



OA No. 239196

G. R. Paul

Applicant(s)

VS

Union of India & Ors

Respondent(s)

Mrs. B.K. Sharma, B. Mehta  
S. Sharma,

Advocates for the applicant(s)

Mr. S. Ali, Sr. C.S.C.

Advocates for the Respondent(s)

G.A. Manjun, Tripura

Office Notes | Date | Courts' Orders

15.10.96

Learned counsel Mr B.K. Sharma for the applicant. Learned Sr. C.G.S.C., Mr S. Ali for the respondent Nos.1 and 2. None for the other respondents.

This application is in form and within time

C. F. of Rs. 50/-

deposited vide

IPO Bd No 4444/86

Dated ... 3.10.96...

*B. Sharma*  
By Registrar 1/10  
1/4/11

Heard Mr B.K. Sharma for admission and perused the contents of the application and the relief sought. The application is admitted. Issue notice on the respondents by Registered Post. Written statement within 6 weeks.

Pl. Comply.

M 16/10/96

List for written statement and further orders on 29.11.96.

Issue notice on the respondents why interim relief prayer should not be allowed. List for order on interim relief prayer on 29.11.96.

*B.K. Sharma*  
Member

22.11.96

Requisite receipt

21.11.96 issued to the

same copy to concerned

respondents vide D.

No 3912 to 3921 Dt- 2.12.96

nkm

16/10

29-11-96

Learned counsel Mr.S. Sharma for the applicant. Leave note of Mr.S. Ali, Sr.C.G.S.C. Written statement and show cause has not been submitted.

List for written statement and show cause on interim relief prayer. List for show cause and written statement and for further order on 19-12-96.

*S. Sharma*  
Member

Service Reports are still available.

W/statmt has not been submitted

Written statement and show cause has not submitted.

Im

29/11

13.12

19.12.96

Mr S.Sarma for the applicant.

None for the respondents.

Show cause has not been submitted

The Registry had noted that service reports are still awaited. But it is seen that the order dated 15.10.96 was complied by Registry only on 6.12.96 by issuing the requisites. The Registry should note that this delay is undesirable.

List for written statement, show cause, interim order and further orders on 20.1.1997. The Registry shall indicate the names of the Advocates of the other respondents, particularly respondent No.3 & 4 besides Sr.C.G.S.C Mr. Ali

*60*  
Member

- 1) Requisite filed on 22.11.96.
- 2. Notice prepared and sent to Despatch Section on 22.11.96.
- 3. Notice issued vide dated 2.12.96.

*19/12/96.*

- 1) Notice duly Served on Respondant No-3, pg 4, 7, 8, 9, & 10. 20.1.97

None present. Written statement has not been submitted. This is a case of appointment to IAS.

List for hearing on 28.2.1997. In the meantime the respondents may submit written statement with copy to the opposite parties.

*60*  
Member

*22/19.12*

- 1) 7.1.97 Notice unserved Respondant No-~~3~~ 6.

- 2) Notice duly Served Respondant No-2, 3 pg 4, 5, 7, 8, 9, & 10. *20/1*

*22/7.1*

9-1-97

A copy of 17-1-97

w/ statement has not been submitted.

27.1.97

*22* An application mentioning factual detail is received from Respond-no. 5 by post. *ms*

12-2-97

28.2.97

A reply from the  
Respond. no. 5 (H.P. 2an)  
received by post & filed.

Mr. S. Ali, Sr.C.G.S.C. appearing on behalf of the respondents submits that the matter relates to Agartala and it will be expedient if the matter is taken up for hearing at Agartala. Prayer allowed. Date would be notified later.

  
Member

  
Vice-Chairman

27-2-97

1) Notice duly served <sup>trd</sup>  
on R. 2, 3, 4, 5, 7, 8, 9, 15.12.98  
(Agartala) and 10.

Present : Hon'ble Justice Sri D.N. Baruah, Vice-Chairman and Hon'ble Sri G.L. Sanglyine, Administrative Member.

2) Notice unserved R. 6,  
~~the respondent~~

3) No written statement has been filed.

4) Memo of appearance not yet filed.  
on  
27/2

Written statement has been accepted vide order passed today in M.P. 289/98. Mr B.K. Sharma, learned counsel for the applicant prays for one day's time to go through the written statement. Prayer allowed.

List on 16.12.98 for hearing.

2-5-97

Abhidavit filed  
by the respondent  
No-2, at page 80 to  
88.

pg

16.12.98  
Agartala  
by

  
Member

  
Vice-Chairman

Persons for in day.  
By name

9.12.98

Written statement has been filed by the Govt of Tripura along with acceptance of Rice petition no. 289/98.

17.12.98

Heard counsel for the parties. Hearing concluded. Judgement delivered in the open court, kept in separate sheets. The application is disposed of. No order as to costs.

  
Member

  
Vice-Chairman

trd

Rejoinder filed against to the R.No. 4, 7, 9 & 10 at page 91-93.

on 16/12

18.2.89

Copies of the Judat  
have been sent to the  
D/sec. for issuing the  
same to the parties  
through Regd. Mail A.O.

W.

Issued vide Despatch No.

552 to 561 dt. 19-2-99

~~W.~~  
30.3.99

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 239 of 1996

(AGARTALA)

Date of decision 17.12.98

Sri Gaurish Ranjan Paul,

PETITIONER(S)

Mr. B.K.Sharma

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. G.Sarma, Addl.C.G.S.C.

Mr. B.P.Kataki, Govt. Advocate, Tripura

ADVOCATE FOR THE  
RESPONDENT(S)

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

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

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

Judgement delivered by Hon'ble Vice-Chairman.



X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 239 of 1996.

Date of decision : This the 17th day of December, 1998.

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

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

Shri Gaurish Ranjan Paul,  
at present working as  
Divisional Forest Officer,  
Kanchanpur Forest Division,  
North Tripura, Tripura.

Applicant.

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India,  
represented by the Secretary  
to the Government of India,  
Ministry of Environment & Forests,  
Paryabharan Bhavan,  
C.G.O.Complex, New Delhi.
2. The Union Public Service Commission,  
represented by the Chairman,  
U.P.S.C. Dholpur House,  
Shahajahan Road, New Delhi.
3. The State of Manipur,  
represented by the Secretary,  
Department of Forests,  
Government of Manipur,  
Imphal.
4. The State of Tripura,  
represented by the Secretary,  
Department of Forests  
Govt. of Tripura,  
Agartala.
5. Shri H.P.Das,  
Deputy Consevator of Forests,  
Divisional Forest Officer,  
Working Plan Division-II  
Agartala.

Contd.....

J.B.

6. Shri D.Nag, I.F.S.(Retired),  
Ex-P.C.C.F., Tripura,  
C/o Principal Chief Conservator of Forests,  
Tripura, Agartala.
7. The Secretary,  
Appointment & Services Department,  
Govt. of Tripura, Agartala.
8. The Chairman,  
Selection Committee for preparation  
of 1996 Select List for promotion to  
I.F.S. M.T. Cadre,  
C/o Chief Secretary, Govt. of Tripura,  
Agartala-799001.
9. The Principal Chief Conservator of Forests,  
Tripura, Agartala.
10. The Chief Secretary to the  
Government of Tripura,  
Agartala.

Respondents

By Advocate Mr. G.Sarma, Addl. C.G.S.C.

O R D E R

BARUAH J. (V.C.)

In this application the applicant is seeking certain directions as mentioned in the application and also has prayed for other reliefs.

The facts are :

At the material time the applicant was in State Forest Service and working as Assistant Conservator of Forests. He was initially appointed in the post of Assistant Conservator of Forests with effect from 22.11.1980. On completion of 2 years of training for Diploma Course in Forestry in the State Forest Service College, Byrnihat, Assam, he was confirmed as Assistant Conservator

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of Forests with effect from 1st April, 1986. He claims to be a very good officer. According to him, he has discharged his duties diligently and efficiently. In the year 1994 the applicant came within the zone of consideration for recruitment to the Indian Forest Service (for short IFS) cadre. Accordingly his case was considered. However, authority did not find him suitable and therefore his name did not find place in the select list. The applicant submitted a representation but nothing was done. Situated thus the applicant filed an Application before this Tribunal (O.A. No. 240 of 1994). The said O.A. is still pending.

In the next year i.e. on the beginning of the year 1995 there was no vacancy. However, as per Rule 5 (1) of the IFS (Appointment by Promotion) Regulation, 1966 selection was held for anticipated vacancy as contemplated under the Rule. In the selection only 4 persons were considered including the applicant and the respondent No.5. Respondent No.5 was placed at Sl. No. 1 and the applicant was placed at Sl. No.2 so far the eligibility list was concerned. In the selection the respondent No.5 was found unfit and accordingly the applicant was placed in the select list at Sl. No.1, however no appointment could be made as there was no vacancy at that time. However, one vacancy occurred pursuant

to IFS cadre review with effect from 4.7.94. Because of the occurrence of vacancy with effect from 4.7.94, the applicant was temporarily appointed to officiate against that cadre post. Meanwhile the State of Tripura had recommended the name of the applicant for regular promotion pursuant to the selection made vide communication dated 21.1.1995. This communication was duly received by the U.P.S.C. However, nothing was done by the U.P.S.C. and no regular appointment was made. The applicant submitted yet another representation to the Chief Secretary to the Government of Tripura by Annexure-6 representation dated 23.9.1996. Even then also nothing was done. As nothing was done, the applicant has filed this application.

2. In due course the respondent No.1, Union of India, respondent No.2, U.P.S.C. respondent No.4, State of Tripura and its officers respondent Nos.7,9,10 and 5 appeared. Respondent No.2 U.P.S.C. has filed an affidavit, respondent Nos. 4,7,9, and 10 have filed a common written statement stating their case. The rejoinder has also been filed by the applicant.

3. We have heard Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant. Mr. G.Sarma, learned Addl. C.G.S.C appearing on behalf

of the respondent Nos. 1 and 2 and Mr. B.P.Kataki, learned Govt. Advocate, Tripura, appearing on behalf of the respondents Nos. 4,7,9 and 10.

4. Mr. B.K.Sharma submits that though he was selected by the the Selection Committee for anticipated vacancy even when vacancy occurred he was not appointed. Mr. Sharma further states that the State of Tripura had recommended the name of the applicant to the U.P.S.C. in time. In spite of that U.P.S.C. has not done anything in that regard.

5. Mr. B.P.Kataki, has admitted that the applicant was selected in a selection meeting held on 23.3.1995 for unforeseen vacancies and a vacancy arose in the middle of the year i.e. within 12 months from the date of selection. Mr. Kataki also submits that Tripura Government had recommended the name of the applicant. In paragraph 4.7 of the application the applicant has stated as follows :

"That during the pendency of the aforesaid O.A., the applicant was included in the select list of 1995 and his name was placed at Sl.No. 1. Another person was at Sl. No.2 viz. Shri P.Biswas. Pursuant to such inclusion, of the name of the applicant at Sl.No.1 the applicant was appointed to official temporarily in the I.F.S. cadre post Deputy Conservator of Forests, Kanchanpur under Rule 9 (1) (b) of the I.F.S. (Cadre) Rules, 1966 for a period of three months with effect from the date of taking over charge."

In reply to that written statement filed by the respondent Nos. 4,7,9 and 10 in paragraph 5 have stated as follows :

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"5. That as regards statement made in paragraph 4.7 to 4.10 of the application the answering respondents deny the correctness of the same and beg to state that it is fact that the applicants name was included in the Select list of 1995 and his name was placed at serial No.1 but at that point of time there was no regular vacancy. But subsequently 1(one) vacancy in Promotion quota in Tripura part of Joint M-T Cadre had occurred with effect from 04.07.1995 due to IFS Cadre review. Accordingly, officiating appointment was given to Shri G.R. Paul (SFS) (Select list Officer) to officiate temporarily in the IFS cadre post of Deputy Conservator of Forests for a period of 3 (three) month with effect from the date he takes over under Rule 9(1) (b) of IFS cadre Rules, 1966. The answering respondents states that said temporary appointment was given in the interest of public service and this does not create any right on officiating appointee to be promoted regularly. During the validity period of the Select list of 1995 for filing up of the 1(one) vacant post mentioned above the formal proposal for seeking concurrence was sent to U.P.S.C. vide No. F.2(28)-GA/94 dated 21.9.95 but no concurrence was received by the State Government and the validity of the Select list expired after 12 months from the date of meeting of the selection committee. The answering respondents further state that the PCCF Tripura vide his communication dated 2.3.1996 submitted proposal for regular appointment of the applicant to IFS but as the next selection committee Meeting for promotion of State Forest Service Officers to IFS was held on 22.03.1996, the applicant could not be appointed on regular basis due to expiry of the validity of the Select list of 1995."

Mr. Katakia has also invited your attention to the fact that the period of Select list had expired before approaching the Tribunal.

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An affidavit has also been filed by the U.P.S.C., i.e. respondent No.2. In paragraph 11 (2) of the said affidavit the U.P.S.C. has stated as follows :

"The Selection Committee of 1994-95, considered the applicant at S. No. 2 of the Eligibility List as submitted by the State. Since the State Govt. reported nil vacancy a Select List of only two officers was prepared as per rules/regulations to meet unforeseen vacancies which could arise during the year. The applicant was assessed as 'Very Good' on the basis of overall relative assessment of his ACR's and was included in the List at S.No.1. The respondent No.5 was senior to the applicant in the State Forest Service and was accordingly considered at S.No.1 of the eligibility list. However, his name could not be included in the Select List as he was graded unfit. However, the applicant was not appointed because of non-availability of vacancies."

But in the affidavit this respondent has remain silent in respect of the unforeseen vacancies that arose as per cadre review and also about the recommendation. Mr. Kakati also submits that recommendation was duly received by the U.P.S.C.

6. On the rival contention of the parties it is to be seen whether the applicant was entitled to get appointment by way of promotion on the basis of the selection made in the year 1994-95.

7. As per Rule 8 of the IFS Regulations, 1966 the appointment of the members of the State Forest Service from the Select List to post borne on the State Cadre or the Joint Cadre of a group of State as the case may be, shall be made in accordance with

the provisions of Rule 9 of the Cadre Rules. In making such appointments, the State Government shall follow the order in which the names of such officers appears in the Select list. Under Sub Rule (2) of Rule 8 in case of administrative exigencies, the member of the State Forest Service whose name is not included in the select list or who is not next in order in that select list, may subject to the aforesaid provisions of the Cadre Rules, be appointed to a cadre post if the State Government is satisfied - that the vacancy is not likely to last for more than three months and there is no suitable cadre officer available for filling up the vacancy. As per Rule 9 of the Regulations appointments of the State Forest Service to the service shall be made by the Central Government on the recommendation of the State Government in the order in which name of the members of the State Forest Service appear in the Select List for the time being in force. Under Rule 9 of the cadre rule a cadre post in a State may be filled by a person who is not a cadre officer. In Rule 5 (1) Regulations 1966 prescribed that number of members of the State Forest Service to be included in the list shall be calculated as the number of substantive vacancies anticipated in the course of the period of 12 months, commencing from the date of preparation of the list, in the post available for them under Rule 9 of the Recruitment Rules plus

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twenty percent of such number or two, whichever is greater.

8. In the present case, there was no vacancy at the beginning of the year. The Government therefore adopted the procedure prescribed in Rule 5(1) regarding anticipated vacancy. Two persons were selected, applicant was at Sl. No. 1 and P.Biswas No.2 in the Select List. In the meantime because of the cadre review a new post was created in the promotion quota and a vacancy had occurred for that purpose. As the selection was made as per the Select Committee Meeting held on 23.3.95, within 12 months from the date of selection, if any unforeseen vacancy occurred, it was to be filled from the candidates so selected. An unforeseen vacancy occurred pursuant to IFS cadre review with effect from 4.7.94. Therefore the applicant, selected as No.1 became eligible for appointment. The State of Tripura had in compliance to the provisions of Rule, sought concurrence to the U.P.S.C. However, U.P.S.C. did not take any step in the matter. It is admitted by the counsel for the parties that the recommendation of the State Government had been received by the U.P.S.C, notwithstanding that that they chose to remain silent for reasons not explained in the affidavit. Learned Govt. Advocate, could not give any explanation. Mr. G.Sarma also has not been able to explain why this was not done. Records has also not been produced without

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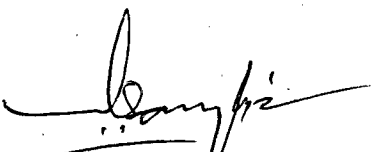
giving reason whatsoever.


9. The State Government has produced the records. We have perused the same. From the records we find no reason as to why respondent No.2 did not take any step for appointment of the applicant though the name was duly recommended by the State Government.

