

50/100

8

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

M.P-194/98 orders sheet pg-1 to 2 INDEX  
disposed date-17/8/98

O.A/T.A No. 276/96  
R.A/C.P No.  
E.P/M.A No. 194/98

1. Orders Sheet. OA-276/96.....Pg. 1.....to 7.....
2. Judgment/Order dtd. 24/3/99.....Pg. 1.....to 7.....Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....276/96.....Pg. 1.....to 59.....
5. E.P/M.P.....194/98.....Pg. 1.....to 4.....
6. R.A/C.P.....NIL.....Pg. ....to .....
7. W.S......Pg. 1.....to 65.....
8. Rejoinder.....NIL.....Pg. ....to .....
9. Reply.....Pg. 1.....to 2/.....
10. Any other Papers.....Pg. ....to .....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

WS- pg-1 to

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

No. 276/96

A. K. Sinha

-Versus-

Union of India &c.

Applicant(s)

Respondent(s)

Mr. B.K. Sinha, B. Mehta, S. Sarma

Advocates for Applicant(s)

Mr. S. C. S. S. S.

Advocates for Respondent(s)

Office Notes

Date

Courts' Orders

4.12.96  
349367  
26.1.97

4.12.96

Learned counsel Mr S. Sarma for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents. Heard Mr S. Sarma for admission. Perused the contents of the application and the reliefs sought. The application is admitted subject to consideration of limitation at the time of final hearing. Issue notice on the respondents by registered post. Written statement within 6 weeks.

List for written statement and further orders on 13.1.1997.

10-1-97

Requisit has not yet filed by the Applicant Advocate.

2/20 w/s has not been submitted.

nkm

5/12

10/11 Requisite Received on 15-1-97.

15.1.97

Learned counsel Mr S. Sarma for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents prays for one months time to file written statement.

List for written statement and further orders on 13.2.97.

17-1-97

Notice issued to the Respondent No-1 to 21, vide D.No-292 of 28.1.97.

nkm

5/1

(2) 216/96

13-2-97

Mr S. Ali has not filed  
Memo of appearance  
Service reports are still  
unwaited  
Statement has not been filed.

13-2-97  
Adjourned for order on  
5.3.97  
Member  
Vice-Chairman

12  
Service reports are  
still awaited.

lm  
5.3.97  
Office to report whether the  
notices were sent by Registered  
or not?  
List pn. 6.3.97 for further  
order.  
Member  
Vice-Chairman

Miller statement  
has not been filed by  
the respondents.

pg  
6.3.97  
The office note dated 17.1.1997  
shows that notices were issued to respondent  
Nos.1 to 21, vide D.No.292 dated 28.1.1997.  
We fail to understand as to how this kind  
note can be made. Office to explain by  
tomorrow.

5.3.97  
Notices were sent  
to all concerned by  
Regd. Post.

We have seen the office note  
dated 5.3.1997. From the said office note  
it appears that the notices were sent  
to the respondents by Registered Post.  
More than a month has passed and there  
Tribunal can presume that notices have  
been duly served. There is no representation  
on behalf of respondent Nos.1 to 21. According  
it is presumed that notices have been  
duly served.  
List it for hearing on 30.4.97.

Member  
Vice-Chairman

nkm

11/3

(4)

7

24-9-97

31-7-98

Det this case be listed along  
M.P. No. 194/98 on 3-8-98.

Written statement  
filed on behalf of <sup>1m</sup>  
The Respondants.

*ba*  
Member

Let this case be listed along  
M.P. 194/98 on 17-8-98.

This ~~petition~~ application  
is received by post.

*ba*  
Member

*DR*  
Vice-Chairman

1m

Written Statement 17.8.98

filed on behalf of The  
Respondant - No. 1.

In view of the order passed  
M.P. No. 194/98 the written statement  
of respondent No. 20 has  
accepted.

Let the case be listed  
hearing on 29.10.98.

*ba*  
Member

*DR*  
Vice-Chairman

18.5.98

No. Written statement  
filed by the <sup>trd</sup> respondents  
accept resp No. 1, 20.

29.10.98

There is no representation  
Adjourned to 16.12.98

By order.  
*105*

*BON*

Written statement filed  
on behalf of The respondent  
No-20. This wk is received  
by post.

*28.7.*  
*28.7.*

Written statement filed  
on behalf of the respondents  
No 19. This wk is received  
by post.

*28.7.*  
*28.7.*



OA 276/96

6.3.97.

Ref: Order dated 6.3.97 (P.2 of Order Sheet).

Regarding Office note dated 7.1.97 it may be stated that notices on Respondent No.s 1 to 21.

were prepared and sent to despatch section on 17.1.97 (Friday) but the same was issued on 28.1.97 and not on 17.1.97. *The notices were prepared and sent to despatch section on 17.1.97.* Since the dealing assistant of

despatch section was on leave for mailing L.T.C. So the notices were issued lately by a substitute.

Laid for favour of kind perusal and necessary order.

*For*  
S.O. (J) 6/3/97.

*Dy. R.*

30.4.97

On behalf of Mr. B.K.Sharma, Mr. S.Sarma, prays for short adjournment as Mr. B.K.Sharma is out of station for personal reasons. Prayer allowed.

List on 11.6.97 for hearing.

*Member*

*Vice-Chairman*

trd

*2/5*

2.7.97

Learned counsel for the parties submit that the case is ready for hearing. List it for hearing on 26.8.97.

*Member*

*Vice-Chairman*

nkm

*3/7*

19.5.98

List on 31.7.98 for hearing.

*Member*

*Vice-Chairman*

pg

*20/5*

97

which is not available to circuit sitting at along.

6/8

276/96

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

9.12.98

17.12.98  
(Agartala)

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

Can is ready for hearing.

Mr B.P. Katak, learned Government Advocate, Tripura prays for adjournment as he has not yet received the full instructions from the Government. Mr G. Sarma, learned Addl. C.G.S.C has no objection. However Mr B.K. Sharma is ready with the case. Considering the submission of learned Government Advocate, Tripura and learned Addl. C.G.S.C the case is adjourned to 5.1.99 to be taken up at Guwahati.

Member

Vice-Chairman

pg

18-1-99

5.1.99

Leftover. Adjourn to 18.1.99

Written statement -  
has been filed.

By order  
b

20.1.99

Passover

B/o  
b

21.1.99

Passover

B/o  
b

22.1.99

Adjourn to 27.1.99

B/o  
b

27.1.99

Passover

B/o  
b

28.1.99

Adjourn to 8.2.99

By order  
b

8.2.99

Passover By order

Notes of the Registry	Date	Order of the Tribunal
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9.2.99

There was a reference.  
Adm to 12-2-99.

By order,

12.2.99

Adjourned to 22.2.99 for hearing as Mr B.P.Kataki, learned Government Advocate, Tripura is out of station in connection with treatment of his wife. Mr G.K.Bhattacharyya is also not present.

*De*  
Member

*De*  
Vice-Chairman

pg

*MS*  
15/2/99

22.2.99

Pass over on the day.

By order,

23.2.99

On the prayer of Mr.G.K. Bhattacharyya learned counsel for the respondents case is adjourned to 25-2-99 for hearing.

*De*  
Member

*De*  
Vice-Chairman

lm

*MS*  
24/2/99

25.2.99

Heard in part. List tomorrow, 26.2.99 for further hearing. The case will be listed at the top above part heard matters.

Member

Vice-Chairman

nkm

26.2.99

Pass over 1.3.99.

8-3-99

Written statement (by  
Smt. K. W.)

4.3.99

*MS*  
24/2/99  
A.D. 1.3.99  
By order,

O.A. NO. 276 of 1996

11.3.99

On the prayer of Mr. B.K.Sharma,  
learned Railway Counsel the case is adjourned  
till 23.3.99.

The case is ready  
for hearing.

MS  
22/3/99-

  
Member

  
Vice-Chairman

trd

MS  
12/3/99


23.3.99


Passover on the day.

By order

24.3.99

Heard learned 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

17/6/99  
Copies of the  
Judgment have  
been sent to the  
D/Sec. for issuing  
the same to the  
applicant and Respondent  
Nos. 1 to 6 and 19 to  
21 through Regd. with  
s/o vide Despatch  
No. 2066 to 2075  
dated 22-6-99.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A.No. 276

of 1996

DATE OF DECISION. 24.3.1999

Shri A.K. Sinha, I.F.S.

(PETITIONER(S))

Mr B.K. Sharma

ADVOCATE FOR THE  
PETITIONER(S)

-VERSUS-

Union of India and others

RESPONDENT(S)

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

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

and Mr G.K. Bhattacharyya for respondent No.19 -- ADVOCATE FOR THE  
RESPONDENTS.

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

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

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

Judgment delivered by Hon'ble Vice-Chairman



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 276 of 1996.

Date of decision : This the 24th day of March, 1999.

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

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

Shri Achintya Kumar Sinha, I.F.S.,  
Deputy Conservator of Forests,  
Planning & Development,  
Forest Headquarter,  
Nehru Complex, Agartala

..Applicant.

By Advocate Mr. B.K. Sharma.

-versus-

Union of India & Ors.

..Respondents

By Advocate Mr. A. Deb Roy, learned Sr. C.G.S.C., Mr. B.P. Kataki, learned Govt. Advocate, Tripura and Mr. G.K. Bhattacharyya, learned counsel for respondent No. 19.

O R D E R

BARUAH J (V.C.).

The applicant in this application has challenged the Annexure-18 order dated 18.5.95 assigning the year of allotment 1988 on being appointed by way of promotion as per the provision of Indian Forest Service (Regulation of seniority) Rules, 1968 (for short IFS Seniority Rules 68). The facts for the purpose of disposal of this application are :

The applicant was originally in the State Forest Service. He was appointed by Annexure-8 Notification dated 10.3.1992 by way of promotion to the Indian Forest Service (for short IFS). Prior to his promotion he was serving in the IFS cadre post with effect



...Contd.

from 15.2.1991 which was approved by the Government of India vide Annexure-7 Memorandum dated 28.2.1992. The vacancy to the post of IFS cadre arose as per Annexure-9 Notification dated 22.11.1990. At that point of time the applicant became eligible for promotion as far back in 1989. In that year though he was selected, he was not appointed. In the subsequent year also he was not appointed. Ultimately, he was appointed by way of promotion in the year 1992. Grievance of the applicant is that while granting the year of allotment his period of officiating in the IFS cadre post was not counted and therefore the year of allotment was wrongly given as 1988 instead of earlier years. According to the applicant his year of allotment ought to have been 1986 because in 1988 he was not appointed. He was denied appointment to the IFS arbitrarily without any reasonable ground. Besides this, according to the applicant even if 1986 was not taken as his year of allotment, he was entitled to 1987 as his year of allotment under the provisions of IFS (Seniority Rules 68). The applicant submitted several representations to the competent authority namely, Annexures-17, 18, 20 and 22 to the Original Application. However, those representations had not been disposed of. Situated thus the applicant has approached this Tribunal by filing the present application.

2. In due course the respondent Nos. 1 to 5, 19 and 20 have entered appearance. The respondent no. 1 has filed written statement. Today the learned Government Advocate, Tripura appearing on behalf of Respondent Nos. 2,3,4 and 5 has produced the records. Respondent No. 19 - Shri R. Das has filed written statement. From the office note it is seen that notices were issued to all the

....Contd.

respondents by registered post. Therefore it can be presumed that the notices had been duly served.

3. Sri A. Deb Roy, learned Sr. C.G.S.C. is present today on behalf of the respondent No.1. Sri B.P. Katak, learned Government Advocate, Tripura is present on behalf of the respondent Nos. 2,3,4 and 5, Shri G.K. Bhattacharyya, learned counsel for respondent No.19. However others are not represented before us today.

4. We have heard all the counsel present today. Shri B.K. Sharma, learned counsel appearing on behalf of the applicant submits that the applicant was selected and his name was included in the select list in the year 1989 and his name appeared in the serial No.2 of the said select list. In spite of the availability of vacancies in that year for reasons best known to the authorities he was not appointed. Shri Sharma further submits that ultimately he was appointed on 10.3.1992. By Annexure -18 order dated 18.5.1995 and he was given the year of allotment 1988, below Shri R. Das as per the provisions of IFS (Seniority Rules 68). He was juniormost direct recruitee in the year 1991. However, Shri Sharma further submits that his officiating period in the IFS cadre from 15.2.91 to 9.3.92 was not taken into consideration and therefore he was not granted actual year of allotment. Shri further submits that had those period of officiating been taken into consideration he would have been given the year of allotment earlier to that of 1988. Shri Deb Roy very fairly submits that because of mistake his period of officiating was not taken into consideration. Shri B.P. Katak also submits before us that in view of the written statement submitted by the Union of India the applicant ought to have been given the year of allotment 1987. Shri Katak further submits that the applicant is not entitled

B ✓

...Contd.



to get 1986 as his year of allotment. Shri G.K. Bhattacharyya, on the other hand disputes the claim of the applicant. However, he admits that the officiation to the IFS commenced from 15.2.91 but later on his name was approved on 25.11.91 as it appears from paragraph 9 of the written statement filed by the Union of India.

5. On the rival contention of the parties now it is to be seen whether the applicant is entitled to get his year of allotment as claimed under the facts and circumstances of the case.

6. Before we consider the case it will be apposite to look to the provisions of Indian Forest Service (Regulation of Seniority) Rules, 1968. This Rule prescribes the procedure for assigning the years of allotment. Rule 3 prescribes the procedure. We quote Rule 3 of the "Seniority Rules":

"3. Assignment of years of allotment.-

(1) Every officer shall be assigned a year of allotment in accordance with provisions hereinafter contained in this Rule.

(2) The year of allotment of an officer appointed to the Service shall be-

(a) where an officer is appointed to the Service on the results of a competitive examination, the year following the year in which such examination was held;

.....  
.....  
.....

(c) where an officer is appointed to the Service by promotion in accordance with Rule 8 of the Recruitment Rules, the year of allotment of the junior-most among the officers recruited to the Service in accordance with Rule 7 or if no such officer is available the year of allotment of the junior most among the officers recruited to the Service in accordance with Rule 4(1) of these Rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former."

*B*

From reading of the above provisions it is abundantly clear that the officer who is appointed by promotion under provisions of Rule 8 of the Recruitment Rules prior to that if he was officiating in a cadre post or when his name was included in the select list that period should also be counted. In the present case it is an admitted fact that the applicant was officiating from 15.2.91. Shri Kataki very fairly has pointed out to a letter dated 20.9.90 issued by the Under Secretary, Government of India, Ministry of Environment and Forests to the Secretary, Appointment Department, Government of Tripura. We have perused the letter when shown by Shri Kataki. From the letter it appears that the applicant's name was included in the select list of 1989-90. As this letter is available in the Government records issued under Memo No.17013/12/90/IFS/II in all probability his name was included in the select list in the year 1989-90. However as the matter remains a disputed fact, it is not possible for the Tribunal to come to any conclusion. If his name was included in the year 1989-90 and he commenced officiating in the cadre post of Deputy Conservator of Forest Research on and from 15.2.91, as per the provisions of Rule 3 of the "Seniority Rules" the period would be computed from the date of officiating not from the date of appointment. But the full records are not available before us. Shri Deb Roy ha also not produced the full records. Now the question is if the period of officiating commence from 15.2.91 and is taken into consideration it will be necessary to find out who was juniormost direct recruit in that year prior to 15.2.1991 if there was any direct recruitment in that year at all? If there was no such recruitment in the year 1991 i.e. prior to 15.2.1991 then his position in the previous year or years when actually direct recruitment had been made

*RB*


prior to 15.2.1991 would have to be taken into consideration. To find the juniormost direct recruitee prior to 15.2.1991 the records are not available before us. Mr Sharma as well as Mr Kataki have submitted before us that records are lacking in this regard. Therefore, in order to decide this matter a thorough scrutiny and examination of the matter is necessary for correct assignment of the year of allotment. We have also looked to the various written statements. In the written statment submitted by the respondent No.19 it is stated as follows:

"The State Govt. continued giving illegal certificate w.e.f. 15.2.91 to 16.5.92 that no cadre officer is available but did not post Shri A.K. Gupta (1982) Shri Balbir Singh (1985), Shri D.K. Sharma (1988), Shri R. Das (1988) who were available within Forest Department without any cadre post. Some more officers were also available on non-cadre post within the State i.e. Shri A.K Singh.

"Thus the approval of continuous officiation w.e.f. 15.2.91 to 16.5.92 by Govt. of India was based on the wrong information provided by Govt. of Tripura and therefore not a per rule & thus invalid."

In a note submitted by the respondent No.20 it was also hinted in a similar way.

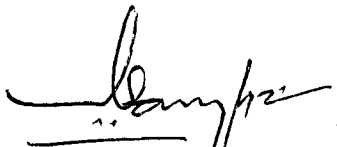
6. On consideration of the entire facts we find that adequate materials are not available to determine for what reasons the applicant was not appointed in the year 1989-90. The contention of Mr Sharma is that the post was available but he was not appointed. For all these we feel the entire matter needs to be considered by the authority concerned taking into consideration all the materials in the records and dispose of the representations by a reasoned order. Mr Sharma wants to file a fresh representation giving details of his claim. If he wants to file a fresh representation he may do so within a period.....



period of fifteen days from today. If such representation is filed within the time allowed the competent authority shall also consider the same and dispose of it as early as possible, at any rate within a period of six months from the date of receipt of the representation. The counsel for the applicant and the respondent Nos.19 and 20 submit that before taking any decision by the competent authority the persons interested may be given opportunity of personal hearing. This submission is reasonable. Therefore, we direct the respondents that before taking any decision they shall give notice by giving sufficient time to all persons interested for personal hearing.

7. With the observations made above, the application is disposed of.

8. Considering the facts and circumstances of the case, we however, make no order as to costs.

  
( G. L. SANGLYINE )  
ADMINISTRATIVE MEMBER

  
( D. N. BARUAH )  
VICE-CHAIRMAN

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

O.A. No. 276 of 1996

BETWEEN

1. Shri Achintya Kumra Singh, I.F.S.  
Deputy Conservator of Forests,  
Planning & Development, Forest Headquarter,  
Nehru Complex, Agartala,  
Tripura,

... Applicant

AND

1. The Union of India,  
represented by the Secretary,  
Ministry of Environment & Forests,  
Government of India,  
CGO Complex, Lodi Road,  
New Delhi-110 003.
2. The State of Tripura,  
represented by the Chief Secretary,  
Government of Tripura,  
Agartala, Tripura, PIN-799001.
3. The Secretary, Forest Department,  
Government of Tripura,  
Agartala, Tripura PIN-799001.
4. The Principal Chief Conservator of Forests,  
Tripura, Nehru Complex,  
P.O. Kunjavan, Agartala, Tripura,  
PIN-799006.
5. The Secretary, Appointment & Services, Deptt.,  
Government of Tripura,  
Agartala, Tripura, PIN-799001.
6. The State of Manipur,  
represented by the Chief Secretary,  
Government of Manipur,  
Imphal.
7. ~~The~~ Shri B.N. Mohanty, IFS,  
Dy. Conservator of Forests,  
Ministry of Environment & Forests,  
Government of India,  
Bhubaneswar, Orissa.
8. Shri A. Rastogi, IFS  
Dy. Conservator of Forests,  
Indian Council of Forests Research  
& Education, P.O. New Forest,  
Dehra Dun, U.P. PIN-248006.

Contd....P/2.

/s/

9. Shri Ajai Kumar, IFS,  
Asstt. Inspector General of Forests,  
Ministry of Environment & Forests,  
Paryavaran Bhavan,  
Lodi Road, New Delhi.
10. Shri P.K. Pant, IFS,  
Associate Professor, Indira Gandhi  
National Forest Academy,  
P.O. New Forest, Dehra Dun, U.P.  
PIN-248006.
11. D.J.N. Anand, IFS,  
C/O Principal Chief Conservator of Forests,  
Government of Manipur,  
Imphal, Manipur.
12. Th. Ibobi Singh, IFS,  
C/O Principal Chief Conservator of Forests,  
Conservator of Forests,  
Government of Manipur,  
Imphal, Manipur.
13. Shri A.C. Srivastava, IFS,  
Dy. Conservator of Forests,  
Indian Council of Forest Research  
and Education, P.O. New Forests,  
Dehra Dun, U.P.
14. Shri S.K. Srivastava, IFS,  
C/O Principal Chief Conservator of Forests,  
Government of Manipur,  
Imphal, Manipur.
15. Shri Jagdish Singh, IFS,  
Divisional Forest Officer,  
Udaipur, South Tripura,
16. Dr. Khaizalian, IFS,  
C/O Principal Chief Conservator of Forests,  
Government of Manipur,  
Imphal, Manipur.
17. Shri Ngulkhohao, IFS, C/O Principal  
Chief Conservator of Forests,  
Government of Manipur,  
Imphal, Manipur.
18. Shri Lamkhosei Baite, IFS,  
C/O Principal Chief Conservator of Forests,  
Government of Manipur,  
Imphal, Manipur.
19. Shri R. Das, IFS,  
Divisional Forest Officer, Sadar,  
Agartala, Tripura.

Contd....P/3.

