behalf and I/ we agree to ratify and confirm all
acts so done by the said Advocate as mine / ours to all intents
and purpose. In case of non payment of stipulated fee in full no
advocate will bound to appear or act on my / our behalf.

In witness whereof I ? we hereunto set our hand this 30th
the day of . March 2003.

1. B.K.SHARMA.

2. M.K.CHOUDHURY

3. S. SARMA

4. U.K.NAIR

Sri..... senior Advocate , leads us / me in this
e.

received from the executant

Accepted.

satisfied and Accepted.

Usha Das .

Advocate.

And accepted

Bandana Debnath

S. Sarma
S. Sarma
Advocate

15 FEB 2005

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Misc. Application in

C.P. No.22 of 2004

In

O.A.No.15 of 1995

Petitioner

Ibobi Singh

..... Vs.

Respondents

Dr Prodipto Ghosh,
S/o Shri Bon Behari Ghosh
Aged 57 years
Presently holding the post of Secretary,
Ministry of Environment and Forests.
Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi-110003.

And Others.

AFFIDAVIT

I, Prodipto Ghosh, S/o Shri Bon Behari Ghosh, aged 57 years, residing at New Delhi do hereby solemnly affirm and state as follows.

I am Secretary to the Govt. of India, Ministry of Environment and Forests and am cited as the 1st Respondent in CPC No.44/2004 in OA No.51/2004. I am conversant with the facts of the case as disclosed from the relevant records.

2. That at the very outset, I submit that I have no wilful negligence and/or deliberate intention to disregard and/or violate the solemn order passed by the Hon'ble Tribunal and I have the highest regard to this Hon'ble Tribunal. I further submit that if any act of

IN TESTIMONY WHERE OF
I ATTEST AND SIGN
WITH MY OFFICE SEAL



31.01.05

DIPANKAR DAS
Advocate, Legal Consultant
& Notary Public
Supreme Court,
New Delhi-110001

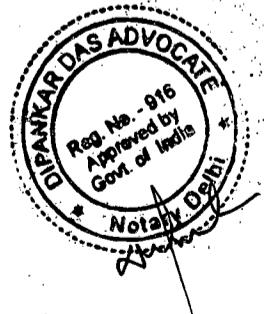
(डॉ. प्रोदिप्त घोष/Dr. Prodipto Ghosh)
स�िय/Secretary
पर्यावरण एवं बन सम्बालय
मिन. of Environment & Forests
नई दिल्ली/New Delhi

violation is perceived on my part, I tender my unqualified apology before this Hon'ble Tribunal for such unwilful violation of the solemn order of this Hon'ble Tribunal.

3. It is respectfully submitted that the judgment and order dated 20th January, 1999 and subsequent judgment in Writ Petition No.4962 of 2001 passed on 10th April, 2003 by the Hon'ble High Court of Guwahati has been under active consideration of the Ministry of Environment and Forests in consultation with the State Government, Department of Personnel and Training and the Ministry of Law in the Central Government. It is further submitted that this Ministry while agreeing to implement the orders dated 20.1.1999 of Hon'ble CAT – Guwahati has taken up the matter with the Department of Personnel and Training (DoPT) in the Central Government for considering to amend the IFS (Fixation of Cadre Strength) Regulations in order to implement the orders of CAT – Guwahati and the High Court of Guwahati in OA No.15 of 1995 and Writ Petition No.4962 of 2001. It is also submitted that increase in the promotion quota posts consequent to the proposed revised notification will be communicated to the Govt. of Manipur and thereafter the UPSC will convene a Review Selection Committee meeting on the basis of a proposal from the Govt. of Manipur for considering the additional promotion quota posts available. The case of Shri Ibobi Singh for re-fixation of seniority can be given effect to by the Ministry of Environment and Forests once his case is considered by the Review Selection Committee meeting by UPSC. Based on recommendations of the Review Selection Committee meeting, Shri Ibobi Singh would have to be appointed from revised date and only then the seniority of Shri Ibobi Singh can be re-determined. This process by itself is long & complex and likely to take time.