10. We find no reason why the applicant should not be appointed by way of promotion for the selection made 1994-95 on the basis of the meeting of selection committee held on 23.3.1995. Therefore, we have no hesitation to come to a conclusion that the applicant shall be deemed to be appointed to IFS pursuant to 1994-95 select list. It may be mentioned here that the applicant has since been appointed by promotion to the IFS in the year 1997 pursuant to a subsequent Select List.

11. Therefore, we direct the respondents to appoint the applicant to IFS pursuant to the Select List 1994-95. This must be done within a period of three months from the date of receipt of this order.

12. With the above direction the application is disposed of. Considering the facts and circumstances of the case, however, we make no order as to costs.

  
(G.L.SANGLYINE)  
Administrative Member

  
D.N.BARUAH)  
Vice-Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985).

Title of the case : O.A. No. 239 of 1996

Shri Gaurish Ranjan Paul ... Applicant

- Versus -

Union of India & Others ... Respondents

I N D E X

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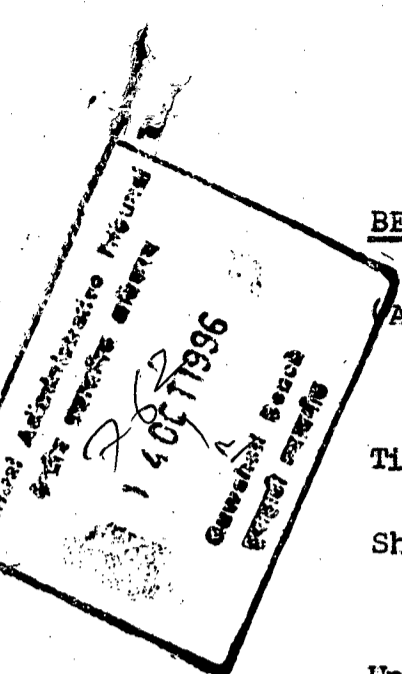
For use in Tribunal's Office :

Date of filing : 14.10.96

Registration No. : OA 239/96

*[Signature]*  
14/10/96  
REGISTRAR

*Handwritten notes:*  
J Underline to  
Kerua on on  
Mr. S. A. K.  
Sr. C. G. S. C.  
M. D. G. S. C. G. S. C.



I N THE CENTRAL ADMINISTRATIVE TRIBUNAL: : GUWAHATI BENCH

O.A. No. 229 of 1996

BETWEEN

Shri Gaurish Ranjan Paul,  
at present working as  
Divisional Forest Officer,  
Kanchanpur Forest Division,  
North Tripura, Tripura,

.... Applicant

AND

1. Union of India,  
represented by the Secretary  
to the Government of India,  
Ministry of Environment & Forests,  
Paryabharan Bhavan,  
C.G.O. Complex, New Delhi.
2. The Union Public Service Commission,  
represented by the Chairman,  
U.P.S.C. Dholpur House,  
Shahajahan Road, New Delhi.
3. The State of Manipur,  
represented by the Secretary,  
Department of Forests,  
Govt. of Manipur,  
Imphal,
4. The State of Tripura,  
represented by the Secretary,  
Department of Forests,  
Govt. of Tripura,  
Agartala
5. Shri H.P. Das,  
Deputy Conservator of Forests,  
Divisional Forest Officer,  
Working Plan Division - II  
Agartala.
6. Shri D.Nag, I.F.S. (Retired)  
Ex-P.C.C.F. Tripura,  
C/O Principal Chief Conservator of Forests,  
Tripura, Agartala.
7. The Secretary,  
Appointment & Services Department,  
Govt. of Tripura, Agartala

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15  
Filed by the applicant  
through  
B. Mehta  
Advocate

2/2

8. The Chairman,  
Selection Committee for preparation  
of 1996 select list for promotion to  
I.F.S. M.T Cadre,  
C/O Chief Secretary, Govt. of Tripura,  
Agartala-799001.
9. The Principal Chief Conservator of Forests,  
Tripura, Agartala
10. The Chief Secretary to the  
Government of Tripura,  
Agartala.

... Respondents

DETAILS OF APPLICATION

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

The instant application is directed against the select list ~~for~~ of 1996 of the Joint Cadre of Manipur - Tripura placing the applicant at Sl. No. 2 below the respondent No. 5. The application is also directed making a grievance against the non-appointment of the applicant pursuant to his selection in 1995 and placement at Sl. No. 1 of the list.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The applicant further declares that the instant application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

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4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and as such, he is entitled to all the rights, protections and privileges guaranteed to a citizen under the Constitution of India and the laws framed thereunder.

4.2 That the applicant is an M.Sc. He was appointed to the Tripura Forest Service as Asstt. Conservator of Forests w.e.f.. 22.11.80 on completion of 2 years of Training for the Diploma Course in Forestry from the State Forest Service College, Barnihat, Assam. The applicant was confirmed as A.C.F. in the State Forest Service w.e.f. 1.4.86.

4.3 That ever since the entry of the applicant in the Forest Department as aforesaid, he has been rendering sincere and devoted service to the satisfaction of all concerned and at no point of time, he has been communicated with any adverse remarks. The applicant, ever since his appointment as A.C.F. was posted in various capacities as indicated below :

22.11.80 to 14.2.83 : A.C.F. in the office of the D.F.O.  
Manu, Tripura.

15.2.83 to 31.3.86 : D.F.O., Resettlement Forest Division,  
Jatanbari, Tripura.

1.4.86 to 22.2.90 : Dy. Director - Tribal Rehabilitation  
Division, Tribal Rehabilitation in  
Plantation & Primitive Group Programme  
of State Govt., Tripura, Jatanbari,  
Tripura.

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-(3A) -

- 23.2.90 to 16.1.91 : A.C.F. in the office of the  
C.F./Northern Circle, Kumarghat, Tripura,
- 7.1.91 to 17.2.92 : Principal Officer (Forest), Tripura,  
Tribal Areas Autonomous Dist.Council,  
Tripura, Agartala.
- 17.2.92 to continued : D.F.O. Working Plan Division No. II,  
Tripura, Agartala.

In addition to this, the applicant was entrusted the duties of Wildlife Warden, Sepahijala, West Tripura, as well as to look after the Forest Training Division, Sepahijala, Now ~~exf.~~ w.e.f. 12.12.94 the applicant has handed over the charge of Forest Training Division and under order of transfer as D.F. O. Kanchanpur Forest Division, North Tripura.

4.4 That During the above posting, the applicant also held additional charge of many Territorial Forest Divisions from time to time. Be it further stated here that w.e. f. 17.2.92, the applicant has been continuously holding an I.F.S. Cadre post. Be it further stated here that the post to which he is under order of transfer is also an I.F.S. Cadre post.

4.5 That as per the provisions of relevant rules holding the field the applicant is eligible to be promoted to IFS In this connection, the I.F.S. (Appointment by Promotion) Regulation, 1966 may be referred to. Under the said Regulation, "State Government" means, in relation to a Group of States in respect of which a joint cadre of the service is constituted, the Joint Cadre Authority. Thus, the State of Manipur and Tripura being a joint cadre, the

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"State Government" in relation to these two States is the Joint Cadre Authority. Regulation 3 of the said Regulations provides for constitution of the Committee to make selection for IFS from amongst the eligible State Forest Service Officers. Regulation 5, 6 and 7 of the said Regulations provide for methodology of selection and preparation of the select list. Regulations 8 and 9 of the Regulations provide for appointments to cadre posts from the select list and appointments to the service from the select list. In terms of the Regulation 9, appointments of member of the State Forest Service to the I.F.S. shall be made by the Central Govt. Similarly Rule 3 of the I.F.S. (Recruitment) Rules, 1966, provides for recruitment by promotion to I.F.S. of the State Forest Service Officers by the Central Government. Under Rule 9 of the I.F.S. (Cadre) Rules, 1966, a cadre post in a State may be filled by a non-cadre officer, if the State Govt. is satisfied that the vacancy is not likely to last for more than 3 (three) months or that there is no suitable cadre officer available to fill up the vacancy.

4.6 That when the 1994 select list was prepared, the name of the applicant was not included in the list and ineligible persons were included in the list making a grievance against the same the applicant filed O.A. 240/94 before this Hon'ble Tribunal and the same is pending.

4.7 That during the pendency of the aforesaid O.A., the applicant was included in the select list of 1995 and his name was placed at Sl. No.1. Another person was at Sl. No. 2 viz. Shri P. Biswas. Pursuant to such ~~sake~~

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inclusion, of the name of the applicant at Sl. No. 1 the applicant was appointed to officiate temporarily in the I.F.S. cadre post Deputy Conservator of Forests, Kanchanpur under Rule 9(1)(b) of the I.F.S. (Cadre) Rules, 1966 for a period of three months with effect from the date of taking over charge.

A copy of the said notification No. F.2(28)-GA/94 dated 6.2.96 is annexed hereto as ANNEXURE-1.

4.8 That the applicant states that such officiating appointment of a selected candidate is the preliminary stage towards appointment to I.F.S. and that has been the practice in the State of Tripura in all India Services including I.A.S. and I.P.S. Thus pursuant to his position at Sl. No. 1 in 1995 select list and his appointment to officiate in the I.F.S. Cadre post by the aforesaid notification dated 6.2.96, it was his natural expectation that he would be regularly appointed to I.F.S.

4.9 That pursuant to the aforesaid notification the applicant took over charge of the I.F.S. cadre post vide his joining certificate of assumption of charge dated 6.2.96.

A copy of the charge report dated 6.2.96 is annexed hereto and marked as ANNEXURE-2.

4.10 That the applicant was appointed to officiate in a cadre post by the aforesaid notification and there being a clear vacancy and his name being at Sl. No.1 of the select list of 1995, there was no impediment for his regular

Contd....P/6.

6/1

appointment to the post. In this connection, the Principal Chief Conservator of Forests, Tripura wrote a letter No. F.3(33)/For/Sectt/80/13235 dated 23.4.96 to the Secretary to the Government of Tripura, Appointment and Services Department, Agartala submitting a proposal. By this letter, the Principal Chief Conservator of Forests, Tripura has requested the Secretary, Appointment and Services Department for regularisation of the appointment of the application to the I.F.S.

A copy of the said letter dated 23.4.96 is annexed hereto as ANNEXURE-3.

4.11 That inspite of the aforesaid position, the applicant has not been appointed to I.F.S. in violation of the provisions of the rules.

4.12 That such proposal for regular absorption of the applicant in the vacant I.F.S. cadre post was also made subsequently ; but the respondents have rejected the same without assigning any reason thereof. Such rejection has been conveyed vide letter No. F.2(28)/GA/94 dated 4.9.96.

A copy of the aforesaid letter dated 9.9.96 is annexed hereto as ANNEXURE-4.

4.13 That in the aforesaid letter of regret, it has been ~~sketch~~ conveyed on the subject of continuation of period of officiating appointment of the applicant totally ignoring the fact that a proposal was there for regular appointment

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gp

of the applicant to I.F.S. It will be further pertinent to mention here that in the Annexure-3 letter dated 23.4.96 reference of earlier proposal has also been made as per the request made. In this connection, it is stated that no such request is required to be made by the concerned authority. The moment one's name is included in the select list and he is within the zone of appointment, he is required to be appointed to the post and for that no proposal is required to be given from the Principal Chief Conservator of Forests ; but in the instant case same was done by the concerned authority contrary to the relevant rules.

4.14 That the applicant states that in the 1995 list, his name was at Sl. No.1 and he could not have been easily accommodated against a vacant post to which he was allotted to officiate temporarily. The applicant has been holding the I.F.S. Cadre post continuously with effect from 17.2.92. It was incumbent on the part of the respondent No. 4 to send proposal to the Government of India for regular appointment of the applicant. However, with an evil design to bestow favour to others, same was not done deliberately and in the process, the applicant is still deprived of his regular appointment to I.F.S.

4.15 That in the meantime, the 1996 select list has been prepared in which the name of the applicant is placed at Sl. No. 2 as against his position at Sl. No.1 in the 1995 select list. The respondent No. 5 Shri H.P.Das has been placed at Sl. No.1. In this connection, it is stated that Shri Das on earlier occasions was not found

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*LPS*

suitable to be included in any of the select list. He was superseded in the select list of 1991~~92~~, 1992, 1993, 1994 and 1995. During all these years, his juniors got promotion and the respondent No 5 having regard to his own <sup>an</sup> suitability did not make any complaint regarding his such supercession and inclusion of his name in select lists. Even in the 1995 select list, he name was not included as against the inclusion of the applicant at Sl. No. 1 of the said select list. The respondent No. 5 was superseded all these years by his juniors viz. Shri B.M. Deb,- 1991, Shri J.L. Dutta - 1992, Shri S.S. Das,-1994, Shri Chandramani Debbama - 1994 and others. As pointed out above, Shri Das never agitated against any supercession because of his poor grading in his ACRs.

4.16 That in the 1995 select list, the ACRs of the officers pertaining to five years i.e. 1989-90, 1990-91 1991-92, 1992-93 and 1993-94 were considered and in consideration of the same Shri Das could not be included in the select list because of the fact that his ACR was not upto the mark. On the other hand, the applicant was placed at Sl. No. 1 in consideration of ACRs which are outstanding and very good.

4.17 That the applicant states that in the 1990 select list, the respondent No. 5 has been placed at Sl. No. 1 and the applicant has been placed at Sl. No.2. For this purpose, the ACRs of last 5 years were taken into account. The standard/grading of ACRs of respondent No. 5 for the year 1994-95 is below than that of the applicant and both

Contd.... P/9.



the ACRs were recorded by the same Officer Shri M.A. Khan IFS, Conservator of Forests, Western Circle, Agartala as regards the earlier four years of ACRs admittedly is far below than that of the applicant. This is the precise reason why the respondent No. 5 could not get place in the 1995 select list. It is not a case that the standard of 1994-95 ACR of the respondent has so far gone to the level so as to include in the list of 1996 at Sl. No. 1 superseding the applicant who has been placed at Sl. No. 2. Thus the name of the respondent No. 5 was illegally placed at Sl. No. 1 of the 1996 select list. Relevant records will bear the testimony of the same. In this connection, the applicant craves the leave of this Hon'ble Court for a direction to the respondents to produce the minutes of the selection committee held for the purpose of preparation of 1996 select list of I.F.S. and also ACRs of the applicant and the respondent No. 5.

4.18 That the applicant states that such incorporation of the name of the respondent No. 5 is at the behest of the then Principal Chief Conservator of Forests Shri D. Nag I.F.S. (Retired). Shri Nag was a member of the selection committee and it was at his instance, the applicant has been deprived of his legitimate position at Sl. No. 1. Said Shri Nag was biased towards the applicant which will be evident from the reply given in respect of his representation regarding continuous officiation of the applicant to the IFS cadre post. While replying to the ~~applicant's~~ representation, the then P.C.C.F. Shri D. Nag vide his letter dated 18.7.95 made indecent remarks against

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*gpo*

the applicant unbecoming of a person in the rank of P.C.C.F.

A copy of the said letter dated 18.7.95 is annexed hereto as ANNEXURE-5.

4.19 That the respondent No. 5 had on many occasions received adverse remarks ; but the applicant has not received even a single adverse remarks during the whole service period rather has got appreciation from the higher authority which is very much there with the State Government of Tripura. The Government of Tripura, Forest Department entrusted the responsibility of running of a territorial Forest Division on Shri H.P. Das, respondent No. 5 and accordingly he took over charge of the said Forest Division from the applicant on 7.3.94 vide charge report dated 7.3.94 ; but he failed to run the Division so much so that within a period of seven months the State Government had to issue transfer order transferring him to a non-territorial Division and the applicant was given the charge of the territorial Division. The applicant has even been given the charge of the ~~territorial~~ <sup>other</sup> Division in addition to normal charge of the Division. The applicant is running very smoothly and efficiently of the assignment including discharge of duties of running the territorial Division to the fullest satisfaction of higher authorities which are there on record with the Government.

4.20 That the applicant states that the respondent No. 5 has been holding the IFS Cadre with effect from 7.3.94 as against the IFS cadre. Thus it will be crystal clear that the applicant is higher than the respondent No. 5 performance-wise and ACRs wise and thus there cannot

be any occasion to place the applicant at Sl. No. 2 below the respondent No. 5 who was not even included in the select list of 1995 as against the inclusion of the name of the applicant at Sl. No.1.