20. Shri D.K. Sharma, IFS,  
General Manager, Tripura Forest  
Development and Plantation Corporation, Ltd.  
P.O. Kunjavan, Agartala, Tripura,

21. U.P.S.C. represented by its Secy.

Shop house, Sahjanan Road  
New Delhi

... Respondents

DETAILS OF APPLICATION

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

The instant application is directed against order issued under F.No. 17013/12/90-IFS.II dated 18.5.95 by the Government of India, Ministry of Environment & Forests, fixing the year of allotment of the applicant as 1988.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE :

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

4.2 That the applicant was first listed for recruitment as Probationer for Diploma in Forestry (1973-75) for being appointed as the Divisional Forest Officer under the Forest

20

Department of Government of Tripura vide Government of Tripura, Deptt. of Forests letter dated 9.2.73. Thereafter he was appointed as Divisional Forest Officer vide notification dated 29.3.75 with effect from 10.3.75. Eversince his such appointment, the applicant has been rendering his, sincere, devoted and unblemished service. The applicant was promoted to I.F.S. pursuant to his selection for such appointment vide notification dated 10.2.93 issued by the Government of India, Ministry of Environment and Forests vide No. 17013/12/90-IFS.II. He belongs to the Manipur-Tripura joint cadre. Prior to such promotion, the applicant was allowed to officiate in the IFS cadre post of Deputy Conservator of Forests with effect from 15.2.91 under Rule 9(1)(b) of the Indian Forest Service Cadre Rules, 1966. His such officiation was also approved by the Central Government. Just before his such officiation, in the IFS Cadre post, pursuant to a notification dated 14.2.91, the respondent Nos. 13, 15 and 17 (direct recruit IFS) were promoted to the Senior Scale with effect from 1.2.91 vide notification dated 4.2.91 even before completion of mandatory four years of service in the IFS junior scale. Had this not been done and the continuous officiation of the applicant in the IFS cadre post with effect from 15.2.91 been taken into consideration, the applicant would have been entitled to fixation of his year of allotment as 1986. However, by the impugned notification, he has been assigned year of allotment as 1988. On the other hand, the official respondents have also not acted upon the guidelines issued by the Government of India, Department of Personnel and Administrative Reforms rationalising the basis of fixing of seniority and promotion

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*Ans*



making the same effective from 18.1.88. If all <sup>there are</sup> ~~this is~~ taken into account, the applicant is entitled to re-fixation of his year of allotment as 1986. While issuing the impugned notification dated 18.5.95 <sup>assigning</sup> the year of allotment to the applicant as 1988, none of the above three factors had been taken into consideration and accordingly, the applicant has been deprived of his correct fixation of year of allotment. The applicant had made several representations before and after issuance of the impugned notification. However, till date his grievance has not been redressed by assigning correct year of allotment and hence this application making a grievance against the same and for appropriate relief.

4.3 That the applicant while ~~was~~ a State Forest Service Officer was allowed to officiate in the Indian Forest Service cadre post of Deputy Conservator of Forests (Research) under Rule 9(1)(b) of the IFS Cadre Rules, 1966 vide notification No. F.2(13)-GA/89 dated 14.2.91. Upon such issuance of notification, the applicant ~~xxxxxx~~ assumed the charge of the IFS Cadre post on 15.2.91. Such officiation was extended vide notification No. F.2(13)-GA/89 dated 26.6.91, His such officia tion was further extended vide notification No. F.2(13)-GA/89 dated 11.9.91, Notification No. F.2(13)-GA/89 and 10.12.91 and notification No. F.2(13)-GA/89 dated 12.3.92.

Copies of the aforesaid notification dated 14.2.91 26.6.91, 11.9.91, 10.12.91 and 12.3.92 are annexed hereto as ANNEXURES-1 to 5 respectively.

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A copy of the certificate of assumption of charge dated 15.2.91 is annexed hereto as ANNEXURE-6.

4.4 That the aforesaid officiation of the applicant in the IFS Cadre post was duly approved by the Government of India, Ministry of ~~Forest~~ Environment and Forests as will be evident from the Memorandum No.F.2(13)-GA/89 dated 28.8.92 issued by the Govt. of Tripura, Appointment and Services Department.

A copy of the said memorandum dated 28.8.92 is annexed hereto as ANNEXURE-7.

4.5 That while officiating in the IFS Cadre post as pointed out above, the applicant was appointed to IFS vide notification No.17013/12/90-IFS-II dated 10.2.92 issued by the Government of India, Ministry of Environment and Forests.

A copy of the said notification dated 10.3.92 is annexed hereto as ANNEXURE-8.

4.6 That the applicant states that the post of the Deputy Conservator of Forests (Research) was a cadre post as was notified vide notification No. 16016/6/90-AIS(II)-A dated 22.11.90. Thus the applicant could have been given officiating appointment to IFS cadre post with retrospective effect as was done in case of others. In this connection, mention may be made of the case of Shri J.L. Dutta, who was given officiating appointment to IFS cadre post with ~~effect from~~ retrospective effect i.e. from the date the

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vacancy actually arose due to retirement of Shri R.M. Dutta, IFS (PR 1970). Same was done vide notification dated 8.6.92 issued under No. F.2(18)-GA/90. Had the applicant been given such retrospective officiating appointment, he would have been so promoted with effect from 22.11.90 and in that case would have been entitled to 1986 as the year of allotment inasmuch as vide notification No.F.2(14)-GA/90 dated 24.5.90 the direct recruit officers belonging to 1986 batch named therein were granted senior scale of IFS. Thus as per the rules, of seniority applicable to the IFS Officers, the applicant would have been assigned 1986 as the year of allotment.

Copies of the notification dated 22.11.90, 24.5.90 and 8.6.92 are annexed hereto as ANNEXURES-9, 10 and 11 respectively.

✓ 4.7 That the applicant states that ~~when~~ he was ~~appointed~~ sent on deputation to TRPC Ltd. (a State Government undertaking) as Manager in the scale of pay Rs.3200-5600/- and he was on such deputation, when the order of officiating appointment to IFS cadre post was issued vide Annexure-1 notification dated ✓ 14.2.91. As the vacancy of IFS cadre post had arisen on 22.11.90 as per the Annexure-9 notification, the Government ~~xxx~~ ought to have declared the said post of Manager, TRPC Ltd. as equivalent to IFS senior scale cadre post and ~~xxxx~~ to have given the applicant the officiating appointment with retrospective effect as was done in case of Shri J.L. Dutta vide notification dated 8.6.92 (Annexure-11). In this connection, the applicant most respectfully submits that holding of a post

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on deputation so sent by the Government in public interest should not be to the disadvantage of the applicant.

4.8 That the applicant states that to the best of his knowledge, he was continuously in the select list prepared for the purpose of promotion to IFS during 1988 to 1991. Eventually, he was appointed to IFS after his aforesaid officiating period of appointment vide Annexure-8 notification dated 10.3.92. One Shri A.K. Roy was promoted to IFS on 16.12.89 and as per the Government of Tripura's letter No. F.2(13)-GA/89 dated 24.9.91, the applicant's position in the select list was shown to be at Sl. No. 2. Thus in the said letter, a proposal was sent in reference to a proposal dated 15.3.91 as mentioned in the letter itself for appointment of the applicant to IFS as per provision of the relevant rules. From the said letter, it would be evident that after appointment of Shri A.K. Roy on 16.12.89, the applicant alone was the select list officer to be promoted to IFS. In spite of sending proposal by State Government to Government of India, his promotion delayed and eventually, the same was granted to him vide Annexure-8 notification dated 10.3.92. The applicant came across the said letter dated 24.9.91 only after issuance of the impugned order in his endeavour to file out the relevant records in the matter of fixation of year of allotment.

A copy of the said letter dated 24.9.91 is annexed hereto as ANNEXURE-12.

4.9 That the applicant states that three officers of 1987 batch belonging to Manipur Meghalaya Tripura cadre

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(Respondent Nos. 13, 15 and 17) (direct recruits) were illegally given IFS senior time scale of Rs. 3,000 - 4500/- even before completion of mandatory requisite length of service which is four years vide notification No.F.2(14)-GA/90 dated 4.2.91. The said officers were appointed to IFS as direct recruits with effect from 6.7.87 and 28.7.87 respectively which will be evident from the notification No. 18012/12/89-IFS-II dated 25.9.95 issued by the Govt. of Tripura in respect of confirmation of services of those officers. Thus prima facie by the time these three officers were granted IFS senior time scale with effect from 1.2.91 vide notification dated 4.2.91. They were not even within the zone of consideration for being granted IFS senior time scale. However, they were granted such benefit illegally by the aforesaid notification dated 4.2.91. This was done just before a few days of granting officiating appointment to IFS Cadre post to the applicant vide notification dated 14.2.91 (Annexure-1). Had the relevant rules been followed and no illegality committed, these three officers could not have been granted IFS senior time scale with effect from 1.2.91 and on that event, the applicant would have been entitled to 1986 as ~~the~~ his year of allotment as has been explained above but due to this illegality coupled with other illegalities perpetrated to the applicant he has not only been deprived of his year of allotment as 1985 and/or 1986 but he has been assigned much lower seniority having been assigned 1988 as the year of allotment by the impugned notification making a grievance against which the instant application has been filed.

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Copies of the notifications dated 4.2.91 and 25.9.95 are annexed hereto as ANNEXURES-13 and 14 respectively.

4.10 That the applicant states that the Government of India rationalised the basis for regulation of seniority of officers promoted to <sup>all India Services</sup> ~~IAS~~ with effect from 18.1.88 vide DP and AR notification No. 14014/17/86-AIS(I).GSR/42(E) dated 18.1.88 relaxing the procedure for regulation of seniority in case of officers promoted to All India Services on the basis of length of qualified service before appointment in the cadre post. The applicant is not in ~~possession~~ possession of the said notification and accordingly, the official respondents may be directed to produce the copies of the said notification before this Hon'ble Tribunal. In this connection mention may be made of the rules regulating the seniority in respect of I.A.S. and IPS by which due weightage is given to the ~~xxxxxxx~~ length of services rendered by the promotee officers before they are appointed to I.A.S. and I.P.S. Had this notification been adopted and correct assessment of the seniority of the applicant had been done, the applicant would have been entitled to 1985 as the year of allotment. It will be pertinent to mention here that one Shri Ashish Kr. Roy, an officer of the State Forest Service of Tripura who was appointed on promotion to IFS vide notification No. 17013/12/89-IFS-II dated 16.12.89<sup>is</sup> has yet to be assigned year of allotment. In view of the aforesaid notification dated 18.1.88, the official respondents have been considering the matter of correct assignment~~ment~~ of year of allotment

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to said Shri Roy on the basis of the said rationalising of seniority to the promotee officers.

A copy of the notification appointing said Shri A.K. Roy to the IFS dated 16.12.89 is annexed hereto as ANNEXURE-15.

4.11 That the applicant states that his year of allotment has been correctly shown as 1985 vide letter No. 32-20/92-ICRRE dated 4.10.93 issued by the Indian Council of Forestry Research and Education by which the applicant alongwith another was sent on deputation. In the said letter the Government of India's letter No. 12026/1/93-IFS-I dated 8.9.93 by which cadre clearance was accorded has been mentioned. The basis of assigning ~~of~~ 1985 as the year of allotment in respect of the applicant was <sup>on</sup> such cadre clearance given by the Government of India wherein the applicant was shown to be of 1985 batch. Such assignment of year of allotment to the applicant (1985) was correctly done inasmuch as if the rationalisation regarding seniority as was notified by the Government of India vide notification dated 18.1.88 is acted upon, then in that case the applicant is entitled to 1985 as his year of allotment.

A copy of the letter dated 4.10.93 is annexed hereto as ANNEXURE-16.

4.12 That in the aforesaid backdrop of the case, the applicant made representation on 25.8.93 to the Govt. of India duly forwarded by the Conservator of Forests, Western Circle, Agartala on 27.8.93 to the Principal Chief Conservator of Forests, Tripura. In the said representation

the applicant made a grievance against :

- (i) Unusual delay in officiating appointment (pointing out discrimination vis-a-vis subsequent appointment of a junior officer in the service) ;
- (ii) Promotion of IFS officers 1987 batch five months before they have been due ;
- (iii) Select list for promotion to IFS ~~for~~ ~~in~~ in which the name of the applicant was there not being made available by the Forest Department to the A&S Department, Government of Tripura requiring the A&S Department to ask for confirmation from the Govt. of India thereby delaying the process.

In this connection, it may be stated that the select list was subsequently processed much later in the Forest Deptt's. file and sent to the A&S Deptt. In the said representation the applicant asked for corrective actions and to deliver justice against the aforesaid discrimination, irregular action and unreasonable and unfair delay in processing his case for appointment to IFS and accordingly, he appealed for justice. The said representation was processed in file of the Forest Department and it was ordered that the same should be sent to the Ministry of Environment and Forests, Government of India. What action thereafter was taken on the said representation, the applicant is not aware of.

A copy of the said representation dated 25.8.93 as forwarded on 26.8.93 is annexed hereto as ANNEXURE-16A.

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4.13 That the applicant thereafter again made a representation on 21.10.93 to the Secretary to the Govt. of India, Ministry of Environment and Forests through proper channel claiming 1985 as the year of allotment as per the aforesaid DP & AR notification dated 18.1.88. Alongwith the said representation, he had given detailed particulars as to how his year of allotment comes to 1985.

A copy of the said representation dated 21.10.93 is annexed hereto as ANNEXURE-17.

4.14 That the applicant states that while he was cherishing in his mind that proper justice would be done in the matter of assigning year of allotment to him, he was totally taken aback to find the impugned order ~~dated~~ No. 17013/12/90-IFS.II dated 18.5.95. By the said order, the applicant has been assigned the 1988 as year of allotment. Ironically enough, he was shown to be an officer belonging to Manipur Wing of Manipur Tripura cadre, although the facts remain that he belongs to the Tripura cadre. This clearly depicts total non-application of mind on the part of the official respondents. In the said order, apart from other irregularities in not taking into consideration the grievances of the applicant even the officiating appointment of the applicant in the IFS cadre post which has been duly approved by the Central Government has also been ignored.

A copy of the said order dated 18.5.95 is annexed hereto as ANNEXURE-18.

4.15 That being aggrieved by the aforesaid notification dated 18.5.95, the applicant again made a representation to

Principal Chief Conservator of Forests, Tripura urging upon him to take up the matter with the Ministry of Environment and Forests, Government of India towards withdrawal of the said impugned order dated 18.5.95 and to restore justice to him. In the said representation, the applicant has also mentioned about the earlier representations dated 25.8.93 and 21.10.93. Alongwith the said representation he had once again annexed the calculation sheet regarding the year of allotment as 1985 as was annexed to Annexure-17.

A copy of the said representation dated 29.5.95 is annexed hereto as ANNEXURE-19.

4.16 That the applicant states that the applicant having not received any response and having realised that he ought to have made a representation directly to the Govt. of India through proper channel instead of asking the Principal Chief Conservator of Forests, Tripura to take up the matter with the competent authority made a representation to the competent authority i.e. to the Secretary to the Government of India, Ministry of Environment and Forests on 4.9.95. Alongwith the said representation he once again annexed detailed particulars regarding the computation for year of allotment for him as was done on the earlier occasions.

A copy of the said representation dated 4.9.95 is annexed hereto as ANNEXURE-20.

4.17 That the applicant states that the Government of Tripura vide letter No. F.3(23)/4/Estt-94/636 dated 21.9.95

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*[Handwritten signature]*

while forwarding the representation of the application to the Government of India urging upon for correct assignment of year of allotment to the applicant as 1985.

A copy of the said letter dated 21.9.95 is annexed hereto as ANNEXURE-21.

4.18 That the applicant has finally submitted his representation to the Secretary to the Government of India, Ministry of Environment and Forests on 8.4.96 making a reference to his earlier representation dated 4.9.95 for review of the impugned order dated 18.5.95. Alongwith the said letter dated 8.4.96, the applicant once again annexed the copy of the representation dated 4.9.95.

A copy of the said representation dated 8.4.96 is annexed hereto as ANNEXURE-22.

4.19 That the applicant states that instead of repeating the contentions made in the said representations, he craves leave of this Hon'ble Tribunal to refer to and rely upon the statements made in the said representations and the same may be treated as a part of the statements made in the instant application. In the representation vide Annexure-16A, the applicant clearly pointed out ~~xx~~ as to how the Appointment and Services Department, Government of Tripura could not process/initiate the case of the applicant for officiating appointment as the select list sent by the Government of India could not be located. While the Appointment and Services Department made frantic search and ultimately sent message to

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to the Ministry of Environment and Forests, Government of India for confirmation, the office of the Principal Chief Conservator of Forests held back for too long ~~years~~ the concerned select list resulting ultimately in unusual delay in processing the appointment of the applicant as explained above. Had this not happened due to the apathy of the official respondents, the applicant would have been entitled to higher seniority.

4.21. That the applicant states that from the aforesaid factual position, it is crystal clear that ~~xx~~ he is entitled to be assigned 1985 as the year of allotment. Even leaving aside the relaxation of regulation of seniority as envisaged under the Government of India's notification dated 18.1.88 he is entitled to be allotted 1986 as the year of allotment in view of the illegal appointment to the senior scale of IPS in respect of the officers vide Annexure-13 notification dated 4.2.91. The said notification dated 4.2.91 is required to be declared as illegal and null and void so far as the seniority of the applicant <sup>is corrected</sup>. On the other hand, prima facie the impugned order is not sustainable having not taken into consideration the officiating appointment of the applicant to the IFS cadre post which has been duly approved by the Central Government. While issuing the impugned notification, the authority having not taken into account the aforesaid factors including the representations made by the applicant, same is liable to be set aside and quashed, with a direction to the official respondents to assign 1985 as the year of allotment to the applicant.

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4.21 That the applicant states that he was made to continue in ex-cadre post in the pay scale of Rs. 3200-5600/- and was not given the benefit of officiation from 22.11.90 although in similar case, his junior officer was given such benefit with retrospective effect. There was delay towards processing the case of the applicant for promotion to IFS due to non-production of the select list by the Forest Department in time. Further it will be seen from Annexure-A notification dated 10.3.92 by which the applicant was appointed to IFS ~~alongwith same~~ that the same was issued in reference to UPSC letter No. 10/12/90-AIS dated 25.11.91. Thus even on that count also there was a delay towards issuance of notification dated 10.3.92. The applicant was further injured while granting undue benefits to the direct recruit officers vide Annexure-13 notification dated 4.2.91. There is no earthly reason as to why the applicant should not be given 1985 as the year of allotment by taking into account the relaxation of regulation of seniority adopted by the Govt. of India vide notification dated 18.1.88. The applicant is required to be restored with correct seniority which will be much beneficial ~~to him~~ for advancement of his service career including foreign assignment etc. The applicant is now left with only 11 years of service and if he is not given the correct year of allotment <sup>and</sup> ~~of~~ seniority, he will continue to suffer and such sufferings and loss will be irreparable.

4.22 That the applicant states that due to the unusual and uncalled for delay towards regularisation of the appointment of the applicant to the IFS cadre post has resulted

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serious loss to him and accordingly towards removal of the same he is entitled to be assigned with correct year of allotment. The representations so far submitted by the applicant having not been responded to and the statements made therein having not been denied by the Government of India same are deemed to be admitted by them and accordingly, the Hon'ble Tribunal may be pleased to grant the reliefs sought for by the applicant in the instant O.A. Further had the applicant been appointed pursuant to the proposal sent by the Government of Tripura vide their letter dated 15.3.91 as mentioned in Annexure-12 letter dated 24.9.91, the applicant would have been promoted to IFS in the early part of 1991 and thereby he had been entitled to the year of allotment as 1986. Thus in all rounds, he has been deprived of the legitimate rights which is required to be remedied by appropriate direction from this Hon'ble Tribunal. There was no earthly reason as to why a proposal sent by the Government of <sup>Tripura</sup> ~~India~~ could not be acted upon by the Government of India while the direct recruit officers have been granted undue favour with undue haste, in case of promotee officer the same authority have all along acted with leisurely and apathetic approach giving room to believe that malafide and colourable exercise are the foundation of such inaction on the part of the respondents. & This eventually culminated into the impugned order dated 18.5.95.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that prima facie the impugned order being the product of total non-application of mind, same is required to be set aside and quashed, and the applicant be assigned the correct seniority and year of allotment as 1985.

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5.2 For that all India Services viz. IPS and IAS having acted upon the Government of India's notification dated 18.1.88 towards computation of length of service being being appointed to IPS or IAS, there is no earthly reason as to why the same procedure could not be adopted in case of IFS officers.

5.3 For that granting of senior time scale of IFS to direct recruit officers of 1987 batch even before completion of mandatory requisite length of service, is grossly illegal and by such granting of senior scale, the available right of the applicant has been infringed and the same is required to be remedied by this Hon'ble Tribunal.

5.4 For that there is no earthly reason towards delaying the matter of officiating and regulation of appointment of the applicant to the IFS cadre post and having regard to such a facts situation, the applicant is required to be granted appropriate relief even by invoking the provisions of All India Services (Condition of Services - Residuary Matter) Rules, 1960.

5.5 For that there being instances of granting retrospective officiating appointment from the date of arising of the vacancy there is no earthly reason as to why the applicant should not be given due benefit of retrospective officiation pursuant to the notification dated 22.11.90 (Annexure-9).

9.6 For that the contentions made in the various representations made by the applicant having not been denied

by the competent authority same should be deemed to be admitted and accordingly the applicant is entitled to be granted with relief sought for in the instant application.