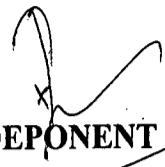
4. It is, therefore respectfully submitted that the Hon'ble Tribunal may be pleased to grant a further time of six months from 1st January, 2005 in order to implement the orders of CAT – Guwahati.

5. It is respectfully submitted that in view of the above circumstances and facts of the case there is no wilful or deliberate disobedience of the order of the Hon'ble Tribunal.



(Dr. Prodipto Ghosh)
Secretary
पर्यावरण एवं वन मन्त्रालय
Min. of Environment & Forests
नई दिल्ली/New Delhi

6. Based on the facts, it is, therefore, prayed that this Hon'ble Tribunal may be pleased to accept this affidavit and grant further time of six months to enable the Union of India to take necessary action and issue appropriate order in the matter.


DEPONENT

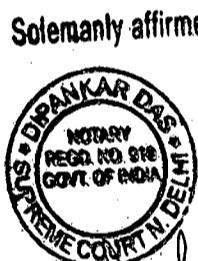
(डा. प्रोदीप घोष/Dr. Prodipto Ghosh)
स�िय/ Secretary
पर्यावरण एवं वन मंत्रालय
Min. of Environment & Forests
नई दिल्ली/New Delhi

Place: New Delhi

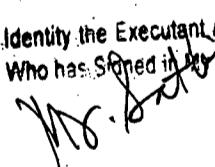
Date 31.01.2005

Solemnly affirmed and signed before me by the deponent who is personally known to me on this 31st day of January, 2005 at my office at New Delhi.

IN TESTIMONY WHERE OF
I ATTEST AND SIGN
WITH MY OFFICE SEAL



ATTESTED
31.01.05
DIPANKAR DAS
ADVOCATE
NOTARY PUBLIC
REGD. NO. 916
GOVT. OF INDIA
14, LAWYERS CHAMBERS
SUPREME COURT OF INDIA
NEW DELHI

I identify the Executant / Deponent
Who has Signed in my presence


Arunesh Deb Ray, B.A. (Distn) LLB
Advocate, Gauhati High Court
Central Administrative Tribunal
~~Central Govt. Standing Counsel~~
Guwahati Bench, Guwahati - 781 005

Residence :
Hengrabari Housing Colony
L.I.G. - 3 (Top Floor)
Guwahati - 781 006
Tel : (0361) 2265334, 2221358

Ref. No.

Date

To,

Shri S. Sarma
Advocate.

C.P.
Sub : Copy of written statement in ~~O.A/M.P.~~ No. 22/04 (in O.A. 15/25)

Sir,

Please find herewith a copy of written statement which is being filed today.
please acknowledge receipt.

Yours Sincerely,

Aug 14/2005
(A. Deb Roy)
~~S.P.C.C.S.C.~~ Advocate
C.A.T., Guwahati Bench.

Undertake to serve copy to Shri *S. Sarma, Adv.*

Aug 15/2005
(A. Deb Roy)
~~S.P.C.C.S.C.~~ Advocate
C.A.T., Guwahati Bench.

Central Administrative Tribunal

29 JUN 2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH

Misc. Application No..... of 2005

In the matter of:-

C.P. No.22 of 2004

In

O.A.No.15 of 1995

Ibobi Singh Petitioner

Vs.

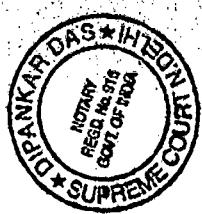
Dr. Prodipto Ghosh & ors..... Respondents

Dr. Prodipto Ghosh - Respondent
through -
Hony. Mr. Advocate
Chaudhury
22/5/05

ADDITIONAL AFFIDAVIT

I, Prodipto Ghosh, S/o Shri Bon Behari Ghosh, aged 58 years, residing at New Delhi, do hereby solemnly affirm and state as follows.