4.21 That the applicant states that in view of the aforesaid factual position, the respondent No. 6 instead of pursuing his case of regular appointment to IFS, had written the Annexure-5 letter with the suggestion to leave matter to the hands of Almighty which is very much unbecoming on the part of an officer in the rank of P.C.C.F. This shows the malafide intention on the part of the respondent No. 6 to the applicant but for which the name of the applicant would have been included at Sl. No. 1 of the 1996 select list. In this connection, the applicant craves the leave of this Hon'ble Court to rely upon and refer to the statements made in the earlier O.A. i.e. O.A. 240/94. When many senior I.F.S. officers of B.C.F. rank who was without having any charge of any office was not assigned with or posted in the I.F.S. cadre post of D.C.F., Kanchampur the applicant was found by the Government to be extremely efficient and competent enough to run smoothly, the I.F.S. cadre post of D.C.F. and as such, was put to I.F.S. cadre post of D.C.F. continuously w.e.f. 17.2.92 and even now he has been continuing in the I.F.S. cadre post. ~~It~~

4.22 That the applicant states that examples ~~are~~ of ~~galkara~~ regular appointment to A.I.S. in Tripura are gallore by the State of Tripura and for that purpose after appointing the selected persons on officiating basis like

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LSP

that of the applicant, proposals were sent to Government of India for regular appointment. In this connection mention may be made of the case of Shri Dipak Kumar Chakraborty, T.C.S. but in the case of the applicant, no such proposal was sent to the Government of India and in the process, he was deprived of the regular promotion to I.F.S. In his case, the respondents got three months' time to send such proposal of his regular appointment, but did not do anything and now the applicant finds himself in a very awkward position so much so that his name in the select list of 1996 has been placed at Sl. No. 2 as against the Sl. No. 1 of the 1995 select list. ~~This is~~ Thus due to inaction on the part of the respondents, the applicant has lost his valuable chance of being promoted to I.F.S. on regular basis. However, the applicant states that by the direction of this Hon'ble Tribunal, he should be given appropriate relief pursuant to inclusion of his name in the 1995 select list at Sl. No. 1 more particularly having regard to the fact that ~~there~~ there was a vacancy and to which post he was temporarily appointed. Had the ~~promotion~~ proposal been sent in time, the applicant now by the time would have been absorbed in the regular I.F.S. cadre post.

4.23 That the applicant states that such deprivation of his promotion to IFS, pursuant to his inclusion in the 1995 select list was with malafide design so as to include the name of the respondent No. 5 at Sl. No. 1 of the 1996 select list. The respondents were well aware of the fact that if the applicant is promoted to the lone vacant post of

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lyf.

I.F.S. then in that case, there will be no select list in 1996 ~~is~~ and chance to favour the respondent No. 5 would be very remote. Once the applicant has been promoted to I.F.S. cadre post ~~is~~ on temporary basis, the State of Tripura was ~~has~~ bound to send a proposal to the Government of India for regular absorption but in the instant case same was not done to the deprivation of the applicant.

4.24 That the applicant made several representations dated 17.4.96, 25.4.96, 15.5.96, 31.5.96, 15.6.96, 20.7.96, 31.8.96 and 23.9.96 ; but none of the representations have been properly attended to and by the impugned order dated 9.9.96, the Government of Tripura has expressed its inability to accede to the proposal sent by the P.C.C.F.

Instead of enclosing all the aforesaid representations, the applicant begs to annex the last representation dated 23.9.96, which is marked as ANNEXURE-6 wherein mention have been made of the earlier representation.

~~4.25~~ In the said representation, the applicant has highlighted his grievance. Instead of repeating the contention made therein, the applicant craves leave of this Hon'ble Tribunal to refer to and rely on the said representation at the time of hearing of the instant application and the same may be treated as a part of the instant application. Further the applicant craves leave of this Hon'ble Tribunal to produce the copies of the earlier representations at the time of hearing of the application.

4.25 That the applicant states that from the aforesaid facts and circumstances ~~stated~~ it is crystal clear

that he has been deprived of the promotion to I.F.S. in a most arbitrary and illegal manner and now ~~the~~ in the 1996 he has been down graded and a person who never had been placed in the select lists earlier ~~select lists~~ published including the one of 1995, has been placed above the applicant. Now by no stretch of imagination, such a situation is possible towards preparation of a select list. Here is a case in which a person whose name could not be included in 1995 select list, has been placed at Sl. No.1 of 1996 select list. The said person was earlier superseded by many of his juniors. Further the ACR of the respondent No. 5 pertaining to last year i.e. 1994-95 is not satisfactory compared to the applicant and accordingly, he could not have been included in the select list of 1996 not to speak of placing at Sl. No.1 above the applicant.

4.26 That the applicant states that he has been deprived of his promotion to IFS firstly in 1994, then in 1995 and now finally in 1996 also. In view of the factual position stated above, there is a remote chance of his being promoted to IFS. This has been done deliberately so as to bestow undue favour to the respondent No. 5. It is under these circumstances, the applicant has come under the protective hands of this Hon'ble Tribunal. In this connection, the applicant craves the leave of this Hon'ble Tribunal for a direction to the respondents to call for the records of the case including the minutes of the selection committee meeting of 1996 held on 23/24.3.96. The select list of 1996 has been finally approved by the U.P.S.C. and the respondent No. 5 may be promoted to I.F.S.

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Lgo

at any moment. Thus it is a fit case for passing an interim order as has been prayed for under the relevant column. The applicant will suffer irreparable loss and injury if the interim order~~s~~ as has been prayed for is not granted.

4.27 That the applicant states that malafide and colourable exercise of power are the foundation of the inaction on the part of the respondents so as not to promote him to I.F.S. pursuant to his selection in 1995. Now even in 1996 select list, he has been placed at Sl. No. 2 below the respondent No. 5 which is quite illegal and arbitrary. The applicant craves the leave of this Hon'ble Tribunal to direct the respondents to produce a copy of the select list which the applicant was not able to collect.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that prima facie the impugned order and action on the part of the respondents are not sustainable and liable to be set aside and quashed.

5.2 For that the applicant having been included at Sl. No. 1 of the 1995 select list and there having a vacancy to which he was given officiating appointment, there is no earthly reason as to why he could not be promoted to I.F.S. on regular basis against that vacant post.

5.3 For that the inclusion of the name of the applicant in the 1996 select list at Sl. No. 2 is quite illegal inasmuch as the respondent No. 5 could not have been included in the said select list at Sl. No.1.

5.4 For that the ACRs of the respondent No. 5 being much inferior than that of the applicant and the said respondent No. 5 has been superseded on earlier occasion and his name having not been included in the 1995 select list could not have been placed at Sl. No. 1 of the 1996 select list.

5.5 For that the applicant's name ought to have been included at Sl. No. 1 of the 1996 select list and the respondents having not done so are guilty of malafide and colourable exercise of power.

5.6 For that the performance of the applicant being much better than that of the respondent No. 5 and the record of service also being much better than that of the the said respondent, his name ought to have been included at Sl. No. 1 of the 1996 select list.

5.7 That the respondents have made a mockery of the principles of preparation of the select list inasmuch as the selection committee was completely biased. By the stand taken by the then P.C.C.F. Shri Nag in favour of the respondent No. 5 and against the applicant ; but for which the name of the applicant would have been included at Sl. No. 1 of the 1996 select list.

5.8 For that the applicant is required to be promoted to IFS on regular basis on the basis of 1995 select list and the respondents cannot take the plea of expiry of the said select list inasmuch as they are guilty of their own misdeeds and the applicant cannot be deprived of his promotion to IFS on the basis of such misdeeds on the

part of the respondents.

5.9 For that in any view of the matter, the impugned action on the part of the respondents are not sustainable and liable to be set aside and quashed. In any case, the impugned order being a non-speaking one and having been issued altogether in a different context, same is not sustainable and liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative remedy than to come under the protective hands of this Hon'ble Tribunal.

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

The applicant further declares that he has not filed any application, writ petition or suit regarding the matter in respect of which this application before any other authority, Court or any other Bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

Under the facts and circumstances stated above, the applicant most respectfully prays that this Hon'ble Tribunal may be pleased to admit this application, call for the records of the case more particularly the minutes of the selection committee meeting held & in 1996 and the select list of 1996 and the ACRs of last 5 years pertaining

*Handwritten signature*

to the applicant and the respondent No. 5 and on perusal of the records and upon hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

- (i) To direct the respondents to promote the applicant to IFS pursuant to inclusion of his name at Sl.No.1 of 1995 select list with all consequential benefits
- (ii) To declare the placement of the respondent No. 5 at Sl. No. 1 of 1996 select list as illegal and to declare that the applicant is entitled to his placement at Sl. No.1 of 1996 select list.
- (iii) Cost of this application
- (iv) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case.

The aforesaid reliefs have been sought for by the applicant without prejudice to his case now pending before this Hon'ble Tribunal i.e. O.A. 240/94.

9. INTERIM ORDER PRAYED :

Pending disposal of the case, the applicant prays for an interim order directing the respondents not to act upon the 1996 select list for promotion to IFS in Manipur-Tripura Cadre.

10. ....

The instant application is filed through Advocate.

*gp*

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. No. : 11 444486  
(ii) ~~Revised~~ Date : 3.10.96  
(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, Shri Gaurish Ranjan Paul, son of Late G.D. Paul, aged about 42 years, at present working as Dy. Conservator of Forests/Divisional Forest Officer, Kanchanpur Forest Division, North Tripura, Tripura, 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 fact.

And I sign this verification on this the 12<sup>th</sup> day of October 1996. ~~at Guwahati~~

Gaurish Ranjan Paul  
(GAURISH RANJAN PAUL)

GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

No. F.2(28)-GA/94 :

Dated, Agartala, the 6th  
February, 1996.

NOTIFICATION

In the interest of public service, the Governor is pleased to appoint Shri Gourish Ranjan Paul, State Forest Service Officer to officiate temporarily in the IFS Cadre post of Deputy Conservator of Forests, Kanchanpur Under Rule 9(1)(b) of I.F.S. Cadre Rules, 1966 for a period of 3(three) months with effect from the date he takes over.

By order of the Governor,

*B. R. Mukherjee*  
6/2/96

( B. R. Mukherjee )  
Deputy Secretary to the  
Government of Tripura.

Copy to :-

1. Chief Secretary, Tripura, Agartala.
2. Chief Secretary, Manipur, Imphal.
3. Special Secretary to Governor, Tripura, Rajbhavan, Agt.
4. Secretary to Chief Minister, Tripura, Agartala.
5. Office of the Deputy Chief Minister, Tripura, Agartala.
6. Offices of all Ministers, Tripura, Agartala.
7. Principal Secy./all Commissioners/all Secretaries, Tripura.
8. Accountant General (A & E), Tripura, Agartala.
9. Finance (Estt. Branch)/Forest Deptt., Tripura.
10. Principal Chief Conservator of Forests, Tripura, Agartala.
11. Secretary to the Govt. of India, Ministry of Environment & Forests, Prarayavaran Bhavan, CGO Complex, Lodi Road, New Delhi - 110003.
12. Deputy Conservator of Forests, Kanchanpur, North Tripura.
13. Manager, Govt. Press, Agartala for publication.
14. Sub-Treasury Officer, Dharmnagar, North Tripura.
15. Shri Gourish Ranjan Paul, ACF, C/O Principal Chief Conservator of Forests, Tripura, Agartala.

*B. R. Mukherjee*  
6/2/96

( B. R. Mukherjee )  
Deputy Secretary to the  
Government of Tripura.

Attested.  
*[Signature]*  
12/10/96  
Advocate.

CERTIFICATE OF ASSUMPTION OF CHARGE.

Certified that I have in the forenoon of this day, the 6th February, 1996 assumed the charge of IFS Cadre post of Deputy Conservator of Forests, Kanchanpur in pursuance of Notification No. F.2(28)-GA/94 dated Agartala the 6th February, 1996 of Appointment & Services Department, Government of Tripura, Agartala.

*Gaurish Ranjan Paul*

Dy. Conservator of Forests  
Kanchanpur.

6-2-96

No. F.1-8/Estt/KD-95/8885-94

dated Kanchanpur the 6th  
February, 1996.

Copy to:-

1. The Chief Secretary, Tripura, Agartala.
2. The Accountant General, Tripura, Agartala.
3. The Principal Chief Conservator of Forests, Tripura, Agartala.
4. The Secretary, Government of Tripura, Appointment & Services, Department, Agartala.
5. The Conservator of Forests, Northern Circle, Kumarghat.
6. The Dy. Secretary, Government of Tripura Finance Department (Establishment Branch), Agartala.
7. The Dy. Secretary, Government of Tripura Finance Department (Budget Branch), Agartala.
8. Shri G.R. Paul, IFS Dy. Conservator of Forests,
9. The Divisional Forest Officer, Kanchanpur Division, North Tripura.
10. Personal file of Sh. G.R. Paul, IFS Dy. Conservator of Forests.

*Gaurish Ranjan Paul*

Dy. Conservator of Forests,  
Kanchanpur, North Tripura.

6-2-96

Attested.

*[Signature]*  
Advocate.  
10/1/96

No. F.3(33)/For/Estt-80/13735  
 GOVERNMENT OF TRIPURA  
 OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS  
 TRIPURA : : : AGARTALA

Agartala  
 April 23 /1996.

To  
 The Secretary,  
 Government of Tripura,  
 Appointment & Services Department,  
 Agartala.

Sub:- Extension of the period of officiating  
 appointment to IPS cadre post of Deputy  
 Conservator of Forests in favour of Sri  
 G.R.Paul, Duputy Conservator of Forests.

Sir,

Kindly refer to the Notification vide No.F.2(28)-  
 GA/94 Dated 6.2.96 of the Appointment & Services Deptt.,  
 Government of Tripura under which Sri Gourish Ranjan Paul,  
 State Forest Service Officer was appointed to officiate  
 temporarily in the IPS cadre post of Deputy Conservator  
 of Forests, Kanchanpur for a period of 3(three) months  
 with effect from the date he takes over. Sri G.R.Paul has  
 assumed the charge of the new post of IPS with effect  
 from 6.2.96 and accordingly his officiating period will  
 expire on 6.5.96.

We have already submitted proposal as requested  
 for regularisation of appointment to IPS in favour of  
 Sri G.R.Paul, Dy.C.P. vide this office letter No.F.2(28)/  
 For/Estt-80/Part/7697 Dated 2.3.96.

It is seen that Sri G.R.Paul has already assumed  
 charge of IPS post of Deputy Conservator of Forests at  
 Kanchanpur on 6.2.96. He has also submitted declaration as  
 is required on 9.2.96.

In the part 7(2) - select list of the All India  
 Service Manual it is stated that the existing select  
 list will be valid until a new list is prepared under  
 regulation in respect of members of State Forest Service  
 is approved under sub-regulation (1) or as the case may  
 be finally approved under sub-regulation(2).

Under such circumstances, necessary action may  
 kindly be taken for referring his case to the Central

Attested.

Advocate,

Contd...2.

Government for regularisation of his temporary appointment to the cadre post of IFS. Pending such finalisation a Notification may kindly be issued for extending the temporary appointment of Sri G.R.Paul beyond 6.5.96. Copy of representation of Sri G.R.Paul addressed to Chief Secretary, Government of Tripura Dated 15.4.96 is hereby enclosed.

Encls:- 1(One) No.

Yours faithfully,

*[Handwritten signature]*  
23/4/96

( ROHING LIANA )  
Principal Chief Conservator of  
Forests, Tripura, Agartala

.....

Attested.

*[Handwritten signature]*  
12/10/96  
Advocate.

NO.F.2(28)-GA/94  
GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

Dated, Agartala, the 9<sup>th</sup> September, 1996.

To  
The Principal Chief Conservator of Forests,  
Tripura, Agartala.

Subject :- Extension of the period of officiating appointment  
of IFS Cadre post of Deputy Conservator of Forests,  
in favour of Shri G. R. Paul, Deputy Conservator of  
Forests.

Sir,

I am directed to refer to your letter NO.F.3(33)/  
For/Estt-80/15936 dated the 22nd May, 1996 on the subject  
noted above and to say that Government after careful  
consideration of the case regrets its inability to accede to  
the proposal.

Shri Paul may be intimated suitably.

Yours faithfully,

( Lok Ranjan )  
Joint Secretary to the  
Government of Tripura.  
.....

Attes.ed.

12/10/96  
Advocate

17.7 95

OFFICE OF THE

25 ANNEXURE-5  
GOVERNMENT OF TRIPURA  
PRINCIPAL CHIEF CONSERVATOR OF FORESTS,  
TRIPURA : AGARTALA.

\*\*\*\*\*

43

Subject :- Representation of Shri G.R.Paul, TFS, ACF for continuous officiation to the Indian Forest Service Cadre post.

Reference :- His representations dated 22-04-95 and 26-05-95 and No.F.11(10)/CENC/For-95/1752 dated 02-05-95 and No.F.11(10)/Estt/CENC/For-95/2326-27 dated 24-06-95 of Conservator of Forests, Northern Circle, Kumarghat.

He should deserve and this will come then. He must do excellent in his performance for the purpose. Neither the representations or the appeals and reminder could solve the issue. I wonder how an officer can become so much <sup>impatient</sup> important for the results. One must do his deeds leaving the result to almighty.