9.7 For that the case of other incumbents of which mention may be made of Shri Ashish Kr. Roy who was promoted to IFS in the year 1989 having been kept in abeyance in view of the Government of India's notification ~~dated~~ towards rationalisation of regulation of seniority vide notification dated 18.1.88 there is no earthly reason as to why the applicant should be assigned 1988 as the year of allotment without taking into account the said notification dated 18.1.88 but for which he would have been entitled to 1985 as the year of allotment.

9.8 For that the Government of Tripura having sent the proposal towards promotion of the applicant to IFS, the Government of India ought to have acted upon the said proposal instead of delaying the matter and thereby damaging the service prospect of the applicant.

9.9 For that the Government of India once having assigned the 1985 as the year of allotment to the applicant, they cannot resile back from such a position so as to assign 1988 as the year of allotment to the applicant by the impugned notification and accordingly, the said notification is required to be set aside and quashed with further direction to assign 1985 as the year of allotment, to the applicant.

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9.10 For that the applicant's name having been included in the 1989 select list and his name having been there till he was appointed to IFS, there was no earthly reason as to why he could not have been appointed to IFS immediately on arising of vacancy.

9.11 For that the applicant having been sent on deputation, the Government of Tripura ought to have passed necessary order declaring the said post as equivalent to IFS cadre post which would have benefited the applicant.

9.12 For that the officiating appointment of the applicant in the IFS cadre post having been approved by the Central Government, there is no ~~any~~ earthly reason as to why the benefit of such officiation should not be extended to the applicant and the impugned notification having clearly stated that none of the officers mentioned therein have officiated in the IFS cadre post depicts ~~non~~ total non-application of mind. Further the applicant having been shown to be belonging to Manipur Wing of the Manipur Tripura Cadre, same also depicts total non-application of mind of the official respondents.

9.13 For that in any view of the matter, the impugned notification dated 18.5.95 is ~~liable to be~~ not sustainable and liable to be set aside and quashed.

6. MAXIMUM DETAILS OF REMEDIES EXHAUSTED :

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

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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 before any other Court and/or authority and/or any other Bench of this Hon'ble Tribunal in respect of the subject matter of the instant application nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicant most respectfully prays that the Hon'ble Tribunal may be pleased to admit this application, call for the records of the case and upon hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs to the applicant :

- (i) To set aside and quash the impugned notification dated 18.5.95 (Annexure-18) so far as the applicant is concerned with direction to the official respondents to assign 1985 as the year of allotment to the applicant with all consequential benefits including correct assignment of seniority and promotion prospect etc. with retrospective effect.

The applicant has made the aforesaid prayer on the basis of the Government of India's notification dated 18.1.88 under which he is entitled to be granted 1985 as the year of allotment. Even if this position is left aside, the applicant is entitled to be granted

1986 or 1987 as the year of allotment having regard to the facts and circumstances of the case. This position will be explained at the time of hearing of the instant application.

~~xxx~~ Towards granting the above relief, the Annexure-13 notification dated 4.2.91 may be set aside and quashed to the extent which ~~xxx~~ effects the right of seniority and year of allotment of the applicant.

- (ii) To direct the respondents to assign correct seniority and year of allotment to the applicant in view of the gross irregularities as explained ~~ix~~ under the 'Facts of the Case' even by way of invoking the power of relaxation conferred by All India Services (Conditions of Services - Residuary Matters) Rules, 1960.
- (iii) Cost of the application
- (iv) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

The applicant does not pray for any interim order at this stage. However, he craves leave of this Hon'ble Tribunal to file such application as may be required to get appropriate interim order/direction during the pendency of the instant O.A.

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The application is filed through Advocate.

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

- (i) I.P.O. No. 8.09.349347      (ii) Date 26.11.96  
(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 Achintya Kumar Singha, son of Late Nilkanta Sinha, aged about 46 years, presently holding the post of Deputy Conservator of Forests, Planning and Development, Forest Headquarter, Nehru Complex, Agartala, Tripura, do hereby solemnly affirm and verify that the statements made in the instant application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 27/11/96 day of November 1996 at Guwahati.

*As*  
Achintya Kumar Singha

GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

NO. F. 2(13)-CA/89 :

Dated, Agartala, the 14 February, 1991.NOTIFICATION

In the interest of public service, the Governor has been pleased to appoint Shri Achinta Kumar Sinha, State Forest Service Officer, to officiate temporarily in the IFS Cadre post of Deputy Conservator of Forests (Research) under Rule 9(1) (b) of IFS 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* 14.2.91  
( B.R. Mukherjee )  
Under Secretary to the  
Government of Tripura.

Copy to:-

1. Chief Secretary, Tripura, Agartala.
2. Secretary to Governor, Rajbhavan, Tripura, Agartala.
3. Secretary to Chief Minister, Tripura, Agartala.
4. All Ministers/Ministers of State, Tripura, Agartala.
5. All Principal Secretaries/Commissioners/Secretaries, Tripura, Agartala.
6. Accountant General ( A&E ), Tripura, Agartala.
7. Finance Department (Establishment Branch), Civil Secretariat, Tripura, Agartala.
8. Principal Chief Conservator of Forests, Tripura, Agt.
9. Forest Department, Tripura, Agartala.
10. Deputy Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
11. All Departments/Heads of Departments.
12. Manager Government Press for publication.
13. Treasury Officer, Agartala, West Tripura.
14. Shri A.K. Sinha, Asstt. Conservator of Forests, Tripura now on deputation to Tripura Rehabilitation Plantation Corporation Ltd. Agartala.

*B.R. Mukherjee* 14.2.91  
( B.R. Mukherjee )  
Under Secretary to the  
Government of Tripura.

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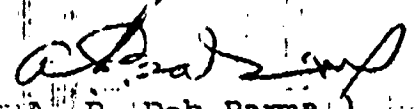
GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

NO.F.2(13)-GA/89 : Dated, Agartala, the 26 June, 1991.

NOTIFICATION

In continuation of this Department Notification of even number dated the 14th February, 1991, and in the interest of public service, the Governor has been pleased to extend the term of officiating appointment of Shri Achintya Kumar Sinha, State Forest Service Officer, in the IFS Cadre Post of Deputy Conservator of Forests (Research) under Rule 9(1) (b) of IFS Cadre Rules, 1966 for a further period of 3(three) months with effect from 15.05.91 to 16.08.91.

By order of the Governor,



(A. B. Deb Barma)  
Deputy Secretary to the  
Government of Tripura.

Copy to :- NO.F.2(13)-GA/89 : Dated, Agartala, the 26 June, 1991.

1. Chief Secretary, Tripura, Agartala.
2. Secretary to Governor, Tripura, Agartala.
3. Secretary to Chief Minister, Tripura, Agartala.
4. Offices of all Ministers/Ministers of State, Tripura, Agartala.
5. All Commissioners/Secretaries, Tripura, Agartala.
6. Accountant General (A & E), Tripura, Agartala.
7. Finance Department (Estty Branch), Civil Sectt., Tripura, Agartala.
8. Principal Chief Conservator of Forests, Tripura, Agartala.
9. Forest Department, Government of Tripura, Agartala.
10. Deputy Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
11. All Departments/heads of Departments, Tripura, Rules, 1966.
12. Treasury Officer, Agartala Treasury No. I & II, West Tripura.
13. Manager Govt. Press, Agartala for publication.
14. Shri A. K. Sinha, Asstt. Conservator of Forests, Tripura now on deputation to Tripura Rehabilitation Plantation Corporation Ltd., Agartala.

By order of the Governor,



(A. B. Deb Barma)  
Deputy Secretary to the  
Government of Tripura.

Copy to :- NO.F.2(13)-GA/89 : Dated, Agartala, the 26 June, 1991.

1. Chief Secretary, Tripura, Agartala.
2. Secretary to Governor, Tripura, Agartala.
3. Secretary to Chief Minister, Tripura, Agartala.
4. Offices of all Ministers/Ministers of State, Tripura, Agartala.
5. All Commissioners/Secretaries, Tripura, Agartala.
6. Accountant General (A & E), Tripura, Agartala.

(7) 27

GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

NO.F-2(13)-GA/89 :

Dated, Agartala, the 11th September, 1991.

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

In continuation of this Department Notification of even number dated the 26th June, 1991, and in the interest of public service, the Governor has been pleased to extend the term of officiating appointment of Shri Achintya Kumar Sinha, State Forest Service Officer, in the IFS Cadre Post of Deputy Conservator of Forests (Research) under Rule 9(1) (b) of IFS Cadre Rules, 1966 for a further period of 3(three) months with effect from 17-08-91 to 16-11-91.

By order of the Governor,

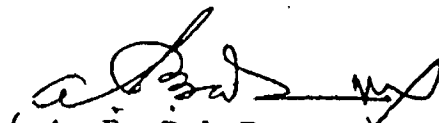


( A. B. Deb Barma )  
Deputy Secretary to the  
Government of Tripura.

Copy to :-

...

1. Chief Secretary, Tripura, Agartala.
2. Secretary to the Governor, Tripura, Rajbhavan, Agartala.
3. Secretary to the Chief Minister, Tripura, Agartala.
4. Offices of all Ministers/Ministers of State, Tripura, Agartala.
5. All Commissioners/Secretaries, Tripura, Agartala.
6. Accountant General (A & E), Tripura, Agartala.
7. Finance Department ( Estt. Branch), Civil Sectt., Tripura, Agt.
8. Principal Chief Conservator of Forests, Tripura, Agartala.
9. Forest Department, Government of Tripura, Agartala.
10. Deputy Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
11. Treasury Officer, Agartala Treasury No. I & II, West Tripura.
12. Shri A.K. Sinha, Asstt. Conservator of Forests, Tripura, now on deputation to Tripura Rehabilitation Plantation Corporation Ltd., Agartala.



( A. B. Deb Barma )  
Deputy Secretary to the  
Government of Tripura.

.....

sd/

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Attn  
Sd  
Br

(8) 28  
ANNEXURE-4

GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT  
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NO.F.2(13)-GA/89 : Dated, Agartala, the 10<sup>th</sup> December, 1991.

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

In continuation of this Department Notification of even number dated the 11th September, 1991, and in the interest of Public Service, the Governor has been pleased to extend the temporary officiation appointment of Shri Achintya Kumar Sinha, State Forest Service Officer, in the IFS Cadre post of Deputy Conservator of Forests (Research) under Rule 9(1) (b) of IFS Cadre Rules, 1966 for a further period of 3(three) months with effect from 17-11-1991 to 16-2-1992.

By order of the Governor,

*A. B. Deb Barma*  
( A. B. Deb Barma )

Deputy Secretary to the  
Government of Tripura.

Copy to :-

1. The Chief Secretary, Tripura, Agartala.
2. The Secretary to the Governor, Tripura, Agartala.
3. The Secretary to the Chief Minister, Tripura, Agartala.
4. Offices of all Ministers/Ministries of State, Tripura, Agartala.
5. All Commissioners/Secretaries, Tripura, Agartala.
6. The Accountant General (A & E), Tripura, Agartala.
7. Finance Department (Estt. Branch), Civil Secretariat, Agartala.
8. The Principal Chief Conservator of Forests, Tripura, Agartala.
9. The Forest Department, Government of Tripura, Agartala.
10. The Deputy Secretary to the Government of India, Ministry of Environment & Forests, Paryaran Bhavan, C.G.O. Complex, NEW DELHI.
11. All Departments/Heads of Departments, Tripura.
12. The Treasury Officer, Agartala Treasury No. I & II, West Tripura.
13. The Manager, Government Press, Agartala for publication.
14. Shri A. K. Sinha, Dy. Conservator of Forests, Tripura now on deputation to Tripura Rehabilitation Plantation Corporation Ltd. Tripura, Agartala.

*A. B. Deb Barma*  
( A. B. Deb Barma )

Deputy Secretary to the  
Government of Tripura.

\*\*\*\*\*

mc/ *Arun*



(9)  
2-  
38/

[ANNEXURE-5]

GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

NO.F.2(13)-GA/89 :

Dated, Agartala, the 12<sup>th</sup> March, 1992

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

In continuation of this Department Notification of even number dated the 10th December, 1991 and in the interest of public service, the Governor has been pleased to extend the term of officiating appointment of Shri Achintya Kumar Sinha, State Forest Service Officer, in the IFS Cadre Post of Deputy Conservator of Forests (Research) under Rule 9(1) (b) of IFS Cadre Rules, 1966 for a further period of 3(three) months with effect from 17-2-1992 to 16-5-1992.

By order of the Governor,

*A. B. Deb Barma*

(A. B. Deb Barma)  
Deputy Secretary to the  
Government of Tripura.

Copy to :-

1. Chief Secretary, Tripura, Agartala.
2. Secretary to the Governor, Tripura, Rajbhavan, Agartala.
3. Secretary to Chief Minister, Tripura, Agartala.
4. Offices of all Ministers, Tripura, Agartala.
5. All Commissioners/Secretaries, Tripura, Agartala.
6. Accountant General (A & E), Tripura, Agartala.
7. Finance Department (Estt. Branch), Civil Sectt., Tripura.
8. Principal Chief Conservator of Forests, Tripura, Agartala.
9. Forest Department, Tripura, Agartala.
10. Deputy Secretary to the Govt. of India, Ministry of Environment & Forests, Parayavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi.
11. All Departments/Heads of Departments, Tripura.
12. Treasury Officer, Agartala, West Tripura.
13. Manager, Govt. Press, Agartala for publication.
14. Shri A.K. Sinha, Deputy Conservator of Forests, Tripura now on deputation to Tripura Rehabilitation Plantation Corporation Ltd., Agartala.

*Resent Dm, Agartala*

*A. B. Deb Barma*  
(A. B. Deb Barma)  
Deputy Secretary to the  
Government of Tripura.

*SD/*

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(4) - 30-

GOVERNMENT OF TRIPURA  
OFFICE OF THE DIVISIONAL FOREST OFFICER  
RESEARCH DIVISION.  
AGARTALA

yb

ANNEXURE- 6

CERTIFICATE OF ASSUMPTION OF CHARGE.

Certified that I have assumed the charge of Deputy Conservator of Forests(Research) on the fore noon of February 15, 1991 in pursuance of the Notification No. F.2(13)-GA/89 dated February 14, 1991 of the Appointment and Services Department, Government of Tripura.

Sd/- 15/2/91  
( Achintya Kumar Sinha )  
Divisional Forest Officer  
Research Division, Agartala

No. F. 4 -3/FRD-91/229-30

Dated 15-2-91.

Copy to :-

1. The Chief Secretary, Tripura, Agartala.
2. The Secretary, Appointment & Services Deptt. Government of Tripura.
3. The Principal Chief Secretary, Forest Deptt., Tripura, Agartala.
4. The Deputy Secretary to the Government of India, Ministry of Environment & Paryavaran Bhawan, XXX C.G.O Complex, New Delhi.
5. Accountant General( A&E) Tripura, Agartala.
6. The Finance Department(Establishment Branch), Civil Secretariat, Tripura, Agartala,
7. The Principal Chief Conservator of Forests,(T),
8. The Conservator of Forests, Western, Circle, Agt.
9. The Treasury Officer, Agartala, West Tripura.
10. Shri Achintya Kumar Sinha, Divisional Forest Officer, Forest Research Division, Agartala.

Sd/- 15/2/91  
Divisional Forest Officer  
Research Division, Agartala.

D.No - 245/For.(For)/91

GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

No. F.2(13)-GA/89 :

Dated, Agartala, the 28th August,  
1992.MEMORANDUM

Subject :- Indian Forest Service - Manipur-Tripura joint  
Cadre : officiation of non-cadre officer in cadre  
posts - approval thereof - reg.

The undersigned is directed to state that Shri A.K. Sinha, State Forest Service officer was appointed to the Indian Forest Service cadre post of Deputy Conservator of Forests, Tripura, on officiating basis under Rule 9(1)(b) of the I.F.S. cadre (Rule-1966), with effect from 15/02/1991 to 9/3/92.

Government of India, Ministry of Environment and Forests, Paryavaran Bhawan, New Delhi has conveyed ex-post-facto approval of the Central Government to the above officiating appointment to Shri Sinha in a cadre post included in the Manipur-Tripura joint cadre of the Indian Forest Service vide letter No. 17020/12/90/IFS-II dated 2nd June, 1992.

Government of India has already appointed Shri Sinha to the I.F.S on provation and to allocate him to the MT joint cadre of I.F.S with effect from 10/03/92.

I am, therefore, to send herewith the Govt. of India's letter dated 2nd June, 1992 and Notification dated 10/03/1992 for information and necessary action.

Sd/-  
( A.B. Deb Barma )  
Dy. Secretary to the Govt.  
of Tripura.

To

Finance Department, (Estt. Branch),  
Civil Secretariat, Tripura, Agartala.

Copy to :-

1. The Principal Chief Conservator of Forests, Tripura
2. Forests Department, Tripur , Agartala.

( Sd/- )  
( A.B. Deb Barma )  
Dy. Secretary to the  
Government of Tripura.

Amr  
Amr

(TO BE PUBLISHED IN PART I SECTION 2 OF THE GAZETTE OF INDIA)

No.17013/12/90-IFS-II  
Government of India  
Ministry of Environment & Forests  
\*\*\*

Paryavaran Bhavan,  
CGO Complex, Lodi Road,  
New Delhi-110003.

Dated: 10th MARCH, 1992.

### NOTIFICATION

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, the under-mentioned 2(TWO) officers of State Forest Service of Tripura to the Indian Forest Service on probation, and to allocate them to the Manipur-Tripura joint cadre of the Indian Forest Service under sub-rule (1) of the rule 5 of the Indian Forest Service(Cadre) Rules, 1966. viz

S.No.	Name of the Officer	Date of Birth.
01.	S/Sh. A. K. SINHA	19.06.1950
02.	Sh. B. M. DEV	07.05.1936

No. F 2(3) - 74/ESD/For/11483-84  
dt 2.4.92

( K. S. ACHAR )

Under Secretary to the Govt. of India

To

The Manager  
Govt. of India Press,  
Faridabad(Haryana).

Principal Chief Conservator of Forests  
TRIPURA.

Copy to :

1. The Chief Secretary, Government of Tripura, Agartala.
2. The Secretary, Appointment Department, Govt. of Tripura, Agartala.
3. The Principal Chief Conservator of Forests, Tripura, Agartala.
4. The Accountant General, Tripura, Agartala.
5. Officer concerned through PCCF, Agartala,
6. The Secretary, Union Public Service Commission, Dholpur House, New Delhi with reference to their letter No. 10/12/90- AIS dated 25th Nov. 1991.
7. Guard File/Spere copies.

( K. S. ACHAR )

Under Secretary to the Govt. of India

Btl  
1446  
2/4/92

Attn  
S. B.

TO BE PUBLISHED IN THE GAZETTE OF INDIA PART II SECTION 3(i)

No.16016/6/90-AIS(II)-A

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Personnel & Training

New Delhi, the 22-11-90

NOTIFICATION

GSR No.....In exercise of the powers conferred by sub-section (i) of Section 3 of the All India Services Act, 1951 (61 of 1951), read with rule 4 of the Indian Forest Service (Cadre) Rules, 1966, the Central Government, in consultation with the Governments of Manipur and Tripura, hereby makes following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) REgulations, 1966, namely:-

1. (1) These regulations may be called the Indian Forest Service (Fixation of Cadre Strength) Fourth Amendment Regulations, 1990.
- (2) They shall come into force on the date of their publication in the official Gazette.
2. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength), REgulations, 1966, for the heading "Manipur-Tripura" and the entries occurring thereunder the following shall be substituted, namely:-

MANIPUR - TRIPURA

1. <u>Senior Duty Posts in the State Government (Manipur)</u>	23
Principal Chief Conservator of Forests	1
Chief Conservator of Forests (Wildlife)	1
Chief Conservator of Forests (General)	1
Conservator of Forests	3
Deputy Conservator of Forests	7
Deputy Conservator of Forests (REsources Survey Division)	1
Deputy Conservator of Forests (Wildlife)	1
Deputy Conservator of Forests (Working Plan)	2
Deputy Conservator of Forests (Social Forestry)	1
Deputy Conservator of Forests (Soil Conservation)	2
Deputy Conservator of Forests (Headquarters)	1
Deputy Conservator of Forests (Research, Silviculture & Training)	1
Deputy Conservator of Forests (Rubber)	1

...2/-

78/H/SA(A&S)/90  
5-12-90

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<u>Senior Duty posts under the State Government (Tripura)</u>		23
Principal Chief Conservator of Forests		1
Chief Conservator of Forests		2
Conservator of Forests		3
Deputy Conservator of Forests		9
Deputy Conservator of Forests (Wildlife)		1
Deputy Conservator of Forests (Working Plan)		2
Deputy Conservator of Forests (Headquarters)		1
Deputy Conservator of Forests (Research)		1
Deputy Conservator of Forests (Training)		1
Deputy Conservator of Forests (Planning & Development)		1
Deputy Conservator of Forests (Planning & Social forestry)		1
Total senior duty posts of Manipur & Tripura Cadre		46
2. Central Deputation Reserve @ 20% of 1 above		9
3. Posts to be filled by promotion in accordance with rule 8 of the Indian Forests Service (Recruitment) Rules, 1966		18
4. Posts to be filled by direct recruitment		37
5. Deputation Reserve @ 25% of 1 above		11
6. Junior Posts, Leave Reserve & Training Reserve		14
Sc/ & (1) &		
Direct Recruitment Posts		62
Promotion Posts		18
Total Authorised Strength		80

41576

(CHANDER PRAKASH)  
DESK OFFICER



ANNEXURE- 11

GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

NO.F.2(18)-GA/90

Dated, Agartala, the 8th June,  
1992.NOTIFICATION

In public interest, the Governor has been pleased to appoint Shri Jibanlal Datta, State Forest Service Officer, to officiate temporarily in the I.F.S. Cadre post of Deputy Conservator of Forests. (Working Plan) ) under Rule 9(1) (b) of I.F.S. Cadre Rules 1966 for a period of 3(three) months with effect from 11th May, 1992.