1. That I am the Secretary to the Govt. of India, Ministry of Environment & Forests and am cited as the 1st Respondent in CPC No. 22/2004 in OA No. 15/1999. I am conversant with the facts of the case as disclosed from the relevant records.
2. That at the very outset, I submit that I have no wilful negligence and/or deliberate intention to disregard and/or violate the order passed by the Hon'ble Tribunal and I have the highest regard for the Hon'ble Tribunal. I further submit that if any act of violation is perceived on my part, I tender my unqualified apology before this Hon'ble Tribunal for such unwilful violation of the order of this Hon'ble Tribunal.



(डा. प्रोदिप्त घोष/Dr. Prodipto Ghosh)
सचिव/Secretary
पर्यावरण एवं वन मंत्रालय
Min. of Environment & Forests
नई दिल्ली/New Delhi

-: 2 :-

3. That the Hon'ble Tribunal vide its judgment dated 20th January, 1999 had directed to compute the cadre strength promotion quota after giving deputation reservation quota and give the benefit of promotion quota to the applicant in the manner he is entitled to. The Union of India in the Ministry of Environment & Forests had filed a Review Application, which was rejected as per order dated 22.1.2001. Thereafter the respondents took up the matter before the Hon'ble Gauhati High Court in Writ Petition No.4963 of 2001 which was dismissed as per judgment dated 10.4.2003. Thereafter the petitioner has filed this Contempt Petition which is before the Hon'ble Tribunal – Guwahati Bench.

4. That it is respectfully submitted that the judgment and order dated 20th January, 1999 and subsequently in Writ Petition No.4962 of 2001 passed on 10th April, 2003 by the Hon'ble Gauhati High Court has been under active consideration of the Ministry of Environment and Forests in consultation with the State Government, Department of Personnel and Training and the Ministry of Law in the Central Government. It is further submitted that this Ministry while agreeing to implement the orders dated 20.1.1999 of Hon'ble Tribunal – Guwahati has taken up the matter with the Department of Personnel and Training (DoPT) in the Central Government for considering amendment of the IFS (Fixation of Cadre Strength) Regulations in order to implement the orders of the Hon'ble Tribunal – Guwahati Bench and the Hon'ble Guahati High Court in OA No.15 of 1995 and Writ Petition No.4962 of 2001 respectively.

5. That the answering respondent had requested for time of six months for implementing the order of the Hon'ble Tribunal in the case, anticipating that necessary action on part of Department of Personnel and Training would materialise in time. The Hon'ble Tribunal vide its order dated 14.3.05 was kind enough to allow time of four months for the purpose.



X
(Dr. Prodip Ghosh)
Dr. Prodip Ghosh
Secretary
Min. of Environment & Forests
New Delhi

-: 3 :-

6. That it is respectfully submitted that the Ministry of Environment & Forests in the Central Government have all the intention to implement the orders of the Hon'ble Tribunal – Guwahati Bench and have initiated action for implementation of the orders of Hon'ble Court. It is submitted that the Ministry have taken up the matter with the Department of Personnel and Training in the Central Government for amending the notification for review of the Cadre Strength from a prior date in order to implement the increase in the promotion quota posts. The Ministry has been constantly pursuing this matter with the Department of Personnel and Training. Once the required notification is issued by the Department of Personnel and Training, the Union Public Service Commission will be requested to convene a Review Selection Committee to consider the increase and promotional posts available for appointment to the IFS on the basis of a detailed proposal from the State Government. Once the recommendations of the Review Selection Committee of the UPSC are available, the Ministry of Environment & Forests in the Central Government would be able to take the necessary action for refixing the seniority of Shri Ibobi Singh, the petitioner. As already submitted in the earlier affidavit dated 31.1.2005, this is a complex process and number of Central Departments/Agencies are involved in implementation of the orders of Hon'ble Tribunal. There has been an unavoidable delay in implementation of the orders of the Court as the whole process is not in the hands of Ministry of Environment and Forests alone. However, as submitted, action has been duly initiated in the matter and is being actively pursued for complying with the directions of the Hon'ble Tribunal. Hence this would require some more time for completing the process required to implement the court orders.