Impatient

Sd/- D.Nag  
Principal Chief Conservator of Forests,  
Tripura, Agartala.

No.F.3(33)/For/Estt-80/18424-26 dated, 18/7/95  
Copy to :-

1. The Conservator of Forests, Northern Circle, Kumarghat.
2. The Divisional Forest Officer, Kanchampur.
3. Shri G.R.Paul, TFS, ACF, Divisional Forest Officer, Kanchampur.

17/7/95  
Principal Chief Conservator of Forests,  
Tripura, Agartala.

Attes.ed.

12/10/96  
Advocate.

...

No.F.1-8/Estt./KD-95/  
 Government of Tripura  
 Office of the Divisional Forest Officer  
 Kanchanpur Division  
 Kanchanpur.  
 \*\*\*\*\*

Dated, Kanchanpur, the 29th Sept., 1996.

To  
 The Chief Secretary,  
 Government of Tripura,  
 Civil Secretariat, Agartala.

Through Principal Chief Conservator, of Forests,  
 Tripura, Agartala.

Subject :- Regular appointment of I.F.S. & Extension of  
 the period of officiating appointment to I.F.S.  
 Cadre post of Deputy Conservator of Forests,  
 Kanchanpur.

Reference :- Notification No.F.2(2R)/GA/94, dated. 6-2-96  
 of the Appointment & Services Department,  
 Govt. of Tripura.


Sir,

With due respect, I beg to request your honour  
 to kindly refer my various representations submitted to your  
 kindness vide my Office No.F.1-8/Estt./KD-95/305-09, dated.  
 15-4-96, No. 864-66, dated. 25-4-96, No. 1104-06, dated.  
 15-5-96, No. 1374-76, dated. 31-5-96, No.1764-66, dated.  
 15-6-96, No.2860-64, dated. 20-7-96 & No.4358-42, dated.  
 31-8-96 wherein you were intimated that vide Notification  
 under reference I was allowed to officiate to the I.F.S.Cadre  
 post of Deputy Conservator of Forests, Kanchanpur for a period  
 of 3(three) months w.e.f. 6-2-96 against a clear vacancy in  
 promotion quota. Accordingly the undersigned assumed the  
 charge of I.F.S. Cadre Post of Deputy Conservator of Forests,  
 Kanchanpur on 6-2-96 and the Certificate of assumption of  
 charge was forwarded to all concerned including Office of  
 your kindself vide my Office No.F.1-8/Estt./KD-95/8885-94,  
 dated. Kanchanpur, the 6-2-96. Further I submitted the  
 required declaration form duly filled in on 9-2-96 for  
 arranging sending of proposal to the Government of India  
 for my appointment to Indian Forest Service from approved  
 Select list of 1993, as according to that select list I am  
 the senior most eligible Officer of Tripura - State Forest  
 Service. As per rule 8 of I.F.S. (Appointment by promotion)  
 Regulations, 1966. I am eligible to get promotion to I.F.S.  
 from approved Select List of 1993. The period of my -  
 Officiating appointment to I.F.S. Cadre post of Deputy  
 Conservator of Forests has already expired on 6-5-96 and it  
 needs further continuation w.e.f. 6-5-96.

It may be mentioned here that in 1994 one  
 T.F.S. Officer, Sri Chandranani Deb Barma who was junior to

Contd.....P/2.

Attested.

  
 12/10/96  
 Advocate.

he was promoted to I.F.S. superceding me on the basis of approved Select list of 1994.

I am holding and discharging the duty of I.F.S. Cadre post of Deputy Conservator of Forests, Kanchanpur since 24-2-95. The Principal Chief Conservator of Forests, Tripura vide his letter No.F.2(28)/For/Estt./80/7697, dated.2-3-96 submitted proposal to your kindness as requested for regularisation of appointment to I.F.S. in favour of the undersigned.

The Indian Forest Service. ( Appointment by promotion ) Regulations 1966, Section 7, (3) provides that "The list as finally approved by the Commission shall form the Select List of the members of the State Forest Service".

Section 7(4) provides that "The select list shall ordinarily be in force until its review and Revision effected under Sub-Regulation (4) of regulation 5, is approved under Sub-regulation (1) or, as the Case may be finally approved under Sub-regulation (2)".

Thus the existing select list in force is the finally approved select list of 1995. I am the Senior most Officer in the Select list 1995 which is at force at present and hence entitled to get promotion against any existing vacancy. The Principal Chief Conservator of Forests, Tripura vide his letter No.F.3(33)/For/Estt.-80/13235, dated. 23-4-96 also requested your kindness quoting the aforesaid Rule to take necessary action for referring my Case to the Government of India for regularisation of my officiating appointment to the Cadre post of I.F.S. and as well for issuing Notification for extending the officiating appointment to I.F.S. Cadre post of Deputy Conservator of Forests, Kanchanpur".

In this connection it may be mentioned that (1) In the Case of Sri Virendra Nath Ghai and others instituted against the Union of India and others, the Central Administrative Tribunal (Jabalpur Bench) delivered Judgement - "Duly approved Select List cannot be ignored and allowed to lapse". A Copy of the Complete Judgement consisting of 11 (eleven) Sheets ( 22 (twenty two) Pages) is enclosed herewith (T.A. No.320/86, decided on 22-4-1987).

(2) In the Case of Sri Nishi Kant Jadhav against the Union of India and others [ 1993(3) SLJ(CAT) Jabalpur Bench No.139 ] part of the Judgement as delivered is as below -

One Select List for promotion to I.F.S. was approved by U.P.S.C. on 3-7-1987 - applicant was at Sl.No.5 - Officers at Sl. No. 1 & 2 promoted - applicant not promoted. Another Select List was finally approved by U.P.S.C. on

Contd.....P/3.

ES.  
B  
14/10/96  
1996

24-6-1988 - whether the First Select List was in operation in December, 1987, when the applicant was denied promotion on the ground that the next Select List had come into operation -  
- Held yes.

I would, therefore, again fervently request your Honour to kindly (i) send proposal to the Government of India for my appointment to I.F.S. Cadre Post of Deputy Conservator of Forests, Kanchanpur at your earliest, (ii) arrange continuation of my officiating appointment to I.F.S. cadre post of Deputy Conservator of Forests, Kanchanpur for further period w.o.f. 6-5-1996 by issuing State Government Order in this regard, so that my seniority is protected when my regular appointment to I.F.S. is made.

I shall remain ever grateful to you for the same.

Yours faithfully,

*Gaurish Ranjan Paul*

Encls :- 11 (Eleven) Sheets  
as stated above.

( GAURISH RANJAN PAUL )  
Deputy Conservator of Forests,  
Kanchanpur : North Tripura.

20-9-96

Copy to :-

- 1). The Principal Chief Conservator of Forests, Tripura, Agartala for favour of his kind information and - necessary action in this regard.
- 2). The Secretary, Appointment and Services Department, Civil Secretariate, Government of Tripura, Agartala for his kind information and doing the needful - please through P.C.C.F. Tripura, Agartala. - *Enclosed 11 sheets.*
- 3). The Conservator of Forests, Northern Circle, Kumarghat for favour of his kind information and necessary action in this regard.
- 4). The Secretary, I.F.S. Officers Association, Tripura Branch, Agartala, for kindly doing the needful please.

*Gaurish Ranjan Paul*

( GAURISH RANJAN PAUL )  
Deputy Conservator of Forests,  
Kanchanpur : North Tripura.

20-9-96

Attested.

*[Signature]*  
Advocate.

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Submission of parawise replies by Shri Haripada Das, TFS, Gr.I, Divisional Forest Officer, Working Plan Division No.II, Agartala, Tripura against the application submitted by Shri Gaurish Ranjan Pal, Divisional Forest Officer, Kanchanpur, Tripura in the Central Administrative Tribunal, Guwahati Bench under Section 19 of the Administrative Tribunal Act, 1985 as communicated vide No. 239/96/3916 dated 2.12.96 under signature of Section Officer(Judicial)

- A. Title of the case : OA No. 239 of 1996.
- B. Shri Gaurish Ranjan Pal - - - Applicant.

Versus

1. Union of India,  
represented by the Secretary  
to the Government of India,  
Ministry of Environment & Forests,  
Paryabharan Bhavan,  
C.G.O. Complex, New Delhi.
2. The Union Public Service Commission,  
represented by the Chairman,  
U.P.S.C. Dholpur House,  
Shahajahan Road, New Delhi.
3. The State of Manipur,  
represented by the Secretary,  
Department of Forests,  
Govt. of Manipur,  
Imphal.
4. The State of Tripura,  
represented by the Secretary,  
Department of Forests,  
Govt. of Tripura,  
Agartala.
5. Shri H.P. Das,  
Deputy Conservator of Forests,  
Divisional Forest Officer,  
Working Plan Division - II,  
Agartala.
6. Shri D. Nag, I.F.S. (Retired)  
Ex- P.C.C.F. Tripura,  
C/O Principal Chief Conservator of Forests,  
Tripura, Agartala.
7. The Secretary,  
Appointment & Services Department,  
Govt. of Tripura, Agartala.

Mr. Raha

10/12/97

- 2 -

8. The Chairman,  
Selection Committee for preparation  
of 1996 Select List for promotion to  
I.F.S. M.T. Cadre,  
C/O Chief Secretary, Govt. of Tripura,  
Agartala - 799001.
9. The Principal Chief Conservator of Forests,  
Tripura, Agartala.
10. The Chief Secretary to the  
Government of Tripura,  
Agartala.

... Respondents

## C. Bio-data of Shri Haripada Das, TFS, Gr. I.

1. Name of the Officer : Mr. Haripada Das.
2. Date of birth : 10.1.1949.
3. Selection in the post  
of the Assistant Con-  
servator of Forests  
through selection system  
of : Tripura Public Service  
Commission, Agartala.
4. Name of the institute  
from where the SFS  
training was received : Indian Forest College,  
DehraDun, Uttar Pradesh,  
now Indira Gandhi Natio-  
nal Forest Academy, Dehra-  
Dun.
5. Period of Training : Two years from 1.3.1973  
to 28-2-1975.
6. Date of appointment in  
the post of Assistant  
Conservator of Forest : 10-3-1975.
7. Period of two years training is counted towards  
seniority for the purpose of promotion in Indian  
Forest Service and towards benefit for the purpose  
of pension.

Contd...P/3.

- 8. Date of appointment in Tripura Forest Service : Appointed in Tripura Forest Service, Grade II, on 29.7.1988.
- 9. Date of appointment in Tripura Forest Service Grade I : 29-6-1991.
- 10. Did not get promotion in Indian Forest Service following his seniority in General Seniority List. His promotion was due in Indian Forest Service after promotion of Shri Achinta Kumar Singa. Shri Sinha was appointed in IFS on 10-3-1992.
- 11. Shri Haripada Das is a member of Scheduled Castes in Tripura Forest Service (or held a post of ACF earmarked for Scheduled Caste Quota).
- 12. He submitted his first representation on 6.3.96 for consideration of his promotion in Indian Forest Service .

D. Bio-data of Shri Gaurish Ranjan Pal.

- 1. Name of the Officer : Mr. Gaurish Ranjan Pal.
- 2. Date of birth : 30-11-1954.
- 3. Selection in the post of ACF through the selection system of : Tripura Public Service Commission, Agartala.
- 4. Name of the institute from where the SFS training was received : State Forest Service College, Barnihat , Assam.
- 5. Period of training : Two year from to
- 6. Date of appointment in the post of ACF : 22-11-1980
- 7. Period of two years training will be counted towards seniority if he was not appointed from the scheduled date of joining in training.
- 8. Date of appointment in Tripura Forest Service, Gr. II : 29.7.1988

- 9. Date of appointment in TFS, Gr. I : 19.5.1992.
- 10. Temporary Officiating appointment in IFS was effective from 6-2-96 to 5-5-96 and was not allowed further continuation.
- 11. He is general member in Tripura Forest Service.

PARAWISE REPLIES BY SHRI HARIPADA DAS, TFS, GR.I, RESPONDENT NUMBER 5, AGAINST THE APPLICATION OF SHRI GAURISH RANJAN PAL START FROM HERE .

1. The respondent No.5, Shri Haripada Das, does not have any knowledge of the Select List of 1996 of Manipur- Tripura Joint Cadre. But if Shri Das has really been placed in serial number one of the Select List of 1996, it has been a due consideration by the Governments as he (Shri Das) is very senior to Shri Pal.

Shri Das, respondent No.5, submitted his first representation on 6-3-96 for consideration of his promotion in Indian Forest Service and it is seen that his prayer has received due considerations by the Governments and his name has been placed in serial number one of the Select List of 1996.

Shri Das, respondent No.5 ,did not have any knowledge of the Select List of 1995 but he had received the information of the notification of temporary officiating appointment of Shri Gaurish Ranjan Pal in the cadre Post of Indian Forest Service, Kanchanpur.

- 5 -

Shri Das, respondent No.5 is a Scheduled Caste member in the Tripura Forest Service. So he is to be promoted following the seniority against the channel of Scheduled Caste Quota or following the seniority in the General Seniority List, whichever is earlier.

Shri Pal, the applicant, is a general member in Tripura Forest Service.

2. Respondent No.5, Shri Das, does not believe that the issue of 1996 Select List or continuation of the temporary officiating appointment in cadre post of IFS of Shri Pal, can be the subject matter of the tribunal as these have been dealt by the top most authorities of the Union & State Governments following all the legal provisions. However, the issue should be referred to the Law Departments of the Union, Tripura and Manipur Governments for giving their respective views as to whether the subject matter of the application of Shri Pal can be the jurisdiction of the tribunal.
3. The issue of limitation period should also be referred to the Law Departments of the three Governments as has been stated under item No. 2.
- 4.1. Respondent No.5 Shri Das, does not deny the contents of this sub-item.
- 4.2. Respondent No. 5, Shri Das, does not deny the contents of this sub- item except the date of confirmation in the post of the ACF of Shri Pal.

Contd....P/6.

- 4.3. The respondent No.9 ,the PCCF(T), may be the appropriate authority to comment over the subject matter of sub-item No.4.3. However, Shri Pal, the applicant , discussed with the respondent No.5 several times that he was not given the charge of the Principal Officer(Forests) and lastly he told that his transfer order was modified.
- 4.4. The sub-item No.4.4. does not have any mention in the text communicated.
- 4.5. The Secretary to the Government of Tripura, Appointment & Services Department ,Agartala may be the appropriate authority to comment over the contents in sub-item no.4.5.
- 4.6. Respondent No.5 did not have any knowledge of Select List of 1994. But Shri C.M. DebBarma, immediate junior to Shri Pal and very junior to Shri Das, was allowed to supersede and the issue came to the knowledge of Shri Das after notification of promotion of Shri DebBarma. Shri Das did not have information that Shri Pal had gone to the Court with this issue .
- 4.7. Respondent No.5, Shri Das, did not have any knowledge of 1995 Select List. But he received the news of temporary officiating appointment of Shri Pal in the cadre post of IFS under rule 9(1)(b) after notification in this connection .

4.8. Shri Pal, the applicant, was ordered to officiate temporarily in the IFS cadre post of Deputy Conservator of Forests, Kanchanpur under Rule 9(1) (b) of IFS Cadre Rules, 1966 for a period of three months with effect from the date he took over the charge. He (Shri Pal) took over the charge on 6-2-96 .The officiating appointment against cadre post of Kanchanpur was given for the reason that another cadre officer held the lien over it and it was not a vacant post. Rule 9(1) allowed Shri Pal to be appointed in the cadre post although he was a non-cadre officer and its clause (b) further allowed him to be appointed for non-availability of any other cadre officer for putting up at Kanchanpur. So the nature of appointment did not indicate that he was appointed in the vacant post nor it indicated that he would be appointed in the available vacancy as the regular appointment was subject to further legal obligations and is considered under separate clause.

The issue of promotion of Shri Das, respondent No.5, could not get consideration for a long period for his few under-estimated ACRs and non-submission of any representation by him (Shri Das). But he submitted his first representation on 6-3-96 for consideration of his promotion in Indian Forest Service and it received due considerations from all concerned levels and the priority of his promotion in IFS received immediate consideration as he ( Shri Das) was very senior to Shri Pal. So the Government made

legal provision for promotion of Shri Das before Shri Pal and it got expression in Select List of 1996.

The reviewed and modified arrangement in the Select List of 1996, Shri Das in serial number one and Shri Pal in serial number two, does not defeat the natural expectation of Shri Pal. Actually it has been a legal channelization.

4.9. He (Shri Pal) Took over the temporary officiating charge of cadre post of IFS, Kanchanpur on 6-2-1996 following his appointment from his non-cadre post.