By order of the Governor,

( A.B. Deb Barma )

Deputy Secretary to the  
Government of Tripura.

Copy to :-

1. Chief Secretary, Tripura, Agartala.
2. Secretary to Governor, Tripura, Agartala.
3. Secretary to Chief Minister, Tripura, Agartala.
4. Offices of all Ministers/Ministers of State, Tripura.
5. All Commissioners/Secretaries, Govt. of Tripura.
6. Accountant General (A&E), Tripura, Agartala.
7. Finance Department (Establishment Branch)
8. Principal Chief Conservator of Forest, Tripura.
9. Forest Department, Govt. of Tripura, Agartala.
10. Deputy Secretary to the Government of India, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, New Delhi.
11. All Departments/Heads of Departments, Tripura.
12. Manager, Govt. Press for publication
13. Treasury Officer, Agartala, West Tripura.
14. Shri Jibanlal Datta, Asstt. Conservator of Forests, Office of the Principal Conservator of Forests, Tripura, Agartala.

OFFICE OF THE PRINCIPAL  
CONSERVATOR OF FORESTS,  
TRIPURA.

SECTION

COLLECTION No.

DATE

22.20

11-6-92

( A.B. Deb Barma )  
Deputy Secretary to the  
Government of Tripura.

12

- 36 -

12

NO.F.2(13)-GA/89  
GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

Dated, Agartala, the 27/11 Sept., 1991.

To  
The Deputy Secretary to the Govt. of India,  
Ministry of Environment & Forests,  
Paryavaran Bhavan, CGO Complex,  
Lodi Road,  
New Delhi - 110003.

Subject :- IFS (Cadre) Rules 1966 non-cadre Officers holding  
cadre post under Rule 9 - Proposal for approval of.

Sir,

I am directed to state that Shri A.K.Sinha, State-Forest Service Officer have been appointed to officiate temporarily in the IFS cadre post of Deputy Conservator of Forests, Tripura for a period of 3(three) months w.e.f. the date of assumption of charge (copy of notification is enclosed). Accordingly Shri Sinha has assumed the charge on 15.2.91.

2. As no cadre officer is available for appointment to the vacant post of Deputy Conservator of Forests (cadre - post) it has become imperative to continue the officiating appointment of Shri Sinha in the IFS cadre beyond 3(three) months. Shri Sinha is a select officer. The State Govt. has sent proposal to the Govt. of India, Ministry of Environment and Forests, New Delhi vide letter No.F.2(13)-GA/89 dated the 15th March, 1991 for consideration his appointment to the IFS as per IFS (appointment by promotion) Regulation 1966. But this Department has not yet received appointment notification in respect of Shri A.K.Sinha, Select list Officer (Sl.No.2) to the IFS MT cadre.

3. The period of 3(three) months of his officiating appointment as Deputy Conservator of Forests has already expired on 14.5.91. But due to non-availability of cadre officer and in the interest of public service his officiating appointment beyond the period of 3(three) months has been extended upto 16.11.91. (Copy of notification in this respect is enclosed).

I am, therefore, to request you kindly to communicate the approval of the Govt. of India for the appointment of Shri A.K.Sinha (Select List officer) in the cadre post of Deputy Conservator of Forests for a period

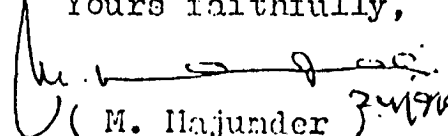
Attnd  
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exceeding 3(three) months under Rule 9 of the IFS (cadre) Rules 1966 or till the post is filled up by cadre officers. Further it is requested that the necessary order appointing Shri Sinha to IFS(MT) cadre Tripura part may kindly be issued as requested vide this Government letter of even number dated the 15th March, 1991.

Yours faithfully,

  
( M. Majumder 3.4.1991 )  
Joint Secretary to the  
Government of Tripura.





GOVERNMENT OF TRIPURA  
APPOINTMENT & SERVICES DEPARTMENT

Dated, Agartala, the 4th February, 1991.

N O T I F C A T I O N

The Governor has been pleased to appoint the following IFS Officers of 1987 batch of Tripura Wing of Joint Manipur-Tripura Cadre on promotion to the IFS Senior Time Scale of Rs.3000-4500/- plus usual allowances as admissible with effect from 1st February, 1991 :

- a) Shri A.C. Srivastava, IFS (MT:87)
- b) Shri Jagdish Singh, IFS (MT:87)
- c) Shri Ngulkhohao, IFS (MT:87)

2. On appointment to the Senior Time Scale of IFS, they are posted as Deputy Conservator of Forests in the place noted against each below :-

- a) Shri A.C. Srivastava, IFS (MT) - Deputy Conservator of Forest, Planning & Social Forestry against the existing vacancy.
- b) Shri Jagdish Singh, IFS(MT) - Deputy Conservator of Forests, Gumti Forest Division.
- c) Shri Ngulkhohao, IFS(MT) - Deputy Conservator of Forests, Wild Life.

By order of the Governor,

( R. K. Gon )

Deputy Secretary to the  
Government of Tripura.

Copy to :-

1. Chief Secretary, Tripura, Agartala.
2. Chief Secretary, Manipur, IMPHAL.

Contd.....02....

- : 2 : -

2. Secretary to the Governor, Tripura, Agartala.
4. Secretary to the Chief Minister, Tripura, Agartala.
5. Offices of all Ministers/Ministers of State, Tripura, Agartala.
6. All Principal Secretaries/Commissioners/Secretaries, Tripura.
7. Deputy Secretary to the Government of India, Department of Personnel & Training, New Delhi.
8. Deputy Secretary to the Government of India, Ministry of Environment & Forests, New Delhi.
9. Principal Chief Conservator of Forests, Tripura, Agartala.
10. Chief Conservator of Forests, Tripura, Agartala.
11. Forest Department, Tripura, Agartala.
12. Accountant General (A & E), Tripura, Agartala.
13. Finance Department (Establishment Branch), Civil Secretariat, Tripura, Agartala.
14. Treasury Officer, Agartala, West Tripura.
15. Officers Concerned.
16. Personal files.

( R. K. Gon )

- Deputy Secretary to the Government of Tripura.

.....

NO. F. 3(62)/For/Estt-53/ 927-30  
Government of Tripura

Office of the Principal Chief Conservator of Forests  
Tripura : Agartala

Dated, Kanchanpur, the...../1991

ad/ Copy to :-

\*\*\*\*\*

- 1). The Finance Officer & Joint Secretary to the Govt. of Tripura (Finance Department (Establishment Branch), Civil Secretariat, Agartala.
- 2). Sri A.C. Chivastava, Dy. Secy, Office of P.F.O., Northern Division, Kailashnagar.
- 3). Sri Jagdish Singh, Dy. Secy, Office of P.F.O., Kailashnagar.
- 4). Sri Kankishan, Dy. Secy, Office of P.F.O., Tripura

Principal Chief Conservator of Forests  
Tripura: Agartala.

etc

Attn  
S. S. S.



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

F.No.18012/12/89-IFS-II  
Government of India  
Ministry of Environment and Forests

14  
Baryavarán Bhavan,  
GGO Complex, Lodhi Road,  
New Delhi-110 003.

dated the 25th september, 1995.

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

In exercise of the powers conferred by rule 4 of the Indian Forest Service (Probation) Rules, 1968, the president is pleased to confirm the following directly recruited officers of 1987 batch, borne on the Tripura wing of the Joint Cadre of Manipur-Tripura, in the Indian Forest Service with effect from the dates indicated against their names, viz :

Sl.No.	Name of the officer	Date of Appointment in the IFS	Date of Confirmation.
	S/Shri		
1.	A C Srivastava	06-07-1987	06-07-1990
2.	Jagdish Singh	06-07-1987	06-07-1990
3.	Ngulkhohao	28-07-1987	28-07-1990

Sd/- R.Sanehwal  
Under secretary to the Govt. of  
INDIA.

To  
The Manager,  
Govt. of India Press,  
Faridabad (Haryana)-(with a copy of Hindi version)  
Copy to :-

1. ....
2. The principal Chief Conservator of Forests, Govt. of Tripura, Agartala.
- 4 to 7 .....

-----  
No.F.2(18)/For/Estt.-81/26801-804  
Government of Tripura  
Office of the Principal Chief Conservator of Forests  
Tripura : : Agartala.

Dated, The 17th October, 1995.

Copy to :-

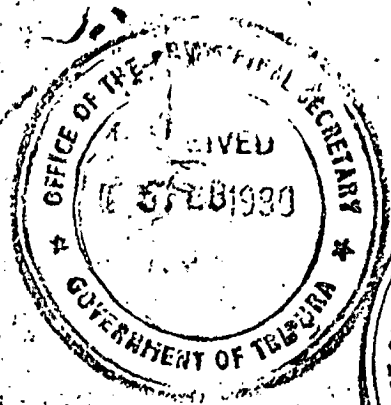
1. Shri A.C.Srivastava, IFS, Deputy Conservator of Forest, Forest Research Institute Dehra Dun, P.O.New Forest(UP).
2. Shri Jagdish Singh, IFS, DCF, DFO, Udaipur.
3. Personal file of Shri A.C.Srivastava, IFS/Shri Jagdish Singh, IFS/ Shri Ngulkhohao, IFS.

Sd/- R.Lushai, 16-10-95  
For Principal Chief Conservator of Forests,  
Tripura, Agartala.

...

Attended  
Adm

BE PUBLISHED IN PART I SECTION " OF THE GAZETTE OF INDIA)



No.17013/12/89-IFS-II  
Government of India  
Ministry of Environment & Forests



Paryavaran Bhawan.  
C.G.O. Complex, Phase-II  
Lodhi Road, New Delhi-110003.

Dated 16th December, 1989

**N O T I F I C A T I O N**

In exercise of the powers conferred by Sub-rule (1) of rule of the Indian Forest Service (Recruitment) Rules, 1966 read with sub-rule (1) of regulations 9 of the Indian Forest Service (Appointment by promotion) Regulations, 1966, the President is pleased to appoint with immediate effect, Shri Ashish Kumar Roy (Date of Birth : 04.05.1950), an officer of the State Forest service of Tripura to the Indian Forest Service on probation, against an existing vacancy and to allocate him to the Manipur-Tripura cadre of the Indian Forest Service under sub-rule (1) of rule 5 of the Indian Forest services (Cadre) Rules, 1966.

Pl. give my  
consent to  
Sh. Roy  
J  
57  
Indial

Sd/-  
( K. S. ACHAR )  
DESK OFFICER

To  
The Manager,  
Govt. of India Press,  
Faridabad.

Copy to :-

1. The Secretary, Union Public Service Commission, Dhoolpur House, New Delhi.
2. The Chief Secretary, Government of Tripura, Agartala.
3. The Secretary, Appointment Department, Govt. of Tripura, Agartala.
4. The Principal Chief Conservator of Forests, Tripura, Agartala.
5. Officer concerned through Pr.CCF, Tripura, Agartala.
6. The Accountant General, Tripura, Agartala.
7. Spare copies/Guard File.

Ente  
634  
8/2/90

Attan  
J  
R

Sd/-  
( K. S. ACHAR )

P.T.O.

NO. F. 2(34)-CA/88

Dated, Agartala, the 5 January, 1988.

Copy forwarded ~~for~~ information and necessar action to :-

1) The Principal Chief Conservator of Forests, Tripura, Agartala.

GOVERNMENT OF INDIA  
APPOINTMENT AND SERVICES DEPARTMENT

\*\*\*

NO. F. 2(34)-CA/88

Dated, Agartala, the 5 January, 1988.

Copy forwarded ~~for~~ information and necessar action to :-

- 1) The Principal Chief Conservator of Forests, Tripura, Agartala.
- ✓ 2) The Forest Department Tripura, Agartala.
- 3) The Accountant General (A & E) Tripura, Agartala.
- 4) The Finance Department (Gazetted Officers Establishment Branch), Civil Secretariat, Tripura, Agartala.
- 5) Shri Ashish Kr. Ray, Dy. Conservator of Forests, Tripura  
C/O Principal Chief Conservator of Forests, Tripura, Agt.

( M. Dhar )  
Deputy Secretary to the  
Government of Tripura.

( M. Dhar )

Deputy Secretary to the  
Government of Tripura.

Date 04.10.93

The Secretary to the Govt. of Tripura  
Department of Forests,  
Agartala, Tripura

Sub:- APPOINTMENT OF IFS OFFICERS ON DEPUTATION TO ICFRE, DEHRADUN.

Sir,


The Director General Indian Council of forestry Research & Education is pleased to extend an offer of appointment to the following officers on deputation for a period of four years under terms and conditions as available to IFS Officers in this Council at the level of Dy. Conservator of Forest in the pay scale of Rs. 3000-4500 p.m. at the Institutes indicated against their names with special pay @ Rs. 400/- p.m. only.

1. Shri A.K. Sinha, IFS (MT:85) - IRMDFR, Jorhat
2. Shri A. Rastogi, IFS (MT:86) - TFRJ, Jabalpur

2. The cadre clearance in respect of these IFS officers have already been received vide Ministry of Environment & Forests Letter No. 12026/1/93-IFS-I dated 8th Sept., 1993 ( copy enclosed for ready reference.)

The State Govt. is requested to convey their consent for deputation of these above officers under Central/State deputation reserve quota with instructions to the officer to report immediately to the Director of the Institutes mentioned against their names.

Yours faithfully

  
(S.C. Deorani) 04.10.93  
Secretary,  
Indian Council of Forestry  
Research & Education

Copy to :-

1. The Secretary to the Govt. of India , Ministry of Environment & Forests, Paraya varan Bhawan ,CGO Complex , Lodhi Road, New Delhi.
  2. The Principal Chief Conservator of Forests, Tripura, Agartala.
  3. The Director, Tropical Forest Research Institute, Jabalpur.
  4. The Director, Institute of Rain & Moist Deciduous Forest Research, Na Ali, Jorhat.
  5. Shri A.K. Sinha, IFS (MT: 85), DFO Research, Shibnagar Agartala, Tripura - 799004.
  6. Shri A. Rastogi, IFS (MT:86), DCF, C/O PCCF Tripura, Kunjban, Agartala
- Guard file/Personal file.





NO. 2-1/AKS/FRD-'92/ 2060-61

DATE 26/8/93

To  
The Principal Chief Conservator of Forests  
TRIPURA : AGARTALA

Sub :- Protection of seniority.

Sir,

I enclose herewith a representation from AK Sinha, IFS addressed to the Secretary, Govt. of India, Ministry of Environment & Forests, New Delhi in the matter of fixation of ~~the~~ his seniority in the IFS. I also enclosures with 2 copies of the representation marked to the Chief Secretary, Govt. of Tripura and the Secretary, Appointment & Services Department, Govt. of Tripura with request to kindly send them from your offices.

Yours faithfully,

( AK Sinha )

DIVISIONAL FOREST OFFICER

Enclo : 3 copies of  
representation(6 sheets)

cc :

M/C

NO.F.1.81/AKS/ESTT/CFWC-93/1922 dated 27/8/93.

Forwarded to the Principal Chief Conservator of Forests, Tripura for favour of doing the needful.

Sd/- 27/8/93

Conservator of Forests,  
Western Circle,  
Agartala.

*[Handwritten signature]*

Contd

To  
The Secretary, Govt. of India,  
Ministry of Environment & Forests (IFS-Section),  
4th Floor, CGO Complex, Lodi Road,  
New Delhi. Pin-110003

Through proper channel.

Subject: Protection of seniority.

Sir,

I joined the State Forest Service in Tripura on 10/03/1976 after completing 2 years' Diploma course in the Indian Forest College, Dohra Dun. I was appointed to the Indian Forest Service by the Govt. of India, Ministry of Environment and Forests vide notification No. 17013/12/90-IFS-II, dt: 10/03/'92. Prior to that I officiated in the cadre post of Deputy Conservator of Forests, Research with effect from 15-02-'91 as per notification no. F.2(13)-GA/89 dated 14-02-'91 of the Appointments & Services Deptt., Govt. of Tripura. I would like to lay before you that grave injustice was done to me in this regard as described in the following paragraphs.

2. Unusual delay in officiating appointment.

A clear vacancy arose in the promotion quota cadre in the cadre with effect from 22nd Nov., 1990 as per IFS (Fixation of Cadre Strength) Fourth Amendment Regulations, 1990 issued vide notification no. 15016/6/90-AIS(II)-A dated 22-11-'90 of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, Govt. of India. Although my name was on the top of the select list, I was made to continue holding an ex-cadre post in the pay scale of Rs. 3200 - 5600 in Tripura Rehabilitation Corporation Limited (a Govt. of Tripura Undertaking) and not given the benefit of officiating appointment with effect from 22nd Nov, 1990 in a cadre post. In a similar case, when a vacancy arose due to the retirement of Sri RM Datta (PR-1970), Sri SL Datta from the Tripura Forest Service, was given officiating appointment in a cadre post with effect from the date when the vacancy actually arose i.e. 11-05-'92. There was therefore a clear case of discrimination against me on this count.

3. Appointment of IFS (RM-1987) batch to senior time scale

Before date,

Three officers from 1987 batch of the IFS in Tripura were appointed to the senior time scale of pay u.o.P. Feb. 7, 1990 (barely a week before my officiating appointment) five months

Attn  
& me

Contd...P/2

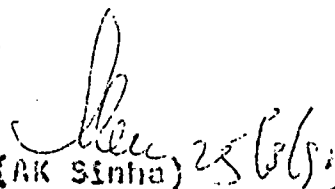
before they had completed the stipulated four years of service. This action of the Government, coupled with the un-reasonable & unusual delay in my officiating appointment were both unfair to me and may, in case appropriate emendments are not made, have the effect of lowering my seniority by one year.

4. Select list not made available to the Appointment and Services Deptt., Govt. of Tripura in time.

The Appointment & Services Department, Govt. of Tripura could not process/initiate my case for officiating appointment as the select list sent by the Govt. of India could not be located. While the Appointment & Services Deptt. made frantic searches and ultimately sent messages to the Ministry of Environment and Forests, Govt. of India for confirmation, the office of the Principal Chief Conservator of Forests held back for too long the concerned select list resulting ultimately in the un-usual delay in the processing of my case for officiating appointment to an extent that it should, if appropriate emendments are not made, adversely affect my seniority.

5. I would appeal for justice for protection of my seniority which is likely to be affected because of discrimination, irregular action, un-reasonable, & un-usual and unfair delay in processing my case for appointment to the IFS.

Yours faithfully,

  
(AK Sinha) 25/6/83

IFS (MT)

Dy. Conservator of Forests.

cc :

1. The Chief Secretary, Govt. of Tripura .
2. Secretary, Appointment & Services Deptt., Govt. of Tripura.



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A.K. Sinha appointed  
in the Indian Forest Service (NT) on promotion.

1. Date of appointment in the State Forest Service after 2 years Diploma Course in Forestry : 10-03-75
2. Date from which the Officer officiated in the Cadre post of Dy. Conservator of Forests, Research as per Notification No. F. 2(13)-GA/89 dated 14-02-91 of the Appointment & Service Deptt., Govt. of Tripura. Appointment order issued by the Government & Forests vide Notification No. 17013/12/90-IFS-II dt: 10-3-'92 : 15-02-93
3. Length of Qualifying service rendered by the officers before appointment in the Cadre post of I.F.S. 16 years from the date of appointment after training i.e. 10-03-75, and 2 years training in FRI and Colleges- Indian Forest College, Dehradun ( as per DP and AR Notification No. 11039-2-76-AIS (I)-B dt:03-10-9977 effective from 20-4-1976), total : 18 years.
4. Weightage towards fixation of the year of allotment as per DP & AR Notification No., 14014/17/86-AIS(1) GSR 42(E) dt: 18-01-88.
  - (a). For the eligible service rendered up to 12 years : 4 years.
  - (b) For the balance (18-12) 6 years : 2 years

Total : 6 years
5. Assignment of year of allotment : 1985.  
1991-6

Amu  
Aca

GOVERNMENT OF TRIPURA  
O/OTHE DIVISIONAL FOREST OFFICER  
RESEARCH DIVISION  
AGARTALA

F.2-1/AKS, FRD-'93/2546-47 DATE : 21/10/93

To  
The Principal Chief Conservator of Forests,  
Tripura, Agartala

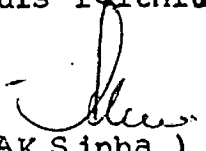
Through the Conservator of Forests,  
Western Circle.

Sub :- Assignment of year of allotment of AK Sinha appointed  
in the IFS (MT) on promotion.