7. It is, therefore respectfully submitted that the Hon'ble Tribunal may be pleased to grant further time of three months in order to implement the orders of the Hon'ble Tribunal – Guwahati.



(Dr. Prodipto Ghosh)
Secretary
Min. of Env. Forest & Forests
New Delhi/New Delhi

-: 4 :-

8. That it is respectfully submitted that in view of the above circumstances and facts of the case there is no wilful or deliberate disobedience of the order of the Hon'ble Tribunal.

9. That based on the facts, it is, therefore, prayed that this Hon'ble Tribunal may be pleased to accept this affidavit and grant further time of three months to enable the Union of India to take necessary action and issue appropriate orders in the matter.

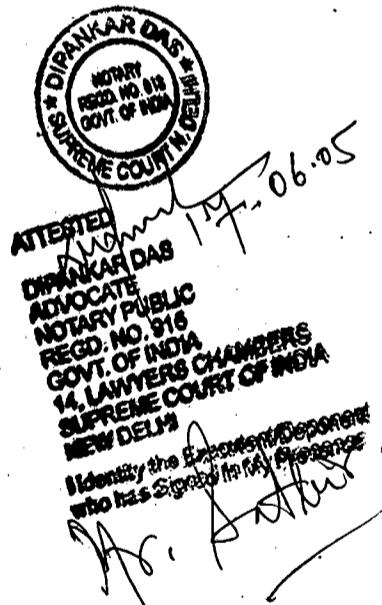
Place: New Delhi

Date: 17.06.05

DEPONENT

(का. प्रদীপ্ত ঘোষ/Dr. Prodipto Ghosh
স�িয়া/Secretary
পর্যবেক্ষণ এবং বন মন্ত্রালয়
Min. of Environment & Forests
নতুন দিল্লী/New Delhi

Solemnly affirmed and signed before me by the deponent who is personally known to me on this 17th day of June, 2005 at my office at New Delhi.



VAKALATNAMA

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH, GUWAHATI

CONTEMPT PETITION NO. 22/2004 in O.A. No. 15/95

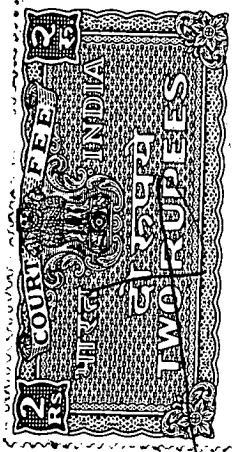
Ibobi Singh

Petitioner(s)

VERSUS

Prodipto Ghosh, Secretary (EF)

Respondent(s)



I/We, Prodipto Ghosh the Appellant/Respondent in the above Suit/Appeal/Petition/Reference do hereby appoint and retain Shri A.K. Choudhury, Govt. Advocate, on behalf of the Ministry to act and appear for me/us in the above Suit/Appeal/Petition/Reference and on my/our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein including proceedings in taxation and Applications for REVIEW to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Suit/Appeal/petition/Reference and in Application for Revenue, and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/we agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.

Dated this the 17th day of June 2005

Appellant(s)/petitioner(s)/Respondent(s)/Caveator

Accepted

(डा. प्रादीप्तो घोष/Dr. Prodipto Ghosh)
स�ित/Secretary
पर्यावरण एवं बन समाजालय
Min. of Environment & Forests
भारत दिल्ली/New Delhi

Received from the
executant & accepted
Anup Kumar Choudhury
Advocate
22/6/05