4.10. The temporary officiating appointment was made under rule 9(1) (b) when there was no cadre Officer available to put up in cadre post of Deputy Conservator of Forests at Kanchanpur and it was a sort of indication that his name was there in the Select List of 1995. But his regular appointment in IFS was subject to other legal obligations. The authorities on receiving the first representation dated 6-3-96 for consideration of promotion of Shri Das gave due importance to it as he (Shri Das) was very senior to Shri Pal and in this consideration the promotion issue of Shri Das got priority over Shri Pal. Letter NO.F.3(33)/For/Sectt/80/13235 dated 23.4.96 of the PCCF was a formal letter to the Secretary to the Government of Tripura, Appointment & Services Department enclosing a representation of Shri Pal, the applicant, along with it.

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4.11. The authorities fixed priority of promotion to Shri Das before Shri Pal in consideration of his(Shri Das) representation submitted by him on 6-3-96. So the Government did not allow any further action following the temporary officiating appointment issued on 6-2-96.

4.12. In the changed situation, arose for the submission of the representation on 6-3-96 by Shri Das, further action could not be allowed by the Government following 1995 Select List and the decision of the Government was communicated vide letter NO.F.2(28)/GA/94 dated 4-9-96.

4.13. The issue of promotion to Shri Das got priority before Shri Pal as has already been stated above and the authorities at State level and Central level acted accordingly.

4.14. The temporary officiating appointment under rule 9(1) (b) was against a lien and not against a vacant post.

Shri Das started holding of Cadre Post, Divisional Forest Officer, Forest Training Division, Sepahijala Since 29.3.1979 with regular posting order from the Government after four years from 10-3-1975, the date of his appointment in the post of Assistant Conservator of Forests [redacted]. Shri Pal started holding the Cadre post since 17.2.92 after eleven years and five months from the date of his appointment in the post of the ACF, 22.11.80. So Shri Das earned the confidence of the Government for running of a cadre post within four years from the date of his appointment but Shri Pal earned

that after eleven years and five months and this gives Shri Das an established superiority over Shri Pal.

The respondent No.4, the Secretary to the Government of Tripura, now the Chief Secretary, In-Charge of the Forest Department and the other concerned authorities gave justice to an officer who was very senior to Shri Pal and their actions have brought back normalcy between Shri Das and Shri Pal.

4.15. It is a natural phenomenon that a senior will get promotion before his junior. Shri Das is very senior to Shri Pal.

The authorities reviewed the performances of Shri Das on receiving his Revision ~~petition~~ against the ACR of 1990-91 and first representation dated 6-3-96 for consideration of his promotion in Indian Forest Service and brought him (Shri Das) in serial No.1 in the Select List of 1996. Had there been timely representations by him (Shri Das), such supersessions by his four juniors, as were mentioned in the application of Shri Pal, could not occur. But Shri Das could not submit the representations timely for some reasons and he suffered. His inactions did not cause any harm to Shri Pal rather these gave some premature benefit to him. The claim of Shri Das through his representation dt. 6-3-96 was the promotion with due consideration to his seniority. He (Shri Das)

Hopes his seniority will also get due consideration by the authorities as he is getting for promotion.

4.16. Respondent No.5, Shri Das, was not communicated with any ACRs over the period from 1989-90 to 1993-94, except for the year 1990-91 with more favourable and little unfavourable remarks but was not decribed as adverse by the reporting Officer. He submitted his Revision Petition on 27-11-95 to the Chief Secretary to the Government of Tripura, Revisional Authority against unfavourable entries in the ACR of 1990-91 and this received due consideration and his name was considered in serial no. one in 1996 Select List in modification of the 1995 Select List. Had he submitted the representation against unfavourable entries in 1990-91 ACR in time, his name could get the position in serial no. one in 1995 Select List or earlier one (S).

Shri Das does not have any knowledge of the ACRs of Shri Pal over the aforesaid individual years.

4.17. The incumbencies of Shri Das over the years from 1989-90 to 1995-96 are shown below :-

1. Divisional Forest Officer, Research Division, Agartala, vide order NO.F.2(76)/For/Estt-85/5016-35 dated, Agartala, 21.3.1988. From 26-3-1988  
to  
14-9-1989
  
2. Divisional Manager, Sadar Division, Agartala under Tripura Forest Development & Plantation Corporation Ltd. on deputation. Vide order NO.F.2(76)/For/Estt-85/40199-219 dated, Agartala, 8-9-1989. From 15-9-1989  
to  
31-8-1990.

Contd...P/12.

3. Attached officer with Principal Chief Conservator of Forests, Tripura Agartala & Chief Wildlife Warden, Tripura and other top most senior Officers in the office of the PCCF(T), vide order NO.F. 2(28)/For/Estt-82/39296-320 Dated, Agartala 14-8-1990. From 1-9-1990 to 7-3-1994.
4. Divisional Forest Officer, Sadar, Division, Agartala vide order NO.F.2(76)/For/Estt-86/Part-I/5113-5134 dated 22-2-1994. From 8-3-1994 to 18-11-1994.
5. Divisional Forest Officer, Working Plan Division No.II, Agartala, vide order NO.F. 2(76)-85/For/Estt-Part/29764-804 dated, Agartala 7th October, 1994. From 19-11-1994 to this date is continuing.

The incumbencies of Shri Pal over the years from 1989 to 1993-94 are shown below :-

1. Deputy Director, Tribal Rehabilitation Division, Jatanbari, South Tripura, District, Department of Tribal Rehabilitation in Plantation & Primitive Group Programme .On Deputation. From 1-9-1986 to 22-2-1990.
2. Assistant Conservator of Forests, O/O the Conservator of Forests, Northern Circle, Kumarghat, North Tripura district. From 23-2-1990 to 16-1-1991.

Contd...P/13.



The Annual Confidential Reports of the concerned two officers should get the reflections of their respective duties performed by them over the concerned periods and their evaluation should place Shri Das much above Shri Pal. This is what exactly happened when the Revision Petition of Shri Das against his unfavourable entries in 1990-91 ACR and his first representation dated 6-3-96 for consideration of his promotion reached the authorities . They(the authorities) reviewed the whole thing and did <sup>not</sup> take further action following 1995 Select List and brought the issue of promotion of Shri Das before Shri Pal and it got expression in 1996 Select List.

- 4.18. Shri D. Nag, IFS(Retd.), the then Principal Chief Conservator of Forests, Tripura, Respondent No.6, carried out his duties and responsibilities with due considerations to all the legal aspects of the concerned members within the provisions of the rules and regulations and, therefore, his actions were consented by the other authorities and approved by higher authorities. The absence of the name of Shri Das in the Select List of 1995 or in earlier ones was due to non-submission of any representation by him timely which was necessary before the authorities in the circumstances existed and with the submission of the same they (the authorities) reviewed the position and brought Shri Das in serial number one in 1996 Select List.



9. Diploma Course Training in Wildlife Management in Wildlife Institute of India, DehraDun, V.P. vide NO.F.11-13/WL-83/31706-17 dated 23.6.84  
From 5-7-84 to 22-5-85.
  
10. Attached Officer to the Principal Chief Conservator of Forests, Tripura & other Senior Officers in the O/O the PCCF(T), Agartala vide NO.F.2-3(1)/For-85/5345-49 dated 16-6-85.  
From 23-5-85 to 16-7-86.
  
11. Deputy Director (Head Quarter) in the Department of Tribal Rehabilitation in Plantations & Primitive Group Programme, Agartala vide NO.F.2(27)/For/Estt-86/4788-98 dated 7-6-88.  
From 17-6-86 to 25-3-88.
  
12. Divisional Forest Officer, Research Division, Agartala, vide NO.F.2(76)/For/Estt-85/5016-35 dated 21-3-88.  
From 26-3-88 to 14-9-89.
  
13. Divisional Manager, Sadar Division, Tripura Forest Development & Plantation Corporation Ltd. Agartala vide NO.F.2(76)/For/Estt-85/39296-320 dated 14-8-90.  
From 15-8-89 to 31-8-90.
  
14. Attached Officer to the Principal Chief Conservator of Forests, Tripura, Chief Wildlife Warden, Tripura & other Senior Officers in the O/O the PCCF(T), Agartala vide NO.F.2(28)/For/Estt-82/39296-320 dated 14-8-90.  
From 1-9-90 to 7-3-94.
  
15. Divisional Forest Officer, Sadar Division, Agartala vide NO.F.2(76)/For/Estt-86/Part-I/5113-5134 dated 12-2-94.  
From 8-3-94 to 18-11-94.

Contd...P/17.

16. Divisional Forest Officer, Working plan Division No-II, Agartala vide NO.F.2(76)/85/For/Estt-Part/29764-804 Dated 7-10-94. From 19-11-94 to this day i.e.continuing

From the above factual information, it is seen that Shri Das started functioning in the cadre post of Deputy Conservator of Forests of India Forest Service inbetween the period from 6-11-77 to 28-3-79 by taking over the charge of the Divisional Forest Officer, Ambassa, Manu and Teliamura Division during the leave periods of the DFOs there and the regular posting <sup>in</sup> the cadre post of Deputy Conservator of Forests, Divisional Forest Officer, Training Division, Sepahijala, started w.e.f. 29-3-1979 followed by equal or almost equal or more responsible postings.

The incumbencies of Shri Pal starting from the entry in the post of ACF to this day are shown below:-

1. Training in State Forest service College, Barnihat & Attached Officer to the DFO, Manu. From 22-11-80 to 14-2-83
2. D.F.O., Resettlement Division, Jatanbari From 15-2-83 to 31-3-86
3. Dy. Director, Tribal Rehabilitation Division, Jatanbari under TRP & PGP Department. From 1-4-86 to 22-2-90
4. Attached Officer to the Conservator of Forests, Northern Circle Kumarghat. From 23-2-90 to 16-1-91

5. DFO, Working Plan- II, Agartala From 17-2-92  
to  
18-11-94
6. Divisional Forest Officer,  
Kanchanpur From 19-11-94  
to this day i.e.  
continuing.

Shri Das thinks that there is some mistakes in showing the incumbency in serial number one by Shri Pal and it seems to him that Shri Pal included his two years SFS training period in it. However, it is seen from the above that Shri Pal started functioning in the Cadre Post of Deputy Conservator of Forests w.e.f. 17-2-92

From the above analysis, it is clear that Shri Das was considered eligible for holding the cadre Post after four years from the date of his joining in service and Shri Pal was considered eligible after nine years from the date of his joining in service. So, Shri Das has been maintaining highest degree of superiority and dominance all the time over Shri Pal.

Shri Das does not have any knowledge of assessments in the ACRs of Shri Pal. But he has knowledge of his own assessments in his few ACRs which were communicated to him, most of which were not described as adverse but were communicated, and had he submitted any representation timely against his first communicated one. There had not been any chances of unfavourable assessments in any year as he worked sincerely and honestly all along his service life but because of non-submission of any timely representation against

the first one ~~on~~ against any one written against him in the subsequent period, the activities of the adverse forces did not get resistance and they got further encouragements for harmful activities against him and these activities were mainly responsible for few more ACRs written against him.

The adverse forces were mainly the envies and the conflicts between the direct recruits and <sup>the</sup> promotees and Shri Das had one additional problem that he had a legal avenue opened before him for his early promotion through the channel of Scheduled Caste quota and there had been subversive activities to close that avenue.

There always exist the difference of knowledge between the experienced and the new entrants and between the Controlling officers and the controlled officers. The knowledge of Shri Das and the guidances from his controlling officers helped him in successful completion of his duties and responsibilities but his immatured knowledge, being a direct recruit just after College education, could not defend him and did not allow him to react in the befitting legal ways for a very long time. With the acquiring of some knowledge by him for his survival, he submitted his first representation on 6-3-96 for consideration of his promotion in Indian Forest Service and he got relief from the authorities. Actually the adverse forces could feel that there were some resistance

inabilities in Shri Das, being a direct recruit-  
tee just after college education, and taking the  
advantage of that, they had been able to create  
some confusion in the minds of his controlling  
Officer, against him (Shri Das) and it was the  
result of the art of the adverse forces that the  
confusions persisted and few more unfavourable  
ACRs precipitated down. But what was fact was  
that Shri Das worked hard sincerely and honestly  
all through his service life and he was never  
held responsible for any irregularity in his  
service life nor any proceeding was drawn up aga-  
inst him for break of discipline or irregularity  
in functioning or exercise of financial powers.  
So he (Shri Das) suffered for no reasons.

For the above stated reasons, Shri Das  
hopes that his prayer dt. 6-3-96 will also get  
due consideration for his seniority and he will  
be set again in his right position and the consi-  
deration of his promotion by the authorities is the  
first step towards that.

The Government took actions always in  
the interest of the Government & Public. My  
posting as the Divisional Forest Officer, Sadar  
was done in the Government interest particularly  
in the conditions when the regular DFO was on long  
leave and the works of the Division were suffering  
so much so that the Government had to put an  
officer there with regular posting at the last  
moment of the financial year and Shri Das carried

out those duties and responsibilities .It left a clear ideas that the Government had full confidence on Shri Das & his capabilities. Later on, after six/seven months, an administrative need in the department arose for a change in many levels and following it a transfer order of nine DFOS was given effect and Shri Das was shifted to the Working plan Division No-II from Sadar Division. So the transfer order was issued in the Government interest in the administrative need of the Department

The attested photo copies of the posting order in Sadar Division and posting orders of nine DFOS are enclosed herewith in support of above statements made by Shri Das.

4.20. Shri Das has been holding <sup>the</sup> cadre posts by way of having been posted in that capacities w.e.f. 29.3.1979 as against of Shri Pal w.e.f. 17-2-92 . Shri Das was given the cadre post after completion of four years of service by him and Shri Pal after nine years of service by him. Thus Shri Das has been found very superior in consideration of the performances . These performances and the re-evaluated ACR of 1990-91 have been given due Weightage and his name has been placed by the authorities in the serial number one of the Select List of 1996.

Contd...P/22.

4.21. The respondent No.6 , the then Principal Chief Conservator of Forests of Tripura, considered all the legal aspects of all the members with the support of legal documents and considered the issue of promotion to Shri Das before Shri Pal with other authorities when his (Shri Das) first representation at 6-3-96 reached them. That was why the PCCF(T) and the concerned authorities could not write for his(Shri Pal) regular appointment in the changed situation after 6-3-96. The PCCF(T) dealt the issue legally in the position it was existing. Such legal actions by him (PCCF) and other authorities disallowed flowing of some extra benefits to Shri Pal which he was receiving early in consideration of order of sequence and this made him (Shri Pal) agrieved and he has made some comments in the petition against PCCF(T). Shri Pal should not have been agrieved and had not gone to the Court against the decision of the Governments as the modified order accomodated both in due sequence for which the legal claim of Shri Das got established, who was very senior to him, and Shri Pal was also given the deserving position.

Shri Das, respondent No. 5 ,does not have any knowledge of OA 240/94 lodged by Shri Pal.

The Government posts officers in his own ways. It can not be accepted that Shri Pal was very <sup>superior</sup> senior to some or many of his senior Cadre Officers and their postings in the Cadre posts were denied to accommodate Shri Pal in their places in recognition to his superiorities.

4.22. Respondent No.5 ,Shri Das, has knowledge that the Government of Tripura, recommends appointments by promotion to Indian Forest Service following the rules and regulations in force. The officiating appoint-<sup>ment</sup> to IPS in favour of Shri Pal was issued on 6-2-96 within the limitations of power of the State Government against lien of Kanchanpur Cadre Post. But further actions in favour of Shri Pal could not be allowed by the authorities for the legal obligations arose for the submission of first prayer by Shri Das on 6-3-96 for consideration of his promotion in Indian Forest Service. His (Shri Das) application got priority above Shri Pal as the former was much senior to the latter and his (Shri Das) re-evaluated ACR of 1990-91 alongwith assessments of the performances of other years were found superior to Shri Pal. The issue of Shri Chakraborty a TCS Officer, as mentioned in the petition, probably did not come across such a situation as the issue of Shri Pal came across. The respondent s, PCCF & other concerned authorities, took the legal courses of actions immediately after officiating appoint to Shri Pal and receiving first prayer dated 6-3-96 from Shri Das for consideration of his promotion and such actions did not allow initiation of proposal for regular appointment in favour of Shri Pal.

So the process of dealing the papers were on progress in the office of the PCCF(7) and other authorities and a legal and natural change took place in the issue. The only change the Government did is the channelization of the members depending upon their seniority & merits in the changed situation. In the circumstances stated above, Shri Das, respondent No.5, pray before the Hon. Tribunal to drop the application of Shri Pal and recommend necessary punishment against Shri Pal to the Forest Department of Tripura for suppressing the fact and harassing Shri Das for his legal demands.