Sir,

I enclose herewith an application from Sri AK Sinha,  
IFS (MT), now DFO, Research, addressed to the Secretary, Govt.  
of India, Ministry of Environment & Forests, New Delhi in the  
matter of assignment of his year of allotment in the IFS (MT).  
We would request for forwarding the application at an early  
date.

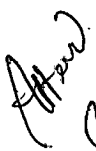

Yours faithfully,

  
(AK Sinha)  
Divisional Forest Officer

Enclo : As stated.

cc :

The Conservator of Forests, Western Circle, Agartala

19-A

-49-

ANNEXURE-17

Contd

To  
The Secretary, Govt. of India,  
Ministry of Environment & Forests (IFS-Section),  
8th Floor, CGO Complex, Lodi Road,  
New Delhi- 110 003.

Through proper channel.

Sub :- Assignment of year of allotment of AK Sinha  
appointed in the IFS (MT) on promotion.

Sir,

I joined the State Forest Service in Tripura on 10/03/1975 after completing 2 years' Diploma course in the Indian Forest College, Dehra Dun. I was appointed to the Indian Forest Service by the Govt. of India, Ministry of Environment and Forests vide notification No. 17013/12/90-IFS-II dated 10/03/'92. Prior to that I officiated in the cadre post of Deputy Conservator of Forests, Research with effect from 15-02-'91 as per notification No. F.2(13)-GA/89 dated 14-02-'91 of the Appointment & Services Deptt., Govt. of Tripura. I have not received Govt. order fixing my year of allotment in the Indian Forest Service (MT) so far.

Considering my length of qualifying service before appointment in the cadre post of IFS, my year of allotment should be 1985. In this regard a statement showing the calculation for fixing the year of allotment is enclosed. I would request for issue of formal order in this regard at an early date.

Yours faithfully,

Enclos: 1(only) sheet.

(AK Sinha)

Dy. Conservator of Forests.

cc :

Commissioner, Appointment & Services Deptt., Govt. of Tripura.

*Handwritten signature and initials*

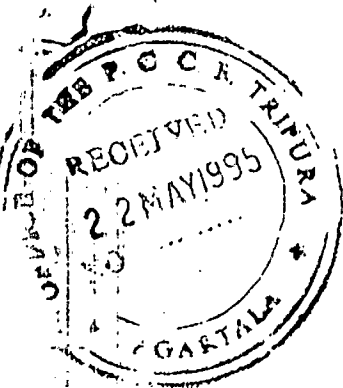
Assignment of year of allotment of A.K. Sinha appointed  
in the Indian Forest Service (MT) on promotion.

Central

1. Date of appointment in the State  
Forest Service after 2 years Diploma  
Course in Forestry : 10-03-75
2. Date from which the Officer officiated  
in the Cadre post of Dy. Conservator of  
Forests, Research as per Notification No.  
F. 2(13)-GA/89 dated 14-02-91 of the  
Appointment & Service Deptt., Govt. of  
Tripura. Appointment order issued by the  
Government & Forests vide Notification  
No. 17013/12/90-IFS-II dt: 10-3-'92 : 15-02-93
3. Length of Qualifying service rendered  
by the officers before appointment in  
the Cadre post of I.F.S. 16 years from  
the date of appointment after training  
i.e. 10-03-75, and 2 years training in  
FRI and Colleges- Indian Forest College,  
DehraDun ( as per DP and AR Notification  
No. 11039-2-76-AIS (I)-B dt: 03-10-9977  
effective from 20-4-1976), total : 18 years.
4. Weightage towards fixation of the year  
of allotment as per DP & AR Notification  
No., 14014/17/86-AIS(1) GSR 42(E)  
dt: 18-01-88.
  - (a). For the eligible service  
rendered up to 12 years : 4 years.
  - (b) For the balance (18-12)  
6 years : 2 years

Total : 6 years
5. Assignment of year of allotment  
1991-6 : 1985.

*[Handwritten signature]*  
*[Handwritten initials]*



Paryavaran Bhavan,  
CGO Complex, Lodhi Road,  
New Delhi-110003

Dated the 18th May, 1995

O R D E R

The year of allotment and seniority of the undermentioned promotee officers borne on the Manipur-Tripura joint cadre of the Indian Forest Service is required to be determined in terms of the provisions of Rule 3(2)(a), 3(2)(c) and 4(4) of the Indian Forest Service (Regulation of Seniority) Rules, 1968. Their respective dates of promotion to the Indian Forest Service are given below:

S.No.	Name of the officer	Date of appointment to the IFS
1.	Sh. A.K. Sinha (Manipur)	10-3-92
2.	Sh. B.M. Dev (Manipur)	10-3-92
3.	Sh. Kh. Kalachand Singh (Manipur)	1.6.92
4.	Sh. K. Prem Kumar Singh (Manipur)	1.6.92
5.	Sh. Jibanlal Datta (Tripura)	17.8.92
6.	Sh. K. Jagdore Singh (Manipur)	17.3.93

2. None of the six officers has officiated continuously in senior posts for the purposes of Rule 2(g), read with Rule 3(2)(c) of the Indian Forest Service (Regulation of Seniority) Rules, 1968 prior to the date of his promotion to the Indian Forest Service in accordance with the provisions of Rule 9 of the Indian Forest Service (Cadre) Rules, 1966. The year of allotment, therefore, is to be determined to be the same as of the or most amongst the directly recruited officers in the Manipur-Tripura joint cadre of the Indian Forest Service who have been continuously officiating in senior posts, on the date of promotion of these officers.

3. In terms of the provisions of the Indian Forest Service (Regulation of Seniority) Rules, 1968 referred to in para 1 above, their year of allotment and their placement is determined as under:-

S.No.	Name of the officer	Year of allotment	Placement
1.	Sh. A.K. Sinha	1988	Below Sh. R. Das (RR. 1988)

cont...2...

*Handwritten signature/initials*



1.	2.	3.	4.
2.	Shri B.M.Dev	1988	Below Sh.A.K.Sinha
3.	Shri Kh.Kalachand Singh	1988	-do- and below Sh. B.M.Dev
4.	Shri K.Prem Kumar Singh	1988	-do- and below Sh.Kh.Kalachand Singh
5.	Jibanlal Datta	1988	-do- and below Sh.K.Prem Kumar Singh
6.	K.Jagdishore Singh	1988	-do- and below Sh. Jibanlal Datta

Note: The inter-se seniority of the officers who have been appointed to the Indian Forest Service on the basis of the IFS E.O. -1983 and onwards has not yet been fixed.

*R. Santhwal*

(R.Sanethwal)

Under Secretary to the Govt. of India

Distribution:

1. The Chief Secretary, Government of Manipur, Imphal.
2. The Chief Secretary, Government of Tripura, Agartala.
3. The Secretary, Department of Personnel & Admn. Reforms, Government of Manipur, Imphal.
4. The Secretary, Appointment and Service Department, Govt. of Tripura, Agartala.
5. The Principal Chief Conservator of Forests, Manipur, Imphal.
- ✓ 6. The Principal Chief Conservator of Forests, Tripura, Agartala.
7. The Accountant General, Manipur, Imphal.
8. The Accountant General, Tripura, Agartala.
9. Guard File/Spare copies.

*Adm  
for*

Forest HQ, Nehru  
Complex,  
PO: Kunjaban,  
Agartala, Tripura  
799 006  
Date : 29-5-'95.

To  
The Principal Chief Conservator of Forests,  
TRIPURA : AGARTALA.

Sub :- Protection of seniority in IFS.

Sir,

The Ministry of Environment and Forests, Govt. of India fixed my year of allotment as 1988 (order No. 17031/12/90-IFS/11 dated 18-5-'95). The order is erroneous on several counts, and deprives me of my due seniority as per relevant rules & Govt. policy :

1. Continuous officiation in the senior post (Dy. CF, Research ) from 15-02-91 till regular appointment on 10-3-'92 ( as per Notification from the Appointment & Services Deptt., Govt. of Tripura dated 14-02-91, 11-09-91, 10-12-91 and 12-03-'92) was ignored by the MOEF while issuing the order dated 18-5-'95.
2. The Deptt. of Personnel and Administrative Reforms, Govt. of India, vide their Notification No. 14014/17/86-AIS(1).CSR 42(E) dt: 18-01-'83, rationalised the procedures for regulation of seniority in case of Officers promoted to the All India Service on the basis of length of qualifying service, before appointment in the cadre post. The impugned order dt: 18-5-95 of the MOEF ignored the revised and rationalised basis for regulation of seniority, which had taken effect from 18-1-'83.
3. In a minor mistake, the impugned order dated 18-5-'95 from the MOEF showed the undersigned to be borne on Manipur part of the M - T cadre.

Computation for fixation of my seniority (1985) on promotion to the IFS is shown in an enclosed statement. The MOEF had also indicated 1985 as my year of allotment in the cadre clearance ( for my deputation to ICFRE) vide letter No. F. 12026/1/93-IFS-I dt: 8-9-'93.

Contd.....P/2.

I had also applied earlier to the Ministry of Environment & Forests, Govt. of India vide my letter dt: 25-8-'93 & letter dt: 21-10-'93 for proper fixation of my seniority. I would request for taking up the matter with the Ministry of Environment & Forests, Govt. of India to withdraw the erroneous order dt: 18-5-'95 and restore justice.

Yours faithfully,

*Ak Sinha* 29/05/95  
( AK SINHA )

Encls :

1. MOEF order dt: 18-5-'95.
2. Statement showing fixation of seniority.
3. Notification dt: 14-2-'91 (Officiating appointment) of Ads Deptt., Govt. of Tripura.
4. Notification dated 26th June '91 of A&S Deptt., Govt. of Tripura (extension of term of officiating Appointment).
5. -do- notification dt: 11th Sept '91.
6. -do- notification dt: 10th Dec '91.
7. -do- notification dt: 12th March '92.
8. Notification No. 17013/12/90-IFS-II dt: 10th March '92 (Regular appointment in IFS by GOI).
9. Offer of appointment in ICFRE dt: 4-10-'93 indicating MT: 85 as the year of allotment of AK Sinha against reference on cadre clearance dt: 8th Sept '93 from MOEF.

*Ak Sinha*  
29/05/95

AK Sinha,  
Dy. C.F. PSD  
Forest Deptt.  
Nehru Complex,  
P.O. Kunjaban, Agartala  
Tripura-799006

To  
The Secretary,  
Government of India,  
Ministry of Environment & Forests, (IFS-Section)  
5th Floor, CGO Complex, Lodhi Road,  
New Delhi-110 003.

(Through proper channel)

Sub :- Representation against assignment of  
year of allotment.

Ref :- No. 17031/12/90-IFS/11 dated 18-05-95 of MOEF.

Sir,

I belong to the Tripura part of the M-T Cadre  
of Indian Forest Service. I officiated in the cadre  
post of Dy Conservator of Forests, Research w.e.f. 15/2/91  
continuously till my regular appointment in the IFS vide  
notification dated 10/3/92 of the Ministry.

The Ministry vide notification dated 18/5/95  
fixed 1988 as my year of allotment, and I am aggrieved  
by this decision. I submitted a representation in this  
regard to the Principal Chief Conservator of Forests,  
Tripura in my letter dated 29/5/95 for taking up the  
matter with the Ministry for review.

The Department of Personnel and Administrative  
Reforms, Govt. of India vide their notification No. 14014/  
17/86-AIS(1).GSR 42(E) dated 18/1/88 rationalised the  
basis for regulation of seniority in case of Officers  
promoted to the IAS depending on the length of qualifying  
service before appointment in the cadre post. The same  
procedure, mutatis mutandis, was adopted in case of the  
Indian Police Service vide notification No. 14014/40/88-  
AIS(1)/GSR No.815(E), dated 27/2/88.

Due to in-explicable reasons the benefit of this  
rationalised basis adopted for IAS & IPS for regulation  
of seniority in case of appointment by promotion was not  
extended in case of the Indian Forest Service resulting  
in discrimination. This caused undue hardship in my case  
as no weightage had been given for the long years (18 years)

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of my qualifying service before my appointment in the cadre post.

I would, therefore, request for fixation of my seniority on the rationalised basis already adopted for the other two services under AIS since 1988 to restore equity and justice.

I enclose herewith a statement showing the computation for assignment of year of allotment (1985) in my case as above. I may mention here that the Ministry had also indicated 1985 as my year of allotment in their communication for cadre clearance (for my deputation to ICFRE) vide letter No. F.12026/1/93-IFS-1 dated 8/9/93.

Yours faithfully,

Enclo : As stated.

*Muni 046745*  
AK Sinha, IFS (MT)

Copy to :

1. The Secretary, Department of Personnel and Training, Ministry of Personnel, Public & Grievances & Pensions, CGO Complex, Lodhi Road, New Delhi-110 003.

AK Sinha IFS (MT)

*d/c*

*Attended  
Jy Adm*

- 57 -

24

No.F.3(23)/For/Eatt-94/ 636  
GOVERNMENT OF TRIPURA  
FOREST DEPARTMENT

September 21/15/9/1995.

To  
The Secretary  
to the Government of India,  
Ministry of Environment & Forests,  
Paryavaram Bhawan, CCO Complex,  
Lodhi Road, New Delhi-110 003.

Sir,

I am directed to forward herewith representation of Shri A. K. Sinha, IFS, DUF, office of the Principal Chief Conservator of Forests, Tripura. In this connection it may be stated that the Ministry of Environment & Forests, Government of India assigned the year of allotment in respect of 6 (six) officers borne on the MT - Cadre including 3 (three) in the Tripura part vide order dated 18th May, 1995 which appears to be erroneous.

To start with, two of our Officers, (Shri A. K. Sinha & Shri B. M. Dey) have been shown to be borne on the Manipur Part of the M&T Cadre. The order does not also take into account continuous officiation by the officers in Senior posts.

The Government of India rationalised the basis for regulation of seniority of officers promoted to the All India Services with effect from 18-1-88 ( DP & AR Notification No.13014/17/86-AIS(1) GSR 42(F) dated 18-01-88) making it dependent on the length of qualifying service before appointment in the cadre post. The present order, by ignoring this rationalised basis for fixation of seniority on promotion, did injustice to the officers.

contd.....P/2

( Page - 2 )

Shri A.K. Sinha, IFS, has made a representation in this regard, and I enclose a copy. According to our computation his year of allotment shall be 1985. Interestingly, the MOEF also indicated 1985 as the year of allotment of Shri A.K. Sinha while issuing cadre clearance for deputation to IPFR vide their No.F.12026/1/93-IFS-I dated 08-09-93.

I am further directed to request for withdrawal of the erroneous notification, and to kindly ensure that there is no discrimination against IFS vis-a-vis other All India Services in the matter of regulation of seniority on promotion.

Yours faithfully,

*21/3/94*  
Joint Secretary to the  
Government of Tripura,  
Forest Department.

*Attended  
1 m*

76

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Ref :- NO.F.17031/12/90/-IFS/11 dated 18/5/95  
of MOEF

I submitted an application dated 4th September, 1995 for review of the Ministry's order dated 18th May, 1995 as indicated in the reference in connection with assignment of year of allotment of promotion. I enclose herewith a copy of my original application dated 4th September, '95 with request for fixation on the rationalised basis as per DOP and AR notification dated 18th November, 1988.

AK Sinha, IFS (MT)

Enclo : As stated.

Advance copy to

1. The Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances & Pensions, CGO Complex, Lodhi Road, New Delhi-110 003

AK Sinha, IFS (MT)

Fish  
 5/12/12 Price  
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 Machine m.  
 4640  
 8/4/96



68

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

OA No.276/96

Shri A.K. Sinha

.....Applicant

Versus

Union of India & Ors.

..... Respondents

IN THE MATTER OF

Written Statements submitted by the  
Respondent No.1.

The humble Respondent No.1 submits his  
Written Statements as follows :

That I am Under Secretary in the Ministry of Environment and Forests, Government of India, Paryavaran Bhavan, New Delhi. I am acquainted with the facts and circumstances of the case. I have gone through the application and understood the contents thereof. Save and except whatever is specifically admitted in this reply, rest of the averments will be deemed to have been denied.

1. That with regard to the statements made in paragraph 1 the Respondent No.1 begs to state that the position so far as the answering respondents are concerned will be explained in the forthcoming paragraphs.

2. That With regard to the statements made in paragraph 2 of the application the Respondent begs to state that the jurisdiction of this Hon'ble Tribunal is not disputed.

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D.D. SHAIKAI ALI  
Central Govt Standing Council  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

3. That With regard to the statements made in paragraphs 3 & 4 of the application the Respondent has no comments to offer.

4. That With regard to the statements made in paragraph 4.1 of the application the Respondent has no comments to offer, being formal.

5. That With regard to the statements made in paragraph 4.2 of the application the Respondent begs to state that the averments regarding service of the applicant under the State Government prior to his induction into the Indian Forest Service (IFS) pertain to respondent Nos.2 to 5 and will be met by them.

It is admitted that the applicant was appointed to the IFS vide notification dated 10.3.92 and was allocated to the Manipur-Tripura joint cadre of the Service.

So far as appointment of respondent Nos.13, 15 & 17 to the Senior Time scale is concerned, it is submitted that such appointments fall within the purview of the State Government who in terms of rule 6A(2) of the IFS (Recruitment) Rules, 1966 may appoint an officer, recruited to the Service on the basis of Open Competitive Examination, to a post in the Senior time scale, if

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having regard to his length of service and experience, they are satisfied that the officer is suitable for appointment to a post in the Senior Time scale of pay.

Subsequent to his appointment to the IFS vide notification dated 10.3.92, the year of allotment of the applicant was determined as '1988' vide impugned order dated 18.5.95. There has been slight omission on the part of the answering respondents while fixing the year of allotment of the applicant. The papers regarding approval of the period of his officiation on cadre post from 15.2.91 to 9.3.92 i.e. till his appointment to the IFS could not be linked at the time of fixing his year of allotment. Therefore, that period was not taken into account while determining his year of allotment. If his officiation on cadre post w.e.f. 15.2.91 is taken into account, the applicant will be entitled to '1987' year of allotment. The answering respondents have no objection to fixing the year of allotment of the applicant as '1987'.

So far as the averments regarding fixing the year of allotment on the basis of the Service rendered by the applicant in the State Forest Service (SFS) is concerned, it is submitted that while necessary changes were made in the IAS (Regulation of Seniority) Rules providing weightage to be given to the past service rendered by a

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promotee Indian Administrative Service (IAS) officer in the State Civil Service prior to his induction into the IAS no, such provisions were made in the IFS (Regulation of Seniority) Rules at the relevant point of time. Consequently, the year of allotment of the applicant had to be decided under the extant rule.

6. That With regard to the statements made in paras 4.3 and 4.4 of the application the Respondent begs to state that the officiation of the applicant on a cadre post from 15.2.91 to 9.3.92 was approved by the Government of India. Accordingly, he is entitled to the benefit of such officiation into the matter of fixation of his seniority in the IFS.

7. That With regard to the statements made in para 4.5 of the application the Respondent begs to state that the applicant was appointed to the IFS vide notification dated 10.3.1992.

7. That With regard to the statements made in paras 4.6 & 4.7 of the application the Respondent begs to state that the applicant is entitled to the benefit of officiation on a cadre post for the period 15.2.91 till his appointment to the IFS only which was approved by the UPSC on 21.5.92. With this, his year of allotment could be advanced to '1987' as against '1988'.

*CS Amur*

It is submitted that the question of giving benefit of offication on cadre post prior to one's induction into the All India Service was examined by the Hon'ble Supreme Court in Civil appeal No.823 of 1989 - Syed Khalid Rizvi and Ors. Vs. Union of India & Ors. While examining the provisions of rule 9 of the IPS (Cadre) Rules which correspond to the provisions of the IFS (Cadre) Rules, the Apex Court in their judgment dated 29.11.92 delivered in that case held that the State Government was empowered to post a non-cadre officer to a cadre post for a period of three months only and beyond that period, approval of the Central Government/UPSC was required. Subsequent to this judgment, only such period of continuous officiation on a cadre post by a non-cadre officer beyond three months prior to his induction into the IFS which has the prior approval of the central Government/UPSC is taken into account while determining his seniority in the IFS.

9. That With regard to the statements made in para 4.8 of the application the Respondent begs to state that Shri A.K. Roy was promoted to the IFS on 16.12.1989 based on the Select List prepared by the Selection Committee in its meeting held on 31.12.1988. It is denied that the applicant position in the said Select List was at S.No.2. In fact, Shri A.K. Roy was the only officer whose name was included in the said Select List.

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The applicant was promoted to the IFS on the basis of the subsequent Select List prepared by the Selection Committee in its meetings held on 15.3.91 and approved by the UPSC on 25.11.91. Therefore, his contention to appoint him to the IFS on the basis of Select List in which only the name of Shri A.K. Roy was included is without any basis.

10. That With regard to the statements made in para para 4.9 of the application the Respondent begs to state that a State Government may appoint a direct recruit IFS officer to the Senior Time scale keeping in view the provisions of rule 6A (2) of the IFS (Recruitment) Rules which provide that such an officer shall be appointed to post in the Senior time scale of pay if, having regard to his length of service and experience, the State Government is satisfied that he is suitable for appointment to a post in the Senior Time scale of pay. The State Government appointed respondent Nos.13,15 and 17 to the Senior Time scale of pay keeping in view the relevant provisions of the IFS (Recruitment) Rules. As already submitted, the applicant is entitled to '1987' year of allotment.

11. That With regard to the statements made in para 4.10 of the application the Respondent begs to state that the IAS (Regulation of Seniority) Rules were revised in

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1988 in accordance with which the year of allotment of a promotee IAS officer is now determined on the basis of the length of qualified service rendered by him in the State Civil Service prior to his appointment to the IAS. However, in the case of IFS, the Seniority Rules have been revised w.e.f. 1.1.98 only. Consequently, the seniority of the applicant was determined in terms of the extant Seniority Rules which provided that a promotee officer is to be placed below the junior-most direct recruit officiating continuously on Senior duty post prior to the date of commencement of such officiation by the former. The period of officiation on a cadre post by a non-cadre officer prior to his induction into the IFS is also taken into account while determining his seniority in the IFS if such officiation has been in accordance with the IFS (Cadre) Rules which require prior approval of the Central Government/UPSC beyond a period of three months. So far as the year of allotment of Shri A.K. Roy is concerned, the same has not been determined for want of requisite information from the State Government. It is, however, submitted that the year of allotment of Shri Roy will be determined in accordance with the extant IFS (Regulation of Seniority) Rules in terms of which the year of allotment of the applicant has been determined.

12. That With regard to the statements made in para 4.11 of the application the Respondents begs to state

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that the averments made therein are not relevant. The factual position is that the applicant has been assigned '1988' year of allotment and taking into account his approved officiation on cadre post from 15.2.91 till his appointment to the IFS on 10.3.92, he is entitled to '1987' year of allotment. This will be rectified by the answering respondent after the present application has been decided by this Hon'ble Tribunal.

13. That With regard to the statements made in paras 4.12 to 4.22 of the application the Respondent begs to state that only the applicant has been assigned '1988' year of allotment but he is entitled '1987' year of allotment taking into account his continuous officiation on cadre post from 15.2.91 till his appointment to the IFS. The answering respondents deeply regret for the omission on their part and necessary orders revising the year of allotment of the applicant from '1988' to '1987' will be issued in this behalf after the present application has been decided by this Hon'ble Tribunal.

14. That With regard to the statements made in para 5 of the application the Respondent begs to state that the averments made therein are more or less repetitions of what the applicant has stated in the previous paragraphs. The answering respondent have already explained the position above.

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15. That With regard to the statements made in paras 6 & 7 of the application the Respondent begs to state that he has no comments to offer for these paras.

16. That With regard to the statements made in para 8 of the application the Respondent begs to submit that the applicant has been assigned '1988' year of allotment. He is, however, entitled to '1987' year of allotment taking into account his continuous officiation on cadre post for the period from 15.2.91 till his appointment to the IFS on 10.3.92. The applicant is not entitled to any other relief as prayed for.

17. That with regard to the statements made in paras 9 to 12 of the application the Respondent has no comments to offer, being formal.

New Delhi  
Dated: 11.3.98

*CS Anand*  
For Respondent No.1

VERIFICATION

I, R. Sanehwal, Under Secretary to the Govt. of India having my office at Paryavaran Bhavan, Lodi Road, New Delhi-110003, do hereby verify that the contents stated above are true and correct to the best of my knowledge, belief and information and that nothing has been suppressed therefrom.

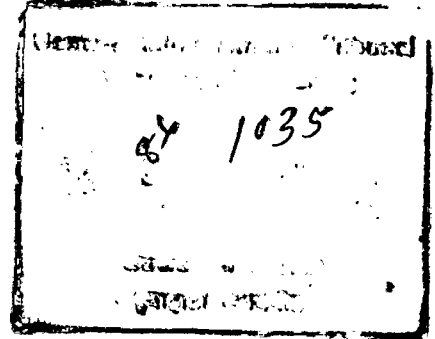
Verified at New Delhi on this the 11th day of March, 1998.

New Delhi  
Dated: 11.3.98

*CS Anand*  
For Respondent No.1

✓ Dated, Agartala, the 17th July '98

✓ To  
The Section Officer(J).  
Central Administrative Tribunal(CAT)  
Guwahati Bench.  
Guwahati - 781005



Sub: Applicant Sh. A.K.Sinha Vrs UCI & Others

Ref: Application No. 276/1996

-Reply of Respondent No. 20.

Sir,

In continuation to my previous reply, I am submitting further clarification on the points raised by the applicant Sri A.K.Sinha.

End: 38 pages

Yours faithfully,

*Dr. J. K. Sinha*  
(D.K. Sharma) 17/7

Copy to : Joint Secretary  
Ministry of Environment & Forests  
Paryavaran Bhawan, B Block  
Lodhi Road, CGO Complex  
New Delhi - 110003.

IV/31, Kunjaban  
Agartala - 799006

2. Joint Secretary  
Appointment & Services Deptt.  
Civil Secretariat, Agartala - 799001.
3. Sh. B.K. Sharma, Advocate  
Central Administrative Tribunal(CAT)  
Guwahati Bench  
Guwahati - 781005

So (3)  
K. Sinha  
Received by post.  
20 the month.  
28/7/98

For the Vice-Chairman may  
kindly see.  
*[Signature]*  
28/7/98  
Resd.

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Title of the case: O A No.276 of 1996  
in the Central Administrative Tribunal, Guwahati Bench.

1. Particulars of the case : The applicant Shri Achinta Kumar Sinha has filed application against order No.17013/12/90-IFS II dtd 18.5.95 by Ministry of Environment & Forests, Govt. of India fixing year of allotment of Shri A.K.Sinha as 1980.

I, D.K Sharma is one of the respondent in the case.

2. Points raised by the applicant Shri A.K.Sinha in his application O A No.276 of 1996.

The applicant, Shri Achinta Kumar Sinha was recruited for diploma in forestry (1973-75). After completion of Diploma in forestry, he was appointed as Divisional Forest Officer under Forest Deptt., Govt. of Tripura w.e.f 10.3.75.

Shri A.K.Sinha, applicant was appointed to the Cadre post of Indian Forest Service on probation of Manipur-Tripura Cadre under rule 5(i) of IFS(Cadre) rules vide notification No.17013/12/90-IFS II dtd 10.3.92. His year of allotment was fixed 1988. Shri Sinha has cited following grounds for legal relief against the above said order.

- (a) That Govt. of India vide DP & AR notification dtd 18.1.88 computes length of service for appointment by promotion to IAS & IPS. The same has to be applied to IFS in his promotion case.

Dijendra Singh

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- (b) That Senior time scale of IFS to direct recruit Officer of 1987 batch has been granted before completion of four years of service, which is illegal.
- (c) That his officiating appointment under rule 9(1)(b) of IFS (Cadre) Rules to IFS Cadre post w.e.f 15.2.91 to 16.5.92 by Govt. of Tripura in five spells of 3 months each was approved ex-post facto by Govt. of India. This officiation has not been considered for fixing year of allotment.
- (d) That Vide notification dtd 22.11.90 of Govt. of India, there was vacancy for appointment by promotion, he has not been given the benefit of this from retrospective effect when he was continuing in the ex-cadre post in TRPC before 15.2.91.
- (e) That Indian Council of Forestry Research & Education (ICFRE), Dehradun had once shown the year of allotment of the applicant as 1985 in its one of the letters.
- (f) That the applicant's name (Sri A.K. Sinha) was in select list since 1989 (at Sr. No. 2) till he was appointed to the IFS.
- (g) That there was unusual delay in processing his case for which he suffered in terms of allotment of seniority.

Reply of the respondent pointwise

Point 2(a)

In exercise of the powers conferred by subsection I of the Section 3 of All India Services Act 1951, the Central Govt. after consultation with the State Govt. have made rules named "The IFS (Regulation of Seniority) Rule 1968". The seniority of the members of the IFS are controlled in accordance with the provisions of the said seniority Rules. These rules are still in force in case of IFS.

Dr. J. S. Shukla

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The rules of recruitment, probation, examination are different for IAS, IPS on one hand & IFS on the other hand. Therefore it will be inappropriate to apply rules of seniority as applicable to IAS to the members of IFS.

Point 2(b)

The appointment of Officers in junior time scale of pay to the posts in the senior time scale of pay is governed by rule 6 A(I) & (2) IFS (recruitment) rules 1966. According to this the appointment to senior time scale of pay shall be made by the State Govt. concerned on its satisfaction having regard to his length of service and experience (Refer List of rules under Annexure A). All through out the Union of India the senior scale is being allowed to members of IFS in the fourth year, before completion of fourth year.

In fact, Supreme Court judgement in PC Madhwa (IPS) Vs Union of India & others (as circulated vide Ministry of Home Affairs, GO I No. 23/D46/63-AIS(II) Vol-II dtd 29.3.66 (Annexure B) has clarified that members of All India Services are entitled as of right to be appointed to the senior post, if a vacancy occurs, even in his first year of service and entitled to draw pay in senior scale only after confirmation (i.e. just after completion of probation of three years that means even on the first day of fourth year). Thus even 1988 batch IFS Officers become entitled to senior post on 4.7.88 (the day of joining service) and entitled to senior scale on 4.7.91. The 1987 batch IFS Officers became entitled to Senior post in July '87 (the day of joining service) and entitled to senior scale w.e.f July '90.

Further, the senior scale & senior post are different issues. A member may hold senior post but still not draw senior scale. The senior scale is allowed as per sub rule (I) & (2) of 6 A of IFS (Recruitment) rules while senior post are decided by rule 4(I) of the IFS (Cadre) rules 1966. The seniority (year of allotment) is decided by senior duty post & not senior scale under Rule 3(2) of IFS (Regulation of Seniority) Rules 1968.

Dwijendra Kumar

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No rules have been quoted by the applicant in his application in this regard. Thus there is no irregularity in promotion to senior scale and the applicant Shri A.K.Sinha is not at all affected by such promotion. His application is therefore not tenable on the ground that senior time scale was given to 1987 batch before completion of four year of service.

Point 2(c)

Shri A.K.Sinha, applicant was given officiating appointment under rule 9(1)(b) of IFS(Cadre) rules from 14.2.91 to 16.5.92 by Govt. of Tripura in five spells of 3 months each. This officiation appears to have been given approval ex post facto by Govt. of India. Here However no such order has been enclosed with the application.

Following irregularities are made in such officiation.

- (1) In Syed Khalid Rajvi & others Vs Union of India & others (1993), Suppl 3 Sec, 575 and in case of

Krishna Behari Srivastava - Vs State of UP & others (1993) Suppl 3 Sec 576 (as quoted by CAT, Guwahati Bench in their judgement No. 653 dtd 27.3.96 at point No. 41 of Shri R.L. Srivastava, IFS and Union of India & others) Annexure 'C' it was held by the Supreme Court that prior concurrence for officiation beyond prescribed period is mandatory. The Supreme Court also observed that where the vacancy/vacancies continue for more than three months, the prior concurrence of the Central Govt. is mandatory and that if it continues for more than 6 months prior approval of the UPSC is also mandatory. Any appointment in violation thereof is not an appointment in accordance with the law.

Rule 9 of IFS(Cadre) Rule 1966 envisages prior approval & does not permit ex post facto approval.

Dhirendra Singh

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(2) The officiating appointment was given to Shri A.K.Sinha in the cadre post of DCF (Research) w.e.f 14.2.91 upto 16.5.92 under rule 9(1)(b) of IFS Cadre Rules 1966 under which the State Govt. has to satisfy that there is no cadre officer available for filling the vacancy. This is factually incorrect. Shri Balbir Singh IFS (1985 Batch) on completion of training at Dehradun on 30.4.91 was kept in the Head Office in Forest Deptt. at Agartala without any cadre post for 9 months from May '91 onward. This period was regularised in 1994 against Cadre post. Shri Atul Gupta (1982 batch) was holding non cadre post of wildlife warden in Gumti. Shri R.Das (1988 batch) was given leave charge of Senior duty post (DFO, Jatanbari) w.e.f Oct '91 to Dec '91 without being promoted. Though the Senior duty post were vacant & Cadre Officers Shri Balbir Singh, Shri Atul Gupta, Shri D.K.Sharma & Shri R.Das were available, they were not promoted to senior duty cadre post. Instead Shri D.K.Sharma & Shri R.Das (1988) were posted as Attached Officer at Teliamura and Udaipur respectively. Had these Officers were given senior duty post, no such continuous officiation was necessary at that time.

It is highly unreasonable on the part of State Govt. to continue officiation of the applicant beyond 3 months and submitting the wrong information to the Central Govt. The State Govt. therefore submitted factually incorrect information.

(3) It appears that Shri A.K.Sinha is intend to be promoted to the IFS in 1991 as per select list prepared in the year 1989 where his name appeared at Sr. No.2. The said select list was invalid on following ground:-

As per rule 5(5) of IFS (Cadre) rules 1966 the select list shall be reviewed and revised every year. The said select list shall ordinarily be in force until its review and revision under rule 7(4).

As per rule 5(2) while preparing select list, the cases of members of State Forest Services in order of seniority to the tune of three times the number of vacancies should be considered. The word "shall" is therefore important. The fact that, no such yearly review of select list was done and the case of members of State Forest Service to the tune of three time of vacancies not considered, makes the select list of 1989 invalid in 1991.

Digendra Kumar

(4) The Officiation in the Cadre post of DCF(Research) w.e.f 15.2.91 to 16.5.92 under rule 9(1) b of IFS Cadre rules 1966 by State Govt. on the ground that no cadre Officer is available is incorrect. If the officiation in the cadre post was to be given, the posting of cadre officer as on 15.2.91 and later in the cadre post ought to have been done but it was not followed :-

List of IFS Officers in Forest Deptt.		List of IFS Officer on Deputation	
Holding Cadre Post	On non-cadre post.	Central deputation	Within State of Tripura.
1. Shri N.Sarkar	Shri A.K.Gupta (1982)	Sri R.P.Tangwan	Sri D.Nag
2. " R.N.Chakraborty	" Balbir Singh (1985)	" V.K.Bahuguna	" A.K.Singh
3. " P.N.Roy	" D.K.Sharma (1988)	" J.S.Halhal	" R.M.Dutta.
4. " D.Dutta Roy	" R.Das (1988)	" S.Talikdar	
5. " R.Lushai	"	" J.P.Jadav	
6. Md. A.A.Khan			
7. Shri R.L.Srivastava			
8. " R.N.Singh			
9. " A.Kumar			
10. " C.Krishnan			
11. " G.S.Raju			
12. " S.Kumar			
13. " A.K.Roy			
14. " A.Rastogi (1986)			
15. " P.K.Pant (1986)			
16. " J.Singh (1987)			
17. " A.C.Srivastava (1987)			
18. " Ngulhohao (1987)			
19. " S.B.Bhattacharjee.			

The State Govt. continued wrong certificates w.e.f 15.2.91 to 16.5.92 that no cadre officer is available but did not post Shri A.K.Gupta(1982) Shri Balbir Singh(1985), Shri D.K.Sharma(1988), Shri R.Das(1988) who were available within Forest Department without any cadre post. Some more Officers were also available on non-cadre post. Some within the State i.e Shri A.K.Singh but not considered while giving officiation to Shri A.K.Sinha under rule 9(1)(b).

Thus, the continuous officiation w.e.f 15.2.91 to 16.5.92 is invalid, and not as per rule. The Govt. of Tripura be asked to reply regarding these wrong certificates for justifiable ends before closure of case.

5. In para 2 of letter No.17013/12/90-IFS-II dtd 18.5.95(Annexure 15 of application by applicant of GO I, Ministry of Environment & Forests promoting Shri A.K.Sinha the applicant w.e.f 10.3.92) has stated that none of the Officers officiated continuously. This appears to be probably on following grounds.

*Dr. J. S. Shukla*

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Firstly the officiation was continued with back date & the fact were not properly presented to the Central govt.

<u>Period of officiation</u>	<u>Date of notification by State govt.</u>
15.2.91 to 14.5.91	14.2.91
15.5.91 to 16.8.91	26.6.91 (41 days later than Officiation ended)
17.8.91 to 15.11.91	11.9.91 (24 days later than officiation)
17.11.91 to 16.2.92	10.2.91 (23 days later)
17.2.92 to 16.5.92	12.3.92 (25 days later)

Thus officiation was continued from back date till formal appointment w.e.f 10.3.92 (When continuous officiation by State govt. did not exist). Further seniority was fixed on 18.5.92 before ex post facto approval on 2.6.92 & no prior approval of Central Govt. & UPSC was taken. The issue is discussed in detail under point 2(c).

While asking approval of Central govt. vide Letter No.F.2(13)-GA/79 dtd 25.9.91 (Annexure 7 of application) A & S Deptt., Govt. of Tripura states that no cadre Officer is available for appointment to vacant post of Deputy Conservator of Forest inspite of the fact that such officers were available as stated above. Thus ex post facto approval by Central govt. is based on wrong information & not tenable.

Point 2(d):

Shri A.K.Sinha wish to claim the benefit of promotion w.e.f date of notification of cadre review i.e 22.11.90 even though he continued to serve in non cadre post in TRPC with non forestry activity Rule 3(2)(c) of IFS (Regulation of seniority) rules 1968 lay down that concerned officer may be treated as having officiated in senior post during any period of appointment to a non-cadre post if State Govt. has certified within three months of his appointment to the non-cadre post that he would have so officiated but for his appointment. Further the number of officers to whom such certificate is given at one time shall not exceed one half of maximum size of select list. No such declaration by State govt. exist nor was it possible.

He wanted his provisions against the vacancies arising out of notification dtd 22.11.90 but he wanted promotion against the post not included in senior duty post of notification. Any post can not be declared as equal to cadre post to give promotional benefit to particular person which is disadvantage to others. The letter No.17013-22/94-IFS-II dtd 7.3.94 of Ministry of Environment & Forest, Govt. of India (Annexure D) clearly defines that promotion quoted specifies only the maximum number of State Forest Service Officers who could be promoted to IFS at a given point of time & does not given right for promotion to IFS. Such clarification is important

Dwijendra Kumar

so that promotions are given based on the requirement of cadre and only when no cadre officer is available for filling vacancy.

Point 2 e.

Shri A.K.Sinha has claimed year of allotment 1985 on the basis of letter written by Indian Council of Forestry Research & Education(ICFRE) Dehradun vide its letter dtd 4.10.93.ICFRE has got no authority to allot 1985 since the seniority is fixed by Cadre controlling authority. This is probably an inadvertant mistake on the part of ICFRE.

Point 2(f)

The matter has been dealt in detail under point 2(c). The select list prepared in 1989 suffers from serious flaws and therefore it is not valid.

Point 2(g).

The applicant claims there has been unusual delay in processing his case for which he suffered in terms of allotment of seniority.

In fact the State Govt. continued giving officiating appointment to the cadre post of D.C.F(Research) in grave disregard to the provisions inspite of the fact that other cadre officers were available within Forest Deptt. for such posting.

However Supreme Court directive in the judgement in P.C. Madhawa Vs. Union of India & Others( as circulated vide Ministry of Home Affairs Govt. of India No.23/46/63-AIS(II)VOL - II dated 29.3.1966) States that members of All India Services are entitled as of right to be appointed to the senior post subject to availability of vacancies.(Annexure-B).These were 23 senior duty post in 1988 & 209 should have deemed to be appointed to senior duty post w.e.f 4.7.88 (date of joining service) as per the above directive.

Since there was vacancy in senior post vide notification dated 22.11.1990 and supreme Court directive is followed;not only members of 1988 I.F.S batch but even 1989 batch is also entitled to senior duty post and senior time scale.

If supreme court directive is followed and senior duty post is allowed from date of vacancies to direct recruit the name of Shri A.K.Sinha will appear after direct recruits of 1989 batch,in the seniority list and will be placed after direct recruits of 1989 batch.

Dr. J. S. Salunkhe  
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The respondent Shri D.K.Sharma has already requested the State Govt. to apply the supreme court directive( in case of P.C.Madhawa Vs Union of India) to his case(copy enclosed).  
Am come 'F'

In view, it appears that applicant has no reasons to challenge year of allotment as 1983. The Forest Department is a ~~keir~~ hierchial department & therefore frequent changes in seniority affects the interpersonal relations.

Such review of year of allotment therefore may not be called for.

D.K. Sharma  
(D.K. SHARMA)

Relevant rules Referred in the case

A) IFS (Recruitment rules) 1966

- (i) Rule 2(h) - "State Govt. concerned" in relation to joint cadre, means the Joint Cadre Authority.
- (ii) Rule 4(2) After initial recruitment under sub-rule(I), subsequent recruitment to the service shall be by following methods.
  - a) by a competitive examination
  - aa) by selection of persons from amongst ECO & SSC Officers
  - b) by promotion from substantive members of State Forest Service.
- (iii) Rule 7(1) A competitive examination for recruitment to the service shall be held at such intervals as the Central Govt. may in consultation with the Commission from time to time determine.
- (iv) Rule 8(3) - Where a vacancy occurs in Joint.  
Cadre which is to be filled under the provisions of this rules, the vacancy shall be subject to any agreement in this behalf be filled by promotion of a member of State Forest Service of any State constituting the group.
- (v) Rule 6 A Sub rule(I) Appointment of Officers recruited to the service under clause (a) or clause (aa) of sub-rule (2) of rule 4 to the posts in the senior time scale of pay shall be made by the State Govt. concerned.