4.23. Shri Das, respondent No.5, states that Shri Pal was given officiating appointment against the lien of Kanchanpur Cadre Post probably in pursuance of the Select List of 1995. But subsequent actions for his regular appointment could not be allowed to proceed in the circumstances arose for submission of representation dt. 6-3-96 by Shri Das for consideration of his promotion to IPS. So the respondents, the concerned Government authorities, had no malafide design to deprive Shri Pal. Actually the Government authorities took actions legally in the changed situation and reviewed the position and brought out the Select List of 1996 where Shri Das was placed in serial number one followed by Shri Pal in serial number two.

Contd..P/25.

The preparation of the Select List of 1996 by the Government was necessary for other reasons also ignoring the factors who were coming in the top positions.

Shri Pal was given officiating appointment against the lien of Kanchanpur Cadre Post under cadre Rule 9(1) (b) and this action by the Government did not ensure Shri Pal that he would be promoted. Actually the promotion was subject to other legal obligations, and in the meantime the issue of promotion to Shri Das got priority in consideration of the Government ~~\_\_\_\_\_~~. On receiving the representation from him

4.24. All were equal in the eyes of the Government and the Government authorities in the different levels dealt every issue legally and in the process the issue of Shri Pal lost its merit..

The issue of Shri Pal was very simple and it was dealt in an appropriate way by the Government. The decision in this connection was communicated vide his annexure No.4. The annexure No.5 of Shri Pal seems to be the exaggeration of the issue and does not deserve to be got mentioned.

4.25 Shri Das, respondent No.5, states that the statements made in the application by Shri Pal under different heads upto item no. A.24 are baseless and results of apparent view to the issue and are not the reflections of the actual things originating from:

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deep legal studies. The placing of the name of Shri Das at serial number one in 1996 selectList by the Government was a due consideration to his first representation dt. 06.3.96. In the situation existed, the authorities were in very much need of a representation from Shri Das but for submission of the same in delay due consideration could not be given to him (Shri Das) when his ~~then~~ first came and the same considerations existed for several years for want of a representation from him. The authorities considered the issue of promotion of Shri Das immediately on receiving a representation from him. It was the Government who gave immediate relief on receiving the documents for review and had Shri Das could put up such documents before the Government in time, there had been no sufferings to him (Shri Das). So it was the inaction of Shri Das which gave some im-matured benefits to Shri Pal and his (Shri Das) delayed actions did not make any harm to Shri Pal and has brought him to a position now from where he (Shri-Pal) can get the benefit of his due matured seniority in relation to Shri Das.

4.26. Respondent No. 5, Shri Das, states that he has not got the knowledge of 1994 Select List. He has got a little knowledge of 1995 Select List. He has got the knowledge of 1996 Select List as has been stated in the application of Shri Pal. He (Shri Das) cannot say the reasons as to why he (Shri Pal) could not be included in the Select List of 1994. But his regular promotion following the 1995 Select List was not possible and that have been very clearly stated in the above contents under different items. The causes

of bringing the name of Shri Das by the authorities in serial number one in the Select List of 1996 have also been stated above under different items and it has been clarified that Shri Das should get promotion before Shri Pal. The provisions in the Select List of 1996, allow promotion to Indian Forest Service in favour of Shri Das first and thereafter in favour of Shri Pal following the available vacancy. With such a legal sequence in order of seniority and merit in Select List, Shri Pal should not have been aggrieved. So in the circumstances stated above, Shri Das prays before the Hon. Tribunal not to consider any interim order in any form on the Select List of 1996 which will deprive a member, Shri Das, whose case has been considered after six years of sufferings by him and any kind of interim order, if considered, will create a bar both before Shri Das and Shri Pal and their sufferings will increase further and the fate of Shri Das or Shri Pal or both may become uncertain again. Thus the humble prayer of Shri Das before the Hon. Magistrate remains to look into the sufferings of both Shri Das and Shri Pal, particularly the sufferings of Shri Das <sup>once</sup> / again and to act in such a way that the sufferings of the sufferers are removed once for all with due consideration to their seniorities and with this point in view His Honour will definitely allow operation of the Select List of 1996 with an instruction of promptness in its use.



- 5.4. Shri Das submitted the Revision Petition against all of his unfavourable ACRs and the authorities reviewed those favourably .In consideration of these reviewed ACRs ,his representation dated 6-3-96 and his seniority, the authorities could place him in serial number one in 1996 Select List.
- 5.5. Both the members were equal in the eyes of the Governments and these are the legal provisions which placed Shri Das before Shri Pal.
- 5.6. The superior performances of Shri Das in compare to Shri Pal have been accepted by the authorities as have been stated above under different items and in consideration of this together with his seniority, he (Shri Das) has been placed in serial number one in the Select List of 1996.
- 5.7. The authorities at different levels at different places had no relation with any member, either with Shri Das or with Shri Pal , and they dealt the issue legally and neutrally. Shri Nag , the then Principal Chief Conservator of Forests, Tripura , acted legally with the supports of the records of both the members and hence his actions were consented by the other authorities and approved by the higher authorities.
- 5.8. The authorities , the concerned respondents, always acted legally. Probably they placed Shri Pal in serial number one in the Select List of 1995 but it was not possible on their part to allow any further action following it in the situation arose for submission of the representation on 6-3-96 by Shri Das for consideration of his promotion as he was very

senior to Shri Pal

5.9.            The Select List of 1996 has made provisions for Shri Das in serial number one and Shri Pal in serial number two in considerations of their seniority and merits .This decision has been given by the concerned competent authorities of the Union, Tripura and Manipur Governments who are legally empowered to deal with such an issue of Manipur-Tripura Joint cadre. So the decision is final.

6.              Shri Pal should have remained content with the decision of the Governments as his claim has been channelized and was not ignored. So Shri Das prays before the Hon. Tribunal for consideration of dropping the case on the ground stated here and above.

8(1)            The officiating appointment in the Cadre Post of IFS was issued on 6-2-96 in favour of Shri Pal. This was followed by the first representation submitted by Shri Das on 6-3-96 for consideration of his promotion in Indian Forest Service. Shri Das was very senior to Shri Pal . In view of the changed situation arose for submission of the Revision Petition against the ACR of 1990-91 and for the submission of the representation on 6-3-96, the authorities brought the issue of promotion of Shri Das before Shri Pal and this arrangement did not allow any further action following the Select List of 1995.

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8.(ii). The placement of respondent number 5, Shri Das, at serial number one in the Select List of 1996 by the authorities has been legal in consideration of his seniority and in considerations of his ~~seniority~~ ~~and~~ performances and merits as have been stated above.

8.(iii) Shri Pal did not take any permission from the Department for going to the Tribunal & hence he should not get the cost.

8.(iv). The application of Shri Pal cannot get any legal consideration by the Tribunal and it is to be simply dropped for lack of merit in it. So any other relief or reliefs, which could not be described by the applicant, is/are baseless and imaginary.

Shri Das does not have any knowledge of OA No. 240/94.

9. Shri Das, respondent No. 5, states that the operation of 1996 Select List should take its own course of actions. Its operation is going to give benefit of promotion to Shri Das, which is a long waited desire in him and who is very senior to Shri Pal, first and then after to Shri Pal following the available vacancy for the naturally channelized legal provisions in it. So its operation should be allowed to continue and should not be stopped by any form of order by the tribunal.

As the vacancy stands now, Shri Das may get immediate benefit of promotion. But another promotion post has either fallen vacant or falling vacant shortly. So in consideration of this practical aspects

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also, the operation of the 1996 Select List should be allowed to continue.

Shri Pal does not have any merit in his application. This becomes evident from the above analysis and parawise replies. The inoperation of the Select List of 1996 will not promote Shri Das but that will not promote Shri Pal also. So its inoperation will be harmful to both.

In the situation stated above, Shri Das, respondent No.5, prays before the Hon.Tribunal that the interim order directing the respondents not to act upon the 1996 Select List should not get any consideration and the application of Shri Pal should be dropped as an order of final decision.

Submitted the parawise replies before the Central Administrative Tribunal, Guwahati Bench through the Conservator of Forests, Western Circle, Agartala and the Principal Chief Conservator of Forests, Tripura, Agartala for favour of information and necessary action. Shri Das has already applied for permission for engagement of an advocate by him and if he is permitted, the above parawise replies may be supplemented by him.

*Haripada Das*  
28.1.97.

(Mr. Haripada Das, TFS, Gr.I)  
Divisional Forest Officer  
Working plan Division No-II  
Agartala.

Copy to:-

1. The Secretary to the Government of India, Ministry of Environment & Forests, Department of Forests & Wildlife, Paryavaran Bhaban, CGO Complex, Lodi Road, New Delhi through proper channel for favour of information and

Contd...P/33.

- necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 1.
2. The chairman, Union Public service Commission, Dholpur House, Shahjahan Road, New Delhi through proper channel for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 2.
  3. The Secretary to the Government of Manipur, Forest Department, Imphal through proper channel for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 3.
  4. The Secretary to the Government of Tripura, Department of Forests, Agartala through proper channel for favour of information and necessary action. This has reference to the OA No. 239 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 4.
  5. Shri D. Nag, IPS(Retd.), Ex. PCCF(T), through the Principal Chief Conservator of Forests, Tripura, Agartala for favour of information and necessary action. This has reference to the OA No. 239 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 6.
  6. The Secretary to the Government of Tripura, Appointment & Services Department, Agartala through proper channel for favour of information and necessary action. This has reference to the OA No. 239 of 1996. The applicant has made him respondent No. 7.
  7. The chairman, Selection Committee for preparation of 1996 Select List for promotion to IFS, M.T. Cadre, C/O The Chief Secretary to the Government of Tripura Agartala through proper channel for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 8.

8. The Principal Chief Conservator of Forests, Tripura, Agartala through proper channel for favour of information and necessary action. This has reference to the OA No. 239 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No.9.
9. The Chief Secretary to the Government of Tripura, Agartala through proper channel for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him responden No. 10.
10. The Conservator of Forests, Western Circle, Agartala for favour of information and necessary action.

(Mr. Haripada Das, )  
Divisional Forest Officer  
Working plan Division No-II  
Agartala.

Advance copy forwarded to :-

- ✓ 1. The Section Officer (Judicial), Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati -5 for favour of information and necessary action. This has reference to his letter No.239/96/3916 dated Guwahati 2-12-96. Registered Post.
2. The Secretary to the Government of India, Ministry of Environment & Forests, Department of Forests & Wildlife, Paryavaran Bhaban, CGO Complex, Lodi Road, New Delhi for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 1. Registered Post.
3. The Chairman, Union Public service Commission, Dholpur House, Shahjahan Road, New Delhi for favour of information and necessary action. This has reference to the Oa No.239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 2. Registered Post.

4. The Secretary to the Government of Manipur, Forest Department, Imphal for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of the Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 3.
5. The Secretary to the Government of Tripura, Forest Department, Agartala for favour of information and Necessary action. This has reference to the OA No. 239 of 1996. The applicant has made him respondent No. 4.
6. Shri D. Nag, IFS (Retd.) Ex. PCCF(T), (His home address). for favour of information and necessary action. This has reference to the OA No. 239 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 6.
7. The Secretary to the Government of Tripura, Appointment & Services Department, Agartala for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 7.
8. The Chairman, Selection committee for preparation of 1996 Select List for promotion to IFS, MT Cadre, C/O The Chief Secretary to the Government of Tripura, Agartala for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 8.
9. The Principal Chief Conservator of Forests, Tripura Agartala for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 9.
10. The Chief Secretary to the Government of Tripura, Agartala for favour of information and necessary action. This has reference to the OA No. 239 of 1996 of Central Administrative Tribunal, Guwahati Bench. The applicant has made him respondent No. 10.

*Haripada Das*  
28.1.97.  
(Mr. Haripada Das, TFS, Gr.I)  
Divisional Forest Officer  
Working plan Division No-II  
Agartala.

36      64      82

NO.F.2-2/WP-II/Estt/97/212-21  
Government of Tripura  
Office of the Divisional Forest Officer  
Working Plan Division No-II  
Agartala; Tripura

Dated, Agartala, the 28th/January/1997.

The advance copies submitted by Shri Haripada Das, TFS, Gr. I, DFO, Working plan- II, Agartala are forwarded to :-

- ✓ 1. The Selection Officer(Judicial), Central Administrative Tribunal, Guwahati Bench, Guwahati .(Registered Post).
2. The Secretary to the Government of India, Ministry of Environment & Forests, Department of Forests & Wildlife, New Delhi. (Registered Post.)
3. The Chairman, Union Public Service Commission, New Delhi (Registered Post).
4. The Secretary to the Government of Manipur, Forest Department, Imphal.
5. The Secretary to the Government of Tripura, Forest Department, Agartala.
6. Shri D. Nag, IFS(Retd.), Ex-PCCF(T). His home address.
7. The Secretary to the Government of Tripura, Appointment & Services Department, Agartala.
8. The Chairman, Select Committee of IFS for 1996 c/o The Chief Secretary to the Government of Tripura, Agartala.
9. The Principal Chief Conservator of Forests, Tripura, Agartala.
10. The Chief Secretary to the Government of Tripura, Agartala (Registered Post) .

-for favour of information and necessary action.

*U. S. Das*  
28.1.97.  
(H. P. Das ).  
Divisional Forest Officer  
Working plan Division No-II  
Agartala; Tripura



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No F 2(76)-85/For/Estt-Part  
Government of Tripura  
Department of Forests

29764-504

Agartala

Dated 7th October 1994

Notification

In the interest of Public Service, the Governor of Tripura is pleased to order the following transfers and postings of officers with immediate effect.

- 1 Shri D.K.Upadhyay, IFS, Divisional Forest Officer, Northern Division, Kailashar is transferred and posted as Divisional Forest Officer, Manu vice Shri D.K.Sharma, IFS, proceeding on deputation to T.F.D.P.C.Ltd.
- 2 Shri Rameshwar Das, IFS, Divisional Forest Officer, Teliamura is transferred and posted as Divisional Forest Officer, Sadar, vice Shri H.P.Das, TFS transferred.
- 3 Shri S.K.Paul, TFS, now on deputation to T.R.P.& P.G.P.Department is posted on repatriation to his parent department, as Divisional Forest Officer, Ambassa, vice Shri Balbir Singh, IFS, transferred.
- 4 Shri Balbir Singh, IFS, Divisional Forest Officer, Ambassa is transferred and posted as Divisional Forest Officer, Northern Division, Kailashahar.
- 5 Shri H.P.Das, TFS, Divisional Forest Officer, Sadar is transferred and posted as Divisional Forest Officer, Working Plan Division II, vice Shri G.R.Paul, TFS, transferred.
- 6 Shri G.R.Paul, TFS, Divisional Forest Officer, Working Plan Division II is transferred and posted as Divisional Forest Officer, Kanchanpur, vice Shri Samrendra Das, TFS, transferred.
- 7 Shri Biswajeet Banerjee, IFS, Assistant Conservator of Forest, Teliamura Forest Division is posted as Divisional Forest Officer Teliamura, vice Shri Rameshwar Das, IFS, transferred.
- 8 Shri Samarendra Das, TFS, Divisional Forest Officer, Kanchanpur is transferred and posted as Wild Life Warden, Trishna Wild Life Sanctuary, Joychandrapur, vice Shri B.Paul Laskar, TFS, transferred.
- 9 Shri E.K.Roy I.F.S, now on deputation to T.R.P.C. Ltd, is posted on repatriation to his parent department, as Divisional Forest Officer, Training Division, Sepahijala, vice Shri S.Kumar, IFS

The following officers may move immediately.

- (1) Shri D.K.Upadhyay, IFS, on expiry of his leave shall join as D.F.O., Manu to relieve Shri D.K.Sharma, IFS.
- (2) Shri Rameshwar Das, IFS, D.F.O., Teliamura shall hand over charge to Shri S.C.Das, TFS, and proceed immediately to take over charge of Sadar Forest Division.

*A. U. S. D.*  
*28.1.97.*  
Divisional Forest Officer,  
Working Plan Division No-II  
Agartala.

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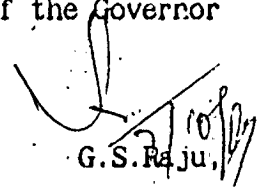
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(3) Shri H.P. Das, TFS, D.F.O., Sadar on relief, shall take over charge of Working Plan Division II relieving Shri Gourish Pal, TFS.

(4) Shri G.R. Paul, TFS, on relief shall relieve Shri Samarendra Das, TFS, D.F.O., Kanchanpur.

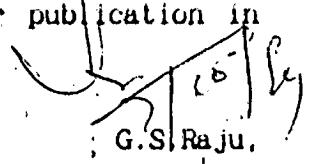
By order of the Governor

  
G.S. Raju,

Joint Secretary,  
Government of Tripura.