Sub rule(2) - An Officer referred to in sub-rule(I) shall be appointed to a post in the senior time scale if having regard to his length of the service and experience, the State Govt. is satisfied that he is suitable for appointment to a post in the senior time scale of pay.

Dijendra Kumar

Forest Service.

(ii) Rule 5(5)- The list so prepared shall be reviewed and revised every year.

(iv) Rule 7(4) 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(I) or as the case may be finally approved under sub regulation(2)

(vi) Rule 8 - Appointment to Cadre posts from select list-sub-rule (I) Appointment of 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

Dijendra Shukla

- (i) Rule 3(2) The year of allotment of an Officer appointed to the service shall be
- a) Where an Officer is appointed to the service on the result of a competitive examination, the year following the year in which such examination was held.
  - c) Where an officer is appointed to the service by promotion in accordance with rule 8 of the recruitment Rules, the year of allotment of the junior most among the officers recruited to the service in accordance with rule 7 or if no such officer is available the year of allotment of the junior most among the Officers recruited in accordance with rule 4(1) of these rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former.

Explanation 4 - An Officer appointed to the service by promotion under sub rule I of rule 8 of the recruitment rules shall be treated as having officiated in senior post during any period of appointment to a non-cadre post if the State Govt. has certified within three months of his appointment to the non-cadre post that he would have so officiated but for his appointment for a period not exceeding one year and with the approval of the Central Govt. for period not exceeding two years to a non-cadre post under a State Govt. or the Central Govt. in a time scale identical to the time scale of a senior post.

- (ii) Rule 2(g) senior post means a post included and specified under item 1 of the cadre of each State in the schedule to the IFS(Fixation of cadre strength)Regulation 1966 and includes a post included in the number of post specified in items 2 and 5 of the said cadre, when held on senior scale of pay by an officer recruited to the service in accordance with sub rule (10 of rule 4 or rule 7 of the recruitment rules.

Dijendra Kumar

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- (i) Rule 5(i) The allocation of Cadre Officers to the various cadres shall be made by the Central Govt. in consultation with the State Govt. concerned.
- (ii) Rule 8 - Save as otherwise provided in these rules every cadre post shall be filled by Cadre Officer.
- (iii) Rule 9(i) A Cadre Post in the State may be filled by a person who is not a Cadre Officer if the State Govt. or any of its Heads of Deptt. to whom the State Govt. may delegate its powers of making appointments to cadre posts is satisfied -
  - a) That the vacancy is not likely to last for more than three months or
  - b) That there is no suitable Cadre Officer available for filling the vacancy.

Rule 9(2) where in any State a person other than a Cadre Officer is appointed to a Cadre post for a period exceeding three months, the State Govt. shall forthwith report the fact to the Central Govt. together with the reasons for making appointment.

Rule 9(3) on receipt of a report under sub-rule(2) or otherwise, the Central Govt. may direct that the State Govt. shall terminate the appointment of such person and appoint there to a Cadre Officer and where any direction is so issued, the State Govt. shall accordingly give effect thereto.

Rule 9(4) where a Cadre post is likely to be filled by a person who is not a Cadre Officer for a period exceeding six months, the Central Govt. shall report the full facts to the UPSC with reasons for holding that no suitable Officer is available for filling the post and may in light of the advice given by the UPSC give suitable direction to the State Govt. concerned.

- (iv) Rule 4(1) The strength and composition of each of the cadres constituted under rule 3 shall be as determined by regulation made by the Central Govt. in consultation with the State Govt. in this behalf.

Dwijendra Shukla

- (i) Rule 5(1)- Each committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Forest Service as are held by them to be suitable for promotion to the ~~Service~~. The number of members of State Forest Service included in the list shall not be more than twice the number of substantive vacancies anticipated in course of period of twelve months.
- (ii) Rule 5(2) The committee shall consider, for inclusion in the said list, the cases of members of State Forest Service in the order of seniority in service of a number referred to in sub regulation(I)

Provided that such restriction shall not apply in respect of a State where the total number of eligible officers is less than three times the maximum permissible size of the select list and in such case the committee shall consider all eligible officers.

Provided also that the committee shall not consider the case of a member of the State Forest Service unless, on the first day of January of the year in which it meets, he is substantive in State Forest Service and has completed not less than eight years of ~~continuous~~ continuous service (Whether officiating or substantive) in present post included in State.

Dwijendra Kumar



Annex 'B'  
01 92

To D.K. Sharma S.F. 24

No. 23/46/63-AIS(III) Vol. II  
Govt. of India  
Ministry of Home Affairs  
New Delhi, dated the 29th March, 1966.  
8th Chaitra, 1966.

To The Chief Secretaries of all the State Govts.  
(except Nagaland).

Subject: (1) India Services - Right of appointment to senior posts - Supreme Court Judgment in P.C. Madhwa Vs. Union of India and another - Implementation of ...

Sir,

I am directed to refer to this Ministry's letter no. 23/46/63-AIS(III) dated 11th January, 1965 on the above subject and to say that the matter has been reconsidered in the light of representations and representations subsequently received. The Ministry of Law have also been consulted.

2. The Govt. of India has been advised as under :-

a letter was  
dated 18/3/66  
by V.P. Singh

- (a) The decision of Supreme Court in Madhwa's case has retrospective effect in the sense that it lays down correct interpretation of rules from the date they were promulgated i.e. 1954. The earlier rules of 1950 would also bear the same interpretation of section 4 of the All India Services Act 1951, and would thus have same statutory force as the rules of 1954.
- (b) The Supreme Court has decided that under the relevant rules, the members of All India Services are entitled as of right to be appointed to the senior posts according to their seniority subject to the availability of vacancies. Any action to the contrary would be in the violation of rules and would entitle the officer so carried in the appointment of senior scale, to the difference in pay and allowances in the junior and senior scale from the date he became due for appointment in a senior post on the occurrence of vacancies.
- (c) An I.A.S./ I.P.S. officer is, however, entitled to the pay in senior scale only after his confirmation. This is by virtue of the express provision of the rule 13 (1) of IAS/IPS (Probation) rules 1954 which states that during the period of probation an officer recruited in accordance with rule 7 of the IAS/IPS (recruitment) rules 1954 is entitled to receive salary in the prescribed stages of the junior time scale only. Rule 4(2) of the IAS/IPS (Pay) rules 1954, no doubt provides that the pay of the a member of the service in the junior time scale shall, on appointment to a post in senior time scale as prescribed. But this general rule would be subject to the specific rule relating to probation contained in the rule 13(1) of IAS/IPS probation rules, 1954. In other words, until his confirmation, a probationer is entitled to pay only in the junior scale irrespective of whether he is appointed to officiate in a junior or senior post.

Thus a direct recruit who is recruited to the service in accordance with rule 7 of the IAS/IPS (recruitment) rules, may become entitled to a senior post if a vacancy occurs, even in his first year of service, but he would be entitled to draw pay in the senior scale only after confirmation.

contd...2.

D.K. Sharma

102/93

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(3) The above advice has been considered and it has been decided that the interpretation given by the Supreme Court should be implemented. It has also been decided that the cadre authorities may give effect to this decision from the date of promulgation of the 1955 Rules, but the payment of arrears of pay should be paid from the date three years prior to the date on which an IAS/IPS Officer puts in a claim.

(4) I am to request that whenever the State Govt. receives a claim from an IAS/IPS officer based on the Supreme Court's Judgement in Madhava's case, the number of vacancies in senior post as counted against items of the Cadre in the schedule to the IAS/IPS (Fixation of Cadre strength) Regulation 1955, should be determined on the date three years prior to the date on which the claim is put in by the Officer, by deducting therefrom the number of cadre officers in position in these posts - the number of non-cadre officers holding such posts being ignored for the purpose of this calculation. Simultaneously the number of direct recruit vacancies should also be determined. The direct recruits who have put in their claims should then be deemed to have been appointed to the vacancies in the senior posts according to their seniority and they should be paid the difference between pay and allowances actually actually drawn by them in the Junior time scale of IAS/IPS and what they would have drawn in the senior time scale of IAS/IPS on appointment to the available senior post ascertained. This would be subject to the condition that pay and allowances in senior scale would be payable only after officer has been confirmed in service in terms of the probation rules. This would be a continuous process to be worked out whenever a vacancy occurs or diminishes after the dates of respective claim. In the case of every individual officer who has claimed relief, this will be done till the date he is actually appointed to a senior post.

Payments of arrears of pay and allowances whenever admissible, would need to be made by the respective cadre authorities i.e. the State Governments. In the case of those affected officers, who during that period, have been working in the Govt. of India, payment will be made by the Ministry/Department concerned on a certificate of admissibility (giving full details) being issued by the State Govts. concerned.

The representation from IAS/IPS officers claiming relief in terms of the Supreme Court's Judgement in Madhava's case, already pending with the State Govts, may also be disposed of in the light of above decisions.

(5) The actions taken by the States Govt. in the matter may be communicated to the Govt. of India in due course, giving details of vacancies etc.

(6) This is issued in consultation with the Ministry of Finance.

d/- L. S. Chandra

( Under Secretary to Govt. of India )

No. 23/40/01-11111) Vol. II dated 26th March, 1966, 9th Chandra 1966.

*Dr. J. S. Chandra*

Annex 'C'  
107/94

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REGISTERED WITH MR

Clerks  
Appointed

IN THE CENTRAL ADMINISTRATIVE

TRIBUNAL

DESPATCH NO. 653

DATE 27/3/96

ORIGINAL APPLICATION NO. 167/92  
MISC. APPLICATION NO. 1  
CONTEMPT PETITION NO. 1  
REVIEW APPLICATION NO. 1  
TRANSFER APPLICATION NO. 1

Shri R. L. Sarvagata, IFS, APPLICANT (S)  
PETITIONER (S)

VERSUS

Union of India & Ors. RESPONDENT (S)

Shri P. L. Prasad, IFS,  
Conservator of Forests,  
Tropical Forest Research Institute,  
P.O. R.F.R.I., Mandla Road,  
Jabalpur - 482021 (M.P.)

Sir,

I am directed to forward herewith a copy of the order dated  
15.2.96 passed by the Bench of this Tribunal comprising of Hon'ble  
Justice Shri M. G. Chaudhary Vice-Chairman and Hon'ble  
Shri G. L. Sanglyine Member, Administrative in  
the above noted case, for information and necessary action, if any.

Please acknowledge receipt.

Yours faithfully,

Encl. : As above.

(First three Pages)

SECRETARY (A)

GK/281195

Digendakur

28

ORDER

CHAUDHARI, J. V.C.

This application is directed against the order No.F.18014-12/86/IFS-II dated 18.1.1991 issued by the Government of India, Ministry of Environment and Forests, assigning the year of allotment to the respondent No.5 as 1977.

2. The applicant, R.L. Srivastava passed the UPSC competitive examination in 1977. He was appointed to the Indian Forest Service (IFS for short) in 1978 and has been allotted to Manipur-Tripura Joint Cadre. After undergoing the prescribed training he joined as Assistant Conservator of Forests at Agartala on probation. On successful completion of the probation he was confirmed on 6.3.1981. Being a direct recruit his year of allotment is 1978.

3. The respondent No.5, R.N. Singh was a State Forest Officer. His name was included in the Select List of 1982 for promotion to the Indian Forest Service. However, he was appointed to the service on 9.12.1985. By the Impugned order (Annexure-2) his year of allotment has been determined as 1977. The reason for assigning that year has been stated in the order, Annexure-2, as follows:

"3. It has been reported that the junior most among the directly recruited officers in the joint cadre so officiating as on 18.1.1982 as Sri S. Singh (IFS RR.M.I. 1977). The year of allotment of Sri R.N. Singh is determined as '1977' and he is placed immediately below Sri Singhi in the Gradation List of the Indian Forest Service, Manipur-Tripura Joint Cadre."

4. This decision of the Government of India is assailed by the applicant. The frame of the application is somewhat peculiar in as much as the applicant has made no grievance about his own year of allotment. He also does not claim any relief in his own favour. His grievance solely relates to the determination of the year of allotment of respondent No.5. He has prayed for following substantive reliefs:

1) To set aside and quash the impugned order dated 18.1.1991.

Digvijay Singh

REGISTERED WITH ME

104  
Circles  
Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 137 of 1992

Date of decision: This the 15th day of February 1996

The Hon'ble Justice Shri M.G. Chaudhary, Vice-Chairman

The Hon'ble Shri G.L. Singlyne, Member (Administrative)

Shri R.L. Srivastava, IFS,  
Deputy Conservator of Forests,  
Planning & Development,  
Office of the Principal Chief Conservator of Forests,  
Agartala, Tripura.

.....Applicant

By Advocate Shri B.K. Sharma, Shri M.K. Chaudhary  
and Shri A.K. Roy.

- versus -

1. Union of India, represented by  
the Secretary to the Government of India,  
Ministry of Environment & Forests,  
Department of Environment, Forest & Wildlife,  
New Delhi.
2. Union Public Service Commission,  
represented by its Chairman,  
New Delhi.
3. State of Tripura, represented by  
the Secretary to the Government of Tripura,  
Forest Department,  
Agartala, Tripura.
4. The Joint Cadre Authority, Manipur-Tripura,  
C/o The Secretary to the Government of Tripura,  
Forest Department,  
Agartala, Tripura.
5. Shri R.N. Singh, IFS,  
Deputy Conservator of Forests,  
C/o Principal Chief Conservator of Forests,  
Agartala, Tripura.

.....Respondents

By Advocate Shri A.K. Choudhary, Addl. C.G.S.C.  
for respondent Nos. 1 and 2

Shri A. Roy for respondent No. 5

Respondent No. 5 present in person.



Dipendra Kumar

107  
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to Gumti Forest Division (in Tripura). The applicant avers that he officiated as Conservator of Forests in three spells ranging from 1.6.1989 to 4.7.1989, 11.9.1989 to 15.8.1990 and 2.9.1991 to 8.4.1991. At the time of filing the O.A. on 18.6.1992 he was holding the post of Deputy Conservator of Forests, Planning and Development in the office of the Principal Chief Conservator of Forests, Tripura at Agartala. (We are informed that presently he is on Central deputation to Madhya Pradesh).

6. The respondent No.5, R.N. Singh, was appointed to the State Forest Service (Tripura) as Divisional Forest Officer with effect from 25.4.1969 and held charge of different Forest Divisions since then. He was appointed on 5.6.1980 to officiate in IFS cadre post of Deputy Conservator of Forests (hereafter Dy C.F. for short) in senior scale of IFS with concurrence of the Joint Cadre Authority, Manipur - Tripura, with effect from 8.6.1980. Subsequently his name was included in the select list approved by the UPSC on 18.1.1982 for promotion to IFS. Meanwhile his officiation in the post of Dy C.F. (which had commenced from 8.6.1980) was extended by the State Government from time to time purportedly under Rule 9 of IFS (Cadre) Rules, 1966. While he was thus officiating as Dy C.F. (Cadre post) he was posted on 9.1.1984 by the State Government as Project Manager in Tripura Forest Development Plantation Corporation Ltd. (hereafter for brevity's sake referred as TFDPC Corp. Ltd.). Even while he was so posted the State Government issued notifications from time to time extending the period of his officiation in the cadre post of Dy C.F. in spells ranging from 5.9.1984 to 4.3.1985, 5.3.1985 to 4.9.1985 and 5.9.1985 to 4.3.1986. Meanwhile he was appointed to IFS on 9.12.1985.

7. Apart from the above stated particulars relating to the applicant and respondent No.5 some other material facts may also be noted here. By Notification issued on 27.5.1981 the Government of Tripura declared the post of Project Manager, Tripura Forest Development and Plantation Corporation Ltd. to be equivalent in status and responsibilities to the IFS cadre post of Dy C.F. (Tripura) as specified in Schedule III of the IFS (Pay) Rules, 1968. This declaration was made under Rule 9 of the said Rules.

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ii) To hold the approval of the Central Government as regards the alleged continuous officiation of the respondent No.5 in a senior post as reflected in the impugned order as illegal and null and void.

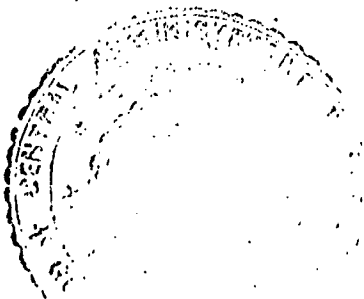
iii) To hold that the respondent No.5 is not entitled to 1977 as his year of allotment and that he is junior to the applicant.

On the face of it, it would appear that the applicant himself has no grievance which is required to be redressed. We therefore asked Mr B.K. Sharma the learned counsel for the applicant as to whether the application of this nature would be maintainable. The learned counsel submitted that it is maintainable because the year of allotment of respondent No.5 is directly linked with applicant's seniority and the applicant is aggrieved with the same as the respondent No.5 who according to the applicant is junior to him, would rank above him. The learned counsel submitted that prayer clause (iii) implies that relief is sought to remove this grievance. The learned counsel further submitted that if the applicant succeeds in establishing that the respondent No.5 was not entitled to be given 1977 as the year of allotment but a subsequent year then the clog on the position of ranking in seniority of the applicant would stand removed and alongwith it the grievance of the applicant would also stand removed without being required to <sup>seek</sup> any further relief and the O.A. therefore is competent and maintainable in the manner in which it has been filed. We are inclined to accept the above submissions and proceed to deal with the merits.

5. In order to appreciate the precise nature of the controversy involved certain further undisputed facts need to be noted. By Notification dated 22.10.1981 the applicant was posted as Divisional Forest Officer, Gumti Forest Division with headquarters at Jalambori. He took charge on 28.10.1981. The said notification which is at Annexure No.1 shows that that posting was by way of transfer from Udaipur where the applicant was an IFS 'Attached Officer' to the Divisional Forest Officer (Udaipur). He was appointed thereafter as Deputy Conservator of Forests in the senior scale of Rs.1100-50-1600 with effect from 6.3.1982 under Notifications issued by the State Government of Tripura. He however remained attached

to.....

*Dr. J. S. Sharma*



109  
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- iv) Likewise the misleading report made by the State Government to the Central Government furnishing service particulars of respondent No.5 and Shri Singhit has resulted in erroneously treating Shri Singhit as junior most direct recruit for determining the year of allotment of respondent No.5 as 1977. The report of State Government was biased in favour of respondent No.5.
- v) The fact of his own officiation in a cadre post which should have been the basis for determining the year of allotment of respondent No.5 has been ignored thereby seriously affecting his service prospect, he being direct recruit to the service.
- vi) Gumti Forest Division is a cadre post wherein he had officiated. Benefit of the same has been denied to him. Although he may have been given the senior scale later but he was officiating in a senior scale post. This fact has been ignored.

In substance the case of the applicant thus is that although he had officiated in the senior post and the respondent No.5 had not so officiated hence the year of allotment of respondent No.5 should have been determined vis-a-vis his position and not of Shri Singhit. On that basis the respondent No.5 ought to have been assigned 1976 as his year of allotment and assigning the year 1977 instead is contrary to the law and is liable to be set aside.

11. The application is resisted by respondent Nos.1 to 3 and 5. Respondent Nos.1 and 2, i.e. Union of India, Ministry of Environment and Forests and the Union Public Service Commission have filed a common written statement. Respondent No.3, i.e. State of Tripura and Respondent No.5, R.N. Singh (private respondent) have filed separate written statements. It will be convenient to deal with their contentions in the context of the submissions of the applicant.

12. After having heard the submissions of the learned counsel Mr B.K. Sharma for the applicant, Mr A.K. Choudhary, learned Addl. C.G.S.C., for Union of India and Mr A. Roy for respondent No.5, we now proceed

to pronounce



31  
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8. The Government of India, Ministry of Environment and Forests conveyed to the State Government by letter No.17020-2/82-IFS.II dated 14.2.1986 ex-post-facto approval of the Central Government in consultation with the UPSC in terms of Rule 9 of the IFS (Cadre) Rules, 1966, to the officiation of the respondent No.5 in the post included in Tripura part of Manipur-Tripura Joint Cadre of the IFS for the period of officiation from 5.6.1980 to 8.12.1985.

9. The respondent No.5 has been appointed to the post of Conservator of Forests, Tripura, in the pay scale of Rs.4500-150-5700 with effect from 1.7.1992.

10. With the above mentioned relevant facts the contentions advanced by the applicant may be summarised as under:

- i) The post of Project Manager in the IFDP Corporation is not a cadre post included in the Tripura Part of the Manipur-Tripura Joint Cadre. Hence the officiation of respondent No.5 in that post between 18.1.1982 till 9.12.1985 was not in a senior post.
- ii) Although the name of respondent No.5 was included in the Select List for promotion to the IFS in the year 1982 but he was appointed to the IFS on 9.12.1985. As on the date of appointment the Select List of 1982 was no longer valid in terms of Regulation 5(5) and 7(4) of the IFS (Appointment by Promotion) Regulations, 1966, the officiation of respondent No.5 until then even assuming it was in a senior post was of no avail. Hence his year of allotment has to be determined on the basis of the date of his appointment to the IFS on 9.12.1985. He could therefore be assigned only 1978 as the year of allotment. The assignment of the year 1977 based on the 1982 Select List is erroneous and contrary to the Rules.
- iii) The assignment of the year 1977 is the result of misleading report sent by the State Government to the Central Government. Hence it is vitiated and is not valid.