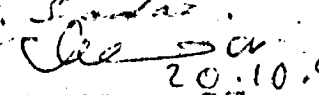
Copy to the:


- 1 P.S. to the Chief Minister, Tripura.
- 2 P.S. to the Minister of Forest, Tripura.
- 3 Principal Chief Conservator of Forests, Tripura.
- 4 Chief Wildlife Warden, Tripura.
- 5 Secretary, Appointment and Services Department, Tripura.
- 6 Accountant General, Tripura.
- 7 Conservator of Forests, Northern/Western/Southern Circle.
- 8 Divisional Forest Officer, Kailashahar / Kanchanpur / Manu / Ambassa / Teliamura / Sadar / Working Plan II / Forest Training Division.
- 9 Wildlife Warden, Sepahijala/Trishna Wildlife Sanctuary.
- 10 Managing Director, TRPC Ltd
- 11 Managing Director, TFDPC Ltd.
- 12 Director TRP&GP Department, Tripura.
- 13 Shri H.P. Das, TFS
- 14 Personal file of Shri \_\_\_\_\_
- 15 Manager, Tripura Government Press; with request for publication in the next issue of Tripura Gazette.

  
G.S. Raju,

Joint Secretary,  
Government of Tripura.

*Handwritten:* 12.612  
20-10-96

*Forwarded to:*  
*Shri H.P. Das, TFS,*  
*D.F.O., Sadar*  
  
20.10.96  
Divisional Forest Officer,  
Sadar Division, Agartala.

*Attested*  
  
28.1.97.  
Divisional Forest Officer,  
Working Plan Division No-II  
Agartala.

21 67  
24.1.1994  
No.F.2(76)/For/Estt-86/(part-I)/ 5113-5134  
Government of Tripura  
Forest Department.

Dated, Agartala, the 22<sup>nd</sup> February, 1997.

### N O T I F I C A T I O N

In the interest of public service, the Governor, Tripura is pleased to order transfer and postings of officers as follows :-

1) Shri Pramod Kumar Pant, I.F.S., Deputy Conservator of Forests is transferred from Trishna Wild Life Sanctuary and posted as Divisional Forest Officer, Southern Division, Bagafa vice Shri Prabir Bhattacharjee, Assistant Conservator of Forests. Shri Pramod Kumar pant is to take over charge of Southern Division, Bagafa after expiry of leave. Posting order of Shri Prabir Bhattacharjee is being issued separately. Till then he will remain as Attached officer after the charge is taken over by Shri Pramod Kumar pant.

2) Shri Haripada Das, Assistant Conservator of Forests, office of the Principal Chief Conservator of Forests, Tripura, Agartala is transferred and posted as Divisional Forest Officer, Sadar Division, Agartala vice Shri Subhendu Sekhar Das, Assistant Conservator of Forests transferred.

3) Shri Subhendu Sekhar Das, Assistant Conservator of Forests is transferred from Sadar Division and posted in the office of the Principal Chief Conservator of Forests, Tripura, Agartala. Shri Subhendu Sekhar Das, Assistant Conservator of Forests is to join his place of posting after expiry of leave.

Attested  
28.1.97  
Divisional Forest Officer,  
Working Plan Division No.-II  
Agartala.

By order of Governor,  
Joint Secretary,  
Government of Tripura.

Contd...p/2.

Copy to :-

1. The APS to Minister for Forests for information of the Minister for Forests.
2. The Principal Chief Conservator of Forests, Tripura, Agartala.
3. The Secretary, Government of Tripura, Appointment and Services Department, Agartala.
4. The Joint Secretary, Government of Tripura, Finance Department (Establishment Branch), Agartala.
5. The Accountant General, Tripura, Agartala.
6. The Chief Conservator of Forests, office of the Principal Chief Conservator of Forests, Tripura, Agartala.
7. The Conservator of Forests, Western Circle, Southern Circle.
8. The Divisional Forest Officer, Southern Division, Bagafa/Sadar, Agartala/Direction Division office of the Principal Chief Conservator of Forests, Tripura.
9. The Wildlife Warden, Tripura Wildlife Sanctuary.
10. Personal file of Shri Pramod Kumar Pant, IFS/Prabir Bhattacharjee, SFS/Haripada Das, SFS/Subhendu Sekhar Das, SFS.
11. The In-charge, Establishment.
12. Sri Pramod Kumar Pant, IFS through Conservator of Forests, Southern Circle, Udaipur.
13. Sri Prabir Bhattacharjee, ACF Divisional Forest Officer, Southern Divn., Bagafa.
14. Shri Haripada Das, ACF of this office.
15. Sri Subhendu Sekhar Das, ACF C/O. Divisional Forest Officer, Sadar, Agartala.

Joint Secretary,  
Government of Tripura.

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File by 12/8  
Gopal Jaiswal  
Additional Central Govt.  
Standing Council  
Central Administration  
Guwahati, Assam

2/5/97

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

Central Administrative Tribunal  
GUWAHATI BENCH  
956  
21 MAY 1997  
Guwahati Bench  
গুৱাহাটী বেঞ্চ

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT No.2.

IN  
ORIGINAL APPLICATION No.239 OF 1996

SHRI GAURISH RANJAN PAUL ..... Applicant

Vs.

UNION OF INDIA & OTHERS ..... Respondent No.2

Affidavit of N. Namasivayam aged about 49 years  
Son of Sh. N. Nallasivam posted as Under Secretary  
(AIS Wing) in the office of Union Public Service  
Commission, New Delhi.

DEPONENT

I, the deponent named above solemnly affirm and  
state as under:-

1. That the deponent is an officer in the office of  
Union Public Service Commission, Dholpur House,  
Shahjahan Road, New Delhi and is authorised to file the  
present Counter Affidavit on behalf of Respondent No.2  
The deponent is also fully acquainted with the facts of  
the case deposed below:

2. That the deponent has read and understood the  
contents of the above Original Application and in reply  
he submits as under:

3. At the outset, the Deponent most  
respectfully submits that the Union Public Service  
Commission being a Constitutional Body under Articles

Rand Key  
16/5/97  
2-5-97


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315 to 323 Part XIV (Service under the Union and the States) Chapter-II of the Constitution have to discharge their functions, duties and Constitutional obligations assigned to them under Article 320 of the Constitution. Further, by virtue of the provisions in the All India Service Act, 1951, separate Recruitment Rules have been framed for IAS/IPS/IFS. In pursuance of these Rules, IFS (Appointment by Promotion) Regulations, 1966, have been made. In accordance with the provisions of the said Regulations, the Selection Committee presided over by the Hon'ble Chairman or a Member of the Union Public Service Commission makes selection of State Forest Service Officers for promotion to Indian Forest Service, based on proposals sent by the concerned State Government including the seniority list and other relevant documents.

4. That with regard to the contents in Para 1 of the application, it is respectfully submitted that the selections have been made strictly in conformity with the provisions of the prescribed Regulations. Details have been submitted against each point raised, in the subsequent paras.

5. That with regard to averments made in Paras 2 & 3, it is respectfully submitted that these are formal in nature and hence no comments are offered.


6. That with regard to the contents of Para 4.1, it is respectfully submitted that these are formal in nature and hence no comments are offered.

  
Contd....

7. That with regard to the contents in Paras 4.2 to 4.4, it is respectfully submitted that these relate to service records of the applicant, his seniority vis-a-vis the seniority of other SFS officers and various posts held by him. Since the service records of the SFS officers are maintained by the State Govt. it is they who are in a position to offer comments. As such, they may make necessary submissions in this regard.

8. That with regard to averments made by the applicant in Para 4.5, it is respectfully submitted that he is eligible to be promoted to the IFS is denied. He is only having a right for consideration by the Selection Committee when he completes the required qualifying service subject to the availability position regarding vacancies. He has no right for promotions. Further, the subject matter of this para deals with various provisions of IFS Promotion Regulations etc. and for favour of correct appraisal thereof, an up-to-date copy of IFS (Appointment by Promotion) Regulations, 1966 may kindly be referred to.

9. In reply to averment made in this para 4.6, it is respectfully submitted that the answering Respondents have already filed their reply in O.A. No.240/94 before this Hon'ble Tribunal and the case is still pending. The allegation that ineligible persons were included in the list (1993-94) is denied. The selections are based purely on merit. A meritorious Junior Officer can be included in the Select List in



Contd....

preference to the less meritorious Senior Officer. This position has been upheld by Supreme Court in the case of R.S. Dass Vs. Union of India & others. AIR - 1987 (SC-593).

10. That with regard to averments made in paras 4.7 to 4.14, it is respectfully submitted that the subject matter of these paras deals with the aspects of appointment to cadre post and also eventual appointment to IFS consequent to inclusion of the applicant's name in Select List of 1994-95. Since the matter concerns the State Govt. and Govt. of India, the State Govt. and Central Govt. may make necessary submissions in this regard. However, it is submitted that the Select List of 94-95 was prepared on 23.3.95 taking into consideration 12 months' vacancies from the date of meeting as required under Regulation 5(1). The reported vacancy was 'Nil' and accordingly, a Select List of two names was prepared to meet unforeseen vacancies. The veracity of the statement by the applicant that there was a clear vacancy can only be verified by the State Government and the Central Government.

11. That with regard to averments made in paras 4.15 TO 4.17, it is respectfully submitted that both the applicant as well as Respondent No.5 were considered for promotion to IFS in the years 1993-94, 1994-95 and 1995-96. The Selection Committee of 1993-94, which met on 30.3.1994 assessed the applicant as 'Good' on the basis of overall relative assessment of his ACRs, and Respondent No.5 was assessed as 'Unfit' by the Selection Committee. Against two vacancies the Selection


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Committee was required to prepare a Select List of 4 names. The Selection Committee graded 6 officers as 'Very Good' on the basis of overall relative assessment of their ACRs. Accordingly, the first four officers with 'Very Good' grading made it to the Select List of 1993-94 and their names were arranged strictly in the order of their seniority as required under Regulation 5(4). The applicant with 'Good' grading could not make it on merit to the Select List. Even two more officers with 'Very Good' grading were left out because of statutory limit on the size of the Select List. Aggrieved by this, the applicant filed an O.A. No.240/94 in C.A.T., Guwahati Bench and the same is pending.

The Selection Committee of 1994-95, considered the applicant at S. No.2 of the Eligibility List as submitted by the State. Since the State Govt. reported nil vacancy a Select List of only two officers was prepared as per rules/regulations to meet unforeseen vacancies which could arise during the year. The applicant was assessed as 'Very Good' on the basis of overall relative assessment of his ACRs and was included in the List at S. No.1. The respondent No.5 was senior to the applicant in the State Forest Service and was accordingly considered at S.No.1 of the eligibility list. However, his name could not be included in the Select List as he was graded as unfit. However, the applicant was not appointed because of non-availability of vacancies.



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In the year 1995-96, the Selection Committee which met on 22.3.1996 considered both Respondent No.5 ( Sh. H.P. Das) at S. No.1 and the applicant at S. No.2 of the Eligibility List. The Selection Committee assessed both the officers as 'Very Good' on the basis of overall relative assessment of their respective ACRs. Against 2 vacancies a List of 4 names was prepared. Since both these officers had equal grading and as Respondent No.5 was senior to the applicant, Respondent No.5 was included in the List at S.No.1 and the applicant at S. No.2. There is no question of supersession involved. This procedure adopted by the Committee is in strict conformity with the Regulation 5(4) of the IFS (Appointment by Promotion) Regulation, 1956.


In this connection, it is also submitted that every year one more ACR is added to CR dossier of the officers in the zone of consideration and the last one of the previous year omitted. Based on the latest ACR, the overall relative assessment in respect of any officer may go up or down, thus any officer whose name stands included in the Select List in a particular year may altogether be excluded or relegated to a lower position. Thus there is nothing unusual and contrary to IFS (Appointment by Promotion) Regulations, 1966. Further, the very requirement of preparation of Select Lists every year is to appreciate the merit and select the best possible candidates in the field of consideration. It is also submitted that an individual officer can not be the judge of his CRs. Assessment is

Contd....



the statutory function of the Selection Committee. The applicant cannot question the said assessment by the Selection Committee and insist that his self assessment should prevail over the assessment by the Selection Committee.

12. That with regard to averments made in Para 4.18, it is respectfully submitted that the Selection Committee is constituted of very high ranking officers of merit and objectivity. Their assessment of the service records in the zone of consideration and also the recommendation are, unanimous in character without a single exception. The Selection Committee is an impartial body statutorily set up for the purpose of making recommendations/selections. It is their prerogative to evaluate CR dossiers by adopting their own established norms and yardsticks and then to adjudge the comparative merit of each of the officers in the field of choice. All the recommendations of the Selection Committee are based on a deep and detached study of the record and no personal predilections of the 'Assessee' nor those of the assessed have any room to creep into the judgement of the Selection Committee. Thus inclusion of Respondent No.5 at S. No.1 and the applicant at S. No.2 by the Selection Committee which met on 22nd March, 1996 is in accordance with the IFS Promotion Regulations. The contention of the applicant in this para are, therefore, misconceived and are factually wrong.

  
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13. That in reply to averments made in Para 4.19, it is respectfully submitted that the State Govt. concerned is the Cadre controlling authority in respect of SFS officers as such they are in the possession of CRs pertaining to SFS officers and therefore they only are in the better position to make submission regarding the veracity or otherwise of the averments made in this para.

14. That with regard to averments made in Para 4.20, the answering Respondents reiterate their submissions as already made in Para 11 of this written statement in reply to Paragraphs 4.15 TO 4.17 of the application.

15. That with regard to averments made in the Para 4.21 of the application, the answering Respondent has no comments to offer.

16. That with regard to averments made in the Para 4.22, it is respectfully submitted that the applicant has questioned the role of the State Govt. for their inaction to send a proposal to the Govt. of India for his appointment to IFS consequent upon his inclusion in the Select List of 1994-95. Since the subject matter relates to the State Govt., they may make necessary submissions in this regard.

17. That with regard to averments made in Para 4.23, it is respectfully submitted that the inclusion of Respondent No.5 at S.No.1 of 1995-96 Select List by the Selection Committee is strictly in accordance with the IFS (Appointment by Promotion) Regulations. Hence, the



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contention of the applicant in this para with regard to answering Respondents is wholly misconceived and erroneous.

18. That with regard to the submissions made in Para 4.24, it is respectfully submitted that the subject matter of this para relates to the role of the State Govt. Hence the State Govt. may make necessary submission in this regard.

19. In reply to averments made in Para 4.25, the answering Respondents reiterate their submissions made in Para 11 of the written statement in reply to Para 4.15 to 4.17. Further, it is submitted that the argument by the applicant that an officer once superseded can never improve his performance is untenable. Only with the idea of growth, maturity and improvement in the performance of officers the selections are made on annual basis.

20. That in reply to averments made in Paragraphs made in 4.26 & 4.27, the answering Respondents while reiterating their submissions made hereinabove would submit that the Selection Committee is a statutorily constituted entity to consider officers for promotion to IAS/IPS/IFS, as the case may be, strictly in accordance with the provisions contained in the respective Promotion Regulations. Hence, the question of bestowing undue favour on any person does not arise. The contention of the applicant, in so far as it relates to the answering respondent, is therefore, forcefully denied.

  
Contd....

21. That with regard to the contents in Paragraph 6 under caption 'GROUNDS', it is respectfully submitted that from the facts, grounds and circumstances stated hereinabove, it would be manifest that the grounds in so far as the answering Respondent is concerned, enumerated under Para 5.1 to 5.9 of this application under reply, are erroneous, misconceived and devoid of any merit.

22. That with regard to the contents of Paragraphs of 6 & 7 of the application the Respondent No.2 has nothing to comment.

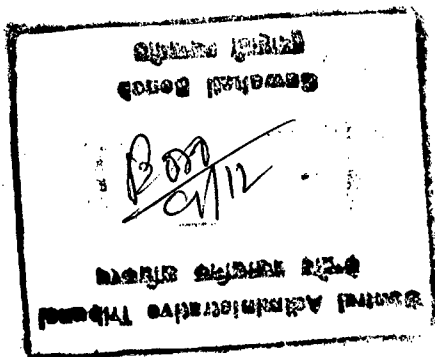
23. That with regard to Paragraphs 8 & 9 of this application it is respectfully submitted that it lacks merit and the applicant is not entitled to any of the reliefs claimed for in so far as the answering Respondent is concerned. The application is liable to be dismissed with costs.

24. That with regard to contents of Paragraph 10 to 12 of this application, it is respectfully submitted that the Respondent No.2 have no comments to offer.

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

I, the deponent named above, do hereby declare that the contents of paragraphs 1 & 2 of this Affidavit are true to my personal knowledge, those of paragraphs 3 to 25 of this Affidavit are based on record which I believe to be true; that no part of it is false and nothing material has been concealed.

**D E P O N E N T**



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Filed by the  
Respondent Nos. 4,7,9  
through  
Ranjana Kalyan  
Standing Counsel  
State of Assam  
a/12/98

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
AT GUWAHATI

In the matter of :

O.A. No.239 of 1996

Sri Gourish Ranjan Paul .... Applicant.

-Versus-

Union of India & 9 Others .. Respondents

- And -

IN THE MATTER OF :

Written Statement on behalf of  
Respondent Nos. 4,7,9 and 10 to  
the application filed by the  
applicant in O.A. No.239 of 1996.

The Respondents above-named beg to file the written  
Statement as under :

- 1) That a copy of the application filed by the  
applicant in OA No.239 of 1996 has been served on the  
answering respondents and upon going through the same  
the answering respondents understood the contents  
thereof.

Contd.....P/2.

July 26/1998  
(S. C. P. T. B.)  
Joint Secretary,  
Government of Tripura

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-: 2 :-

2) That except what has been specifically admitted in this Written Statement all other statements made in the application filed by the applicant may be treated as denied by the answering respondents.

3) That as regards statement made in paragraphs 4.1 to 4.4 of the application the answering respondents state that those being matters of records they do not admit anything which are contrary to or not borne by the records.

4) That as regards statement made in paragraph 4.6 of the application the answering respondents state that the name of the applicant was not included in the 1994 Select List because upon due consideration by the Selection Committee the applicant was not found suitable for inclusion of his name in the said select list. The applicant for that matter has filed an application being OA No.240 of 1994 before the Hon'ble Tribunal which is still pending for disposal. The answering respondents crave leave of this Hon'ble Tribunal to refer and rely on the statements made in the Written Statement in O.A.No.240 of 1994, in reply to statements made in paragraph 4.6 of the application.

5) That as regards statement made in paragraph 4.7 to 4.10 of the application the answering respondents deny the correctness of the same and beg to state that it is fact that the applicants name was included in the Select list of 1995 and his name was placed at serial No. I but at that point of time there was no regular vacancy. But subsequently 1(one) vacancy in Promotion quota in Tripura part of Joint M-T Cadre had occurred with effect from 04-07-1995 due to IFS Cadre review. Accordingly, officiating appointment was given to Shri G. R. Paul(SFS) (Select list Officer) to officiate temporarily in the IFS cadre post of Deputy Conservator of Forests for a period of 3(three) month with effect from the date he takes over under Rule 9(1)(b) of IFS cadre Rules, 1966. The answering respondents states that said temporary appointment was given in the interest of public service and this does not create any right on officiating appointee to be Promoted regularly. During the validity period of the Select list of 1995 for filling up of the 1(one) vacant post mentioned above the formal proposal for seeking concurrence was sent to U.P.S.C. vide No. F.2(28)-GA/94 dated 21-9-95 but no concurrence was received by the State Government and the validity of

(S. C. DEB)  
Under Secretary,  
Government of Tripura

*Sub 27/98*

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(8)

of India to the effect that officiating appointment of Environment and Forest (IFS II Section) Government cation dated 20.6.96 issued by the Director, Ministry Respondents further state that in view of the communi- applicant found place at Serial No.2. The answering Selection Committee and the name of the present No.5 Shri H.P.Das was selected at Serial No.1 by the held for the year 1996 wherein the private Respondent expired and another Selection Committee Meeting was to IFS because by the time the Select List of 1995 respondents state that the applicant was not appointed 4.11, 4.12 and 4.13 of the application the answering

6) That as regards statement made in paragraphs

due to expiry of the validity of the Select List of 1995. the applicant could not be appointed on regular basis Forest Service Officers to IFS was held on 22-03-1996, next selection committee Meeting for promotion of State regular appointment of the applicant to IFS but as the his communication dated 2-3-1996 submitted proposal for respondents further state that the PCCF Tripura vide of meeting of the selection committee. The answering the Select List expired after 12 months from the date

(S. C. DEB)  
Under Secretary,  
Government of Tripura

*Subh 26/6/98*

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-: 5 :-

July 26/1998  
(S. C. DEB)  
Under Secretary,  
Government of Tripura

Be 82

cannot be extended on the basis of the previous list and proposal for regular appointment cannot be sent by the State Government for approval to the Central Government after expiry of the list, the Joint Secretary to the Government of Tripura. Appointment and Services Department vide communication dated 9.9.96 informed the Principal Chief Conservator of Forests, Government of Tripura about the inability to accede to the proposal of extension of period of officiating appointment of the applicant. The answering respondents further state that as the Select List of 1995 has expired and the new select list of 1996 was prepared wherein the name of Shri H.P.Das, Private Respondent No.5 was at Serial No.1, the name of the applicant was not recommended for promotion to IFS on regular basis as there was only one vacancy existed at the relevant point of time.

7) That as regards statements made in paragraph 4.14 of the application the answering respondents beg to state that in the 1995 Select list the name of the applicant was at Serial No.1 and was given officiating appointment in the IFS Cadre post of Deputy Conservator of Forest under Rule 9(1)(b) of IFS Cadre Rules, 1966

Contd.....P/6.

July 26/1998  
(S. C. DEB)  
Under Secretary,  
Government of Tripura.

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-: 6 :-

for a period of 3(three) months. But by this time the next Selection Committee Meeting for promotion ~~ka~~ of State Forest Services Officers to IFS was held on 22.3.96 and the name of the applicant found place at Serial No.2 of the Select List of 1996 prepared by the Selection Committee. For this reason the proposal for regular appointment or further extension of the officiating appointment of the applicant was not acceded to by the Government on the basis of the clerification obtained from the Government of India. It may be mentioned here that the applicant was appointed on promotion on regular basis vide Notification dated 10.3.97 issued by the Under Secretary to the Government of India, Ministry of Environment and Forest on the basis of his position in the 1996 Select List and as another vacancy arose during the validity of the said Select List. The applicant cannot de-rive any right on the basis of his officiating temporary appointment and though the applicant held the charge of cadre post of officiation basis , the answering respondents deny that the applicant has been deprived of his legitimate claim to get appointment in the IFS cadre and has in fact been appointed on regular basis vide

Contd.....P/7.

-: 7 :-

July 16/98  
26/6/98  
(S. G. DES)  
Under Secretary

Notification dated 10.3.97.

A copy of the said Notification dated 10.3.97 issued by the Under Secretary to the Government of India. Ministry of Environment and Forest appointing the applicant with immediate effect to the IFS cadre is annexed herewith and marked as Annexure-A.

8) That as regards statement made in paragraph 4.15 of the application, the answering respondents state that Shri H. P. Das, Respondent No.5 was selected by the Selection Committee at serial No.1 for the year 1996. The Respondent No.5 is much senior to the present applicant as State Forest Service Officer. The answering respondents further state that as because the private Respondent No.5 was not selected by the Selection Committee in earlier issues, it cannot be said that he cannot be selected in 1996 also. The answering respondents further state that the applicant was promoted on the basis of his position in the 1996 Select List vide Notification dated 10.3.97.

9) That as regards statement made in paragraph 4.16 and 4.17 of the application the answering respondents deny the correctness of the same and beg to state that the Selection Committee after taking into account of the Annual Confidential Reports of the private Respondent

Contd.....P/8.

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*Sube 2/26/92*

(S. C. DEB)  
Under Secretary,  
Government of Tribhuvan

No.5, the applicant and also other candidates who came within the zone of consideration selected the private Respondant No.5 at Serial No.1 and the present applicant at Serial No.2. The answering respondents crave leave of this Hon'ble Tribunal to refer and rely on the records of the Selection Committee at the time of hearing the application.

10) That as regards the statements made in paragraph 4.18 of the application the answering respondents stoutly deny the correctness of the same and beg to state that the applicant has to furnish strong proof in support of his allegation against the then Principal Chief Conservator of Forests. The answering respondents further state that the burden of proof is heavily on the applicant on the allegation of malafide which demands proof of high order of credibility. The respondents state that there is no factual foundation on the allegation of malafide in the application filed by the applicant against the then Principal Chief Conservator of Forests and the allegation of malafide against him is vague.

8/24

July 26/1993  
(S. C. DEB)  
Under Secretary,  
Government of Tripura

11) That as regards statement made in paragraph 4.19 of the application the answering respondents beg to state that the transfer of Government officials are made keeping in view of the public interest as well as for smooth running of the administration. The transfer of an official does not necessarily indicate the degradation of official capability of the officer concerned and the ~~adverse~~ adverse remark against the Officer does not debar him for being considered him for promotion if he comes within the zone of consideration.

12) That as regards statements made in paragraph 4.20 of the application the answering respondents deny the correctness of the same and beg to reiterate the statements made hereinbefore in this written statement.

13) That as regards statements made in paragraph 4.21 of the application the answering respondents deny the correctness of the same and beg to reiterate the statements made hereinbefore in this written statement. The answering respondents crave leave of this Hon'ble Tribunal to refer and rely on the written statements filed in OA No.240 of 1994 also.

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*S. C. DEB*  
(S. C. DEB)  
Under Secretary,  
Government of Tripura

-: 10 :-

14) That as regards the statements made in paragraphs 4.22 and 4.23 of the application the answering respondents deny the correctness of the same and beg to reiterate the statements made hereinbefore in this written statement.

15) That as regards the statement made in paragraph 4.24 of the application, the answering respondents deny the correctness of the same and beg to state that the representations of the applicant were duly considered by the authority and on the basis of his selection in the 1996 Select List the applicant was appointed on regular basis vide Notification dated 10.3.97. The answering respondents therefore state that the present application filed by the applicant has become infructuous.

16) That as regards statements made in paragraphs 4.25, 4.26 and 4.27 of the application the answering respondents deny the correctness of the same and beg to reiterate the statements made hereinbefore in this written statement. The answering respondents further state that the applicant was duly promoted to IFS on

Contd.....P/11.

*S. C. Deb*  
(S. C. DEB)  
Under Secretary,  
Government of Tripura

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*66*

regular basis vide Notification dated 10.3.97 on the basis of his selection for the year 1996.

17) That as regards grounds taken in the paragraph 5 of the application, the answering respondents submit that those are not tenable in law as well as in facts and circumstance of the instant case. The answering respondents beg to refer and rely on the statements made hereinbefore in this written statement. The answering respondents further state that the applicant has already been appointed in IFS Cadre on regular basis vide Notification dated 10.3.97.

18) That in view of the facts and circumstances stated hereinabove, the answering respondents submit that the applicant is not entitled to any relief as sought for in the application and his application itself becomes infructuous in view of his regular appointment to IFS cadre vide Notification dated 10.3.97 on the basis of his position in the select list for the year 1996.

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V e r i f i c a t i o n

I Shri .. *Samarendra Chandra Deb* .. .. .

S/O. *Late Ranga Behari Deb,* .. .. . Under

Secretary to the Government of Tripura, Appointment &  
Services Department, Agartala do hereby solemnly affirm,

declare and verify that the statement made in paragraphs

*1 and 3 to 17*  
.. .. . are true to my

information derived from record which I verily believe

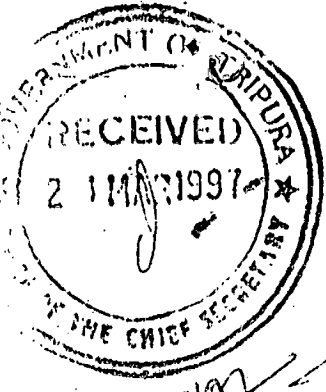
to be true and the rests are my submission before this

Hon'ble Tribunal and I sign this Verification on this

the *26<sup>th</sup>* day of *June,* 1998 at Agartala.

*Deb*  
*26/6/98*  
Deponent (Deb)  
Under Secretary to the  
Government of Tripura

(TO BE PUBLISHED IN PART-I SECTION II OF THE GAZETTE OF INDIA)



F.No. 17013/12/96-IFS-II  
Government of India

Ministry of Environment and Forests  
Paryavaran Bhavan,  
CGO Complex, Lodhi Road,  
New Delhi - 110003

*Handwritten initials and date: 1/3/97*

dated the 10th March, 1997

NOTIFICATION

*Handwritten notes: 102/120/125/97, 102/120/125/97*

In exercise of the powers conferred by sub-rule(1) of rule 8 of the Indian Forest Service (Recruitment) Rules, 1966 read with sub-regulation (1) of regulation 9 of the Indian Forest Service (Appointment by Promotion) Regulations, 1966, the President is pleased to appoint with immediate effect Shri Gourish Ranjan Paul (Date of Birth : 30.11.1954) of the State Forest Service of Tripura segment to the Indian Forest Service against existing vacancy and to allocate him Manipur-Tripura Joint Cadre of the Indian Forest Service under sub-rule (1) of rule 5 of the Indian Forest Service (Cadre) Rules, 1966.

( A.S.N. Murti )  
Under Secretary to the Govt. of India

The Manager,  
Govt. of India Press,  
FARIDABAD (HARYANA) - with a copy of Hindi Version.

Copy to:

1. The Chief Secretary, Govt. of Manipur, Imphal.
2. The Secretary, Forests Department, Govt. of Manipur, Imphal.
3. The Principal Chief Conservator of Forests, Govt. of Manipur, Imphal.
4. The Chief Secretary, Govt. of Tripura, Agartala.
5. The Secretary, Forests Department, Govt. of Tripura, Agartala.
6. The Principal Chief Conservator of Forests, Govt. of Tripura, Agartala.
7. The Accountant General, Tripura, Agartala.
8. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi - 110011.
9. Guard File.



( A.S.N. Murti )  
Under Secretary to the Govt. of India

*Handwritten signature: JS (AS)*

*Handwritten signature: Rajesh Kalal*

91  
Filed by  
B. S. S. S.  
16.12.96

16/12/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL?  
GUWAHATI BENCH.



O.A.No. 239 of 1996.  
Sri G.R.Paul  
-Vs-  
Union of India & Ors.

(Rejoinder to written statement filed by the respondents No.4, 7, 9 and 10).

The applicant begs to state as follows :-

1. That the applicant has gone through the copy of the written statement and has understood the contents thereof. Save and except the statements which are specifically admitted, other statements made in the written statements are denied.
2. That with regard to the statements made in para 1, 2, and 3 of the written statements, the applicant does not admit anything contrary to the relevant records.
3. That with regard to the statements made in para 4 of the written statement, the applicant craves leave of the Hon'ble Tribunal to refer and rely upon the case records pertaining the O.A.NO. 240/94.
4. That with regard to the statements made in para 5 of the written statement, the applicant begs to state that from the averments made, it is clear that the applicant has been denied promotion in spite of existing vacancy merely on ground of not receiving concurrence from UPSC and eventually the select list was allowed to expire. In the 1996 select list, the respondent No.5 was illegally

placed at Sl.No.1, by virtue of which he got promotion to IFS earlier than the applicant. It is denied that the applicant cannot derive benefit of officiating in cadre post. His entire period of officiation in cadre post will have to be counted towards seniority and fixation of year of allotment.

5. That with regard to the statements made in para 8 of the written statement, the applicant denies the correctness of the same and reaffirm the statements made in the O.A.

6. That with regard to the statements made in para 9 of the written statements, the applicant denies the contentions raised therein. The statements made are contrary to relevant records/ACRs. The ACRs for the relevant period submitted by the State of Tripura before the Hon'ble Tribunal reveal the following, on bare perusal of which substantiate the claim of the applicant that he was illegally superseded by the respondent No.5.

ACRs of the applicant

1994-95	-	Outstanding
1993-94	-	Outstanding
1992-93	-	Very good.
1991-92	-	Very good.
1990-91	-	Good.
1989-90	-	Good.
1988-89	-	Good.
1987-88	-	Good.
1986-87	-	Good.

ACRs of the Respondent No.5

1994-95	-	Very Good (At the behest of respondent No.6 who has been gone to the extent of recommending R-5 for IFS against the rules regarding recording of ACR).
1993-94	-	Very good - with adverse remarks 'irritant at times.'

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- 1992-93 - Very good.
- 1991-92 - Good with adverse remarks.
- 1990-91 - Satisfactory.
- 1989-90 - Good.
- 1988-89 - Satisfactory with adverse remarks.
- 1987-88 - -do-
- 1986-87 - -do-

Above position based on records will nullify the claim of the applicant.

7. That with regard to the statements made in paras 10 to 17 of the written while denying the contention raised therein, the applicant reiterate the statements made in the O.A.

8. That with regard to the statements made in para 18 of the written statement, it is denied that the O.A has become infructuous. The applicant without prejudice to his claim in OA No.240/94, is entitled to get seniority and year of allotment treating him to be at No.1 of the Select List and counting his officiation in cadre post.

9. That under the facts and circumstances stated above, the O.A deserves to be allowed.

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

I Shri *B. S. Law* the *Council*  
for the applicant do hereby solemnly affirm and verify that the statements made in para 1,2,3,5, 7 and 8 are true to my knowledge and those made in para 4 and 6 are true to my informations derived from records. I am also authorised to sign this verification on behalf of the applicant.

And I sign this verification on this 16th day of December, 1998.

*B. S. Law*  
(B. S. Law)