*Dwijendra Kumar*

Supreme Court in the case of RRS Chouhan and others -vs- Union of India and others, 1995(2) SLJ(SC) 142. The material passages from the judgment in which their Lordships have explained the scope of these rules are given below:

".....this means that the two requirements, namely, inclusion of the name in the select list, must be fulfilled before the benefit of officiation can be availed by a promoted officer for the purpose of seniority. From the said provisions it necessarily follows that both these conditions must be satisfied not only at the stage of commencement of the period of officiation but should continue to be satisfied during the entire period of officiation. In other words, under rule 3(2)(c) of the Seniority Rules a promoted officer can avail the benefit of the period of continuous officiation in a senior post for the purpose of seniority only if the following two requirements are fulfilled at the time of his appointment to the Service: (i) he had been continuously officiating in a senior post; and (ii) his name was in the select list during the period of such continuous officiation."

".....As indicated earlier Explanation 1 to sub-rule (2)(c) of Rule 3 envisages that an officer who is appointed to the Service by promotion can take the benefit of the period of continuous officiation in a senior post for the purpose of seniority. If, on the date of his appointment in a senior post, and (b) his name was in the select list. Both these requirements must co-exist not only at the stage of commencement of the period but also during the entire period for which benefit is claimed. If either of these conditions ceases to exist at any stage before the appointment to the Service, there will be a break in the continuity of officiation and the benefit of officiation would not be available for the purpose of seniority. This may occur either due to posting on a post which is not a senior post in the cadre or due to non-inclusion of the name in the select list for the subsequent year. The consequence in either event is the same and the period of officiation cannot be taken into account for the purpose of seniority."

"According to the aforesaid definition a senior post is confined to the posts included and specified under item 1 of the Cadre of each State in the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966 and a post included in the number of posts specified in items 2 and 5 of the said cadre, when held on senior scale of pay an officer recruited to the Service in accordance with sub-rule(1) of Rule 4 or Rule 7 of the Recruitment Rules."

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"32)(c) Where an officer is appointed to the Service by promotion in accordance with rule 6 of the Recruitment Rules, the year of allotment of the junior-most among the officers recruited to the Service in accordance with rule 7 or if no such officer is available the year of allotment of the junior-most among the officers recruited to the Service in accordance with rule 4(f) of these Rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former;

The respondent No.5 is appointed to the service by promotion. The applicant is an officer recruited to the service. Whether the applicant fulfils the test of being the junior most among the officers recruited to the service and what is the true position relating to respondent No.5 under the explanation are the core questions to be decided.

! Sent with letters in the following terms:

and increase the number of posts included in the number of posts specified in items 2 and 5 of the said cadre, when held on senior scale of pay, by an officer recruited to the Service in accordance with sub-rule (1) of rule 4 or rule 7 of the Recruitment Rules."

14. The above mentioned Rajes felt for consideration of the Hon'ble

Supreme Court

36

Point No 1

We now proceed to examine these questions.

16. Mr. B.K. Sharma, the learned counsel for the applicant submitted that Guimti Forest Division is a cadre post and since the applicant was transferred to that post as Divisional Forest Officer (DFO) which according to him is the same as Dy C.F. which is a cadre post the applicant is officiating in a cadre post from 28.10.1981. In this connection the applicant has averred in para 4.4 of the application that this post is a senior post included in the Tripura part of Manipur-Tripura Joint Cadre.

17. The State of Tripura, respondent No.3, deny that it is a

post. They state that it has not been specifically mentioned in the Schedule of Tripura part of the Joint Cadre as a senior post. They on the Notification issued by the Government of India dated 16.1 (Annexure R-4) amending the IFS (Fixation of Cadre Strength) Regulations and the Schedule to the parent Regulations and specifying the str as amended of Manipur-Tripura Joint Cadre. They also contend that applicant was not appointed to the post at Guimti but was merely transferred for administrative reasons in place of J.L. Dutta who was a member State Forest Service.

18. The respondent No.1 and 2 state that it is for respondent No.3 to meet the averment of the applicant made in this respect.

19. The respondent No.5 also denies that the post is a senior post included in the Cadre Schedule of IFS. His contentions travel on the of contentions of respondent No.3.

20. In the Cadre Schedule as in 1974 relating to Tripura

of Dy C.F. were mentioned but these were not identified. Similarly the Schedule as amended in 1981 (Supra) the posts which have been identified have not been identified. The argument of Mr Sharma is that DFO and Dy C.F. are the same the fact that the applicant was at Guimti as DFO does to show that the said post was included in the Schedule of IFS. It is mentioned in the Cadre Schedule to Tripura part of the Manipur-Tripura Joint Cadre. Mr Sharma

*Duganaditya*

*Amrinder*

No.5?

- v) What should be the correct year of allotment of respondent bad in law?
- vi) Whether the ex post facto approval accorded by the Central Government in the allotment of respondent No.5 is the result of wrong reports made by the State Government and is therefore vitiated and is bad in law?
- vii) Whether depending upon answers to the above questions the applicant was prejudiced in fact on the material date?
- viii) Whether the post of Project Manager in TFDPC Ltd. was equivalent to a cadre post and whether officiation of respondent No.5 in the post confers the benefit of gift leave on a senior post on him?
- ix) Whether the post of Project Manager in TFDPC Ltd. was equivalent to a cadre post and whether officiation of respondent No.5 in the post confers the benefit of gift leave on a senior post on him?
- x) Whether the post of Project Manager in TFDPC Ltd. was equivalent to a cadre post and whether officiation of respondent No.5 in the post confers the benefit of gift leave on a senior post on him?

15. The points that need determination broadly are these:

i) Whether Gurnit Forest Division was a senior post and applicant is entitled to get benefit of officiation in the post?

"These rules show that while Rule 8 requires that every cadre post shall be filled by a cadre officer, Rule 9 lifts the embargo in certain circumstances and permits a cadre post to be filled by a person who is not a cadre officer provided the State Government concerned is satisfied that either (i) the vacancy is not likely to last for more than three months, or (ii) there is no suitable cadre officer available for filling the vacancy. In case the appointment is for a period exceeding three months sub-rule (2) of Rule 9 requires that the State Govt. shall report forthwith to the Central Govt. the fact of such appointment together with reasons for making such appointment and under sub-rule (3) of Rule 9 on receipt of such report the Central Government may direct that the State Govt. shall terminate the appointment of such person and appoint therein a cadre officer and where such direction is so issued the State Government is required to give effect thereto. In case where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding six months sub-rule (4) of Rule 9 further requires that the Central Government shall report the full facts to the Union Public Service Commission with reasons for holding that no suitable cadre officer is available for filling the post and may in the light of the advice given by the Union Public Service Commission give suitable direction to the State Govt. concerned. Rule 10 lays down that cadre post shall not be kept vacant or held in abeyance for periods exceeding six months without the approval of the Central Govt. and the State Govt. is required to make a report to the Central Govt. in respect of the matters specified in clauses (a) to (d) of the said Rule."

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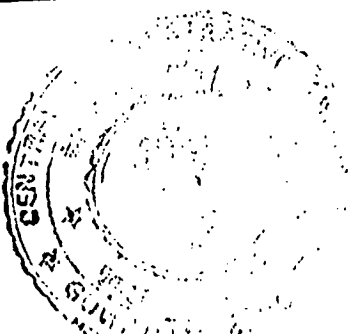
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buttress the above line of argument by referring to the Notification issued by the Government of India, Ministry of Personnel (etc) No.16016/8-94-AIS(II)A dated 4.7.1995 making the 175 (Cadre Strength) Fourth Amendment Regulations, 1995. Under these regulations the entries in the Cadre Schedule of Tripura have been amended. In the amended entry all the 9 posts of Dy C.F. have now been identified. The post of Gumti Forest Division is one of the posts so identified. Likewise, the Udaipur post (from where the applicant was transferred to Gumti) has also been identified as one of these posts.

21. Mr. A. Roy, the learned counsel appearing for the respondent No. 2, however, controverts the correctness of above submissions. Firstly he submits that there is no warrant to equate the status of DFO with that of Dy C.F. This submission is in conflict with the position in respect of respondent No. 3 who was posted as DFO while purportedly holding the rank of Dy C.F. which would imply that DFO was equivalent to Dy C.F. Secondly he submits that the very fact that only in the amended schedule in 1995 the post of Dy C.F., Gumti, has been identified as a cadre post the legitimate inference to be drawn is that earlier it was not treated as a cadre post. He submits that whether a post is a cadre post or not has to be necessarily determined from the entries occurring in the Cadre Schedule and as Gumti Division was not included in the Schedule until 1995 it was not a cadre post.

Alternatively he submits that even assuming that it was a cadre post since it does not accord to the definition of senior post the applicant who was in the junior scale prior to 6.3.1982 cannot be said to have officiated in a senior post. The learned counsel submitted that though the post of DFO and Assistant Conservator of Forests (ACF) may lead to same legal incidents the posts not being cadre posts cannot be described as a senior post which alone is material to determine seniority. Thus it is submitted that the applicant cannot derive any advantage from that officiation.

Dipendra Kumar



22: It is not easy to resolve this controversy in the absence of any categorical stand taken by respondent No.3 in the written statement. The contentions raised require inferences to be drawn from facts stated by them and do not amount to any specific pleas. There is no categorical denial that the post was never included in the 7 or 9 posts of Dy C.F. mentioned in the Schedules of 1974 and 1981. No material has also been produced to show that the post of DFO at Gumti Forest Division was upgraded as a cadre post only in 1995 or as to the circumstances for which the post has been included in the 9 cadre posts of Dy C.F. by the 1995 amended Regulations. The said respondents have also not disputed the contention that the posts of DFO and Dy C.F. are equal in status. Simply because a State Forest Officer had earlier been posted as DFO does not necessarily mean that it could not be a cadre post of Dy C.F. Moreover when the applicant was posted at Gumti he was a cadre officer. Nothing is shown as to how inspite of that fact he could be posted in a non cadre post if it were not a cadre post. The said respondents have also not specified the 9 posts of Dy C.F. (prior to 1995) by reference to the Divisions to which they pertained so as to inferentially rule out Gumti Forest Division from these posts. The burden doubtless was on the State Government to do so as the applicant has asserted that it has been a cadre post. In the circumstances we are not in a position to hold conclusively whether the post was included in the 9 cadre posts of Dy C.F. in the 1974/1981 Cadre Schedules or not for want of adequate and sufficient material being placed before us though we strongly believe it to be no.

23. On the hypothesis that it has been a cadre post, the next aspect is whether the benefit of officiation in that post is available to the applicant, what really is material to find out is whether the officiation was in a senior post. The post of Dy C.F. has at all times been included and specified under the Cadre Schedule of Tripura State as a cadre post. Hence it is a senior post within the meaning of Rule 2(c) of the IFS Seniority Rules. Officiation in a senior post is essential to attract the explanation to Rule 3(2)(c) of the Seniority Rules. The post of Dy C.F. in Tripura is also included in Part B of Schedule III of IFS (Pay) Rules as a post carrying pay in the senior time scale. However, what is crucial for determination.....

Dwijendra Singh

*Amendments*

in a cadre post that cannot affect the period of continuous officiation was given to the applicant on 6.3.1982 assuming that he was officiating. The learned counsel further submitted that in as much as the senior scale No.5 has to be counted from 18.1.1982, i.e. the date of select list is correct, the contention of the respondent No.3 that the officiation of the respondent and inclusion of the name in the select list are satisfied and therefore 1 to sub-rule 2(c) of Rule 3 namely continuous officiation in a senior post Mr. A. Roy submitted that both the conditions envisaged under Explanation from 1982 is to be taken as continuous officiation in the senior post. thereafter till his appointment to the service on 9.12.1985 the entire period continued till 1982 when his name was included in the select list and even in senior scale of IFS. According to respondent No.3 since the officiation he was appointed on 5.6.1980 to officiate in IIS cadre post of Dy. C.I. The respondent No.5 was a Divisional Forest Officer when

**Point No.2**

25. The respondent No.5 was a Divisional Forest Officer when this aspect thoroughly.

We are inclined to direct the Central Government to examine year of allotment of respondent No.5 has to be decided on that basis. was appointed to the service and the question of determination of the a senior post from 28.10.1981 till 9.12.1985 on which date respondent No.5 our opinion the applicant has to be deemed to have officiated in was a cadre post included but the 9 selected posts of Dy. C.I. then in 24. Thus if the post of Dy. C.I. of Forest Division on 28.10.1981 further period of one period prior thereto, i.e. from 28.10.1981 to 6.3.1982.

that the applicant was given senior scale of 6.3.1982 the applicant in the select list must be fulfilled.

This means that the two requirements, namely, officiating appointment to the select list and inclusion of the name

High Court in *IRS Chaudhary's case* which reads thus:

determination of seniority is officiation in a senior post and not senior scale. In this respect we may once again refer to the observation of the



*Disputed*

contingent

7(4) are read together with Regulation 5(5) it may mean a review or revision validity not did it happen. It is true that when provisions of Regulation 1982 list had not been revised or reviewed till 1985 it did not lose its review and revision. It is contended by respondent No.3 that as the itself which provides that the select list shall ordinarily be in force until here after 1982. The select review for the submission is Regulation 7(4) that the name of respondent No.5 would have been included in the subsequent 1982 select list was not revised or reviewed till 1985 it cannot be assumed vacancies in promotion quota every year. Thus it is argued that as the that the purpose behind such review and revision is to determine the that it select list shall be reviewed and revised every year. It is submitted by (Prohibition) Regulations, 1966. It is envisaged under Regulation 5(5) submission is based on Regulations 5(5) and 7(4) of the IFS (Appointment 27. The first of the above submissions does not impress us. The

Mr. J. L. 0.12.1985.

As the juncture direct result of officiating in a senior post as on that On that basis his year of allotment will have to be redetermined vis-a-taken into account for the purpose of determination of his year of allotment. the member of the Service on 9.12.1985 and that date alone has to be learned counsel respondent No.5 can only be considered as having become I, namely, continuous officiation is also not fulfilled. According to the to 8.1.1984 was thus lost. Hence the other requirement of the Explanation TFD Corporation Ltd. The benefit of officiation earlier between 5.6.1980 of Dy C.F. from 9.1.1984 when he was appointed as Project Manager in an interruption in the officiation of respondent No.5 in the senior post in the select list did not exist. Secondly, he submitted that there was Explanation I to Rule 3(2)(c), namely, that the name has to be included as the select list had lapsed and thus one of the requirements of the officiation of respondent No.5 cannot be taken from 18.1.1982 or earlier to meet the above proposition. Firstly he submitted that the date of 26. Two fold submissions have been advanced by Mr R.K. Sharma is not taken into account.

of the respondent No.5 from an earlier date, i.e. 18.1.1982 even if 5.6.1980

48

117

contemplated every year. However the submission of respondent No.3 that Regulation 5(1) provides flexibility regarding periodicity of Selection Committee meeting depending upon practical requirement and where the situation and circumstances may warrant the word 'shall' used in Regulation 5(5) has to be construed as 'may' cannot be brushed aside. Moreover the word 'ordinarily' occurring in Regulation 7(4) is of significance. We propose to delve on this aspect more as this question is not of crux to the real controversy that has been raised. Moreover this claim must be held to be belated as it relates to the position prior to 1985. Without therefore going to the interpretation of the earlier Regulations we conclude the discussion by stating that we do not regard the submission made as germane to the real issue in controversy.

28. The second lap of the submissions however needs critical examination. Now what the respondent No.3 did was that after appointing the respondent No.5 to the post of Dy C.F. on 5.6.1980 <sup>he</sup> issued the Notification dated 27.5.1981 (Annexure B-27) declaring the post of Project Manager in TFDP Corporation Ltd. as equivalent in status and responsibilities to the IFS cadre post of Dy C.F. Tripura. That notification however was issued under Rule 9(i) of the Pay Rules. The said rule primarily regulates the pay of members of the IFS appointed to posts not included in Schedule III. That would mean that even after the appointment as Project Manager the pay of respondent No.5 which he was entitled to draw while officiating as Dy C.F. was protected. The impact of Rule 9(i) is that no member of the service can be appointed to the post not included in Schedule III unless a declaration is made but that has no application to the appointment of a non cadre officer to a non cadre post. The declaration made by the State Government therefore cannot be construed to mean that the post of Project Manager was converted into a cadre post. The provision is plainly intended to protect the pay of a cadre officer who is appointed to a non cadre post. The reliance placed by the respondent No.3 on this Rule is therefore misconceived.

29. As mentioned earlier, the respondent Nos.1 and 2 have admitted that the post of Project Manager is not an IFS Cadre post. The respondent No.3 has tried to overcome the difficulty by raising an amazing argument

Dijendra Kumar

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42

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In their written statement. They say that the officiation of the respondent No.5 in the cadre post as Dy C.F. with effect from 5.6.1980 was extended from time to time upto 13.1986 by the notifications issued by the Government of Tripura (Annexures R-15 to 26). Thus he continued to officiate in that post all throughout notwithstanding that he was appointed to the post of Project Manager because he had joined in that post on 9.1.1984 without leaving the charge of the IFS Cadre post of Dy C.F. and he did not even hand over the charge of the cadre post. They state that the respondent No.5 continued to hold the uninterrupted charge of the IFS Cadre post of Dy C.F. besides holding the post of Project Manager against State Deputation. They seek to justify this action on the strength of the approval given by the Central Government in consultation with the UPSC on 14.2.1986 (Annexure 9 161). We are indeed baffled at this particular stand taken by the State Government. How a non-cadre officer officiating in an (IFS) cadre post can simultaneously also officiate in a non-cadre post and that too on State deputation is beyond comprehension. They have not even bothered to produce the order of appointment of the respondent No.5 as the Project Manager in order to show that the appointment was of the above nature. They have not also explained as to how the respondent No.5 who was officiating in a cadre post could be appointed to a non-cadre post on State Deputation without prior approval of the Central Government to the arrangement while retaining the officiating charge of the cadre post particularly when that post was not under the State Government but under a State Government Undertaking.

30. The respondent No.5 has on his part towed the line of respondent No.3. He has also avoided to produce a copy of the order appointing him to the post of Project Manager to show that it was a State deputation by way of additional charge or was a local arrangement. The reluctance on the part of both these concerned respondents would justify the inference that the appointment to the post of Project Manager was in the nature of full fledged appointment and not by way of additional charge. No material has been produced to show that while working in that post the respondent No.5 had also discharged the duties as officiating Dy C.F. That apart,

Dwijendra Singh

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the statements made by the respondent No.5 in his written statement have only tend to show that his appointment to the post of the Project Manager was but by way of additional local arrangement. His statements read as follows:-

"In the interest of public service, while the deponent was holding the IFS Cadre post of Dy Conservator of Forest he was posted as Project Manager....."

"The deponent took over the charge of the Project Manager..... without leaving the charge of the post of Dy Conservator of Forest..... his posting in the ..... Corporation was a local arrangement done by the State Govt. owing to the administrative necessity and exigencies of situation....."

"The post of Project Manager is against one of State deputation reserve shown in cadre schedule under item number 5 of the schedule....."

"..... He joined the post on 9.1.1984 without relinquishing his charge of the IFS cadre post of Deputy Conservator of Forests. He did not even hand over the charge of the said cadre post to any one."

When it is stated that he was "posted" and "he took over the charge" it implies that it was full fledged appointment to that post and not by way of simultaneous charge thereof alongwith the officiating charge of the cadre post. Besides no material has been produced by either of these respondents to substantiate the following assertions made by them:

- i) The posting was by way of local arrangement or by way of deputation on certain terms and conditions.
- ii) It was required owing to the administrative necessity and exigencies of situation. (The State Government has not provided any record to show that it was so).
- iii) That the charge of the post was assumed stating that it was being assumed in addition to the officiating charge of Dy C.F.

The respondent Nos.3 and 5 have used the words 'administrative necessity and exigencies of situation' or 'interest of public service' mechanically and by way of a cliché. Their statements therefore do not carry conviction. Reliance placed by respondent No.5 on schedule to the Fixation of Cadre Strength Amendment Regulations 1984 is also of no help to him. The entry at serial No.5 in the Schedule (relied upon by him) rather cuts across his story that he had joined the post without leaving charge of the cadre post. The schedule which specifies that senior posts under the State.....

*Pragendra Singh*

State Governments of Manipur-Tripura contains following entry at Sr.

"5.1) Deputation Reserve 15% of 4 above (i.e. posts to be filled by direct recruitment) : 3.

III Ad-hoc deputation Reserve for Tripura : 1."

The Schedule mentions 9 posts of Deputy Conservator of Forests for under entry No.1. The entries at Sr.No.1 and Sr.No.5 apparently be read as independent entries. Thus when respondent No.5 was from entry No.1 to entry No.5 that could only be on the basis was discontinued from the post mentioned under entry No.1 and was to the post under entry No.5. What further adds to the difficulty in this argument of respondent No.5 is that the State Government (resp No.3) have not stated that they had purported to appoint the resp No.5 to one of the deputation posts mentioned in entry at Sr.No.5 Schedule. Thus even though the respondent No.5 may have been to get the same pay by virtue of declaration of equivalence of the under the Pay Rules that makes no difference to the situation. We hold that the respondent No.5 does not satisfy the test of continuance of officiation in a senior post till his appointment to the service on 9.12.1985 which test has been laid down by the Supreme Court in the case of Chauhan (Supra). The observations are already quoted but bear repetition and read thus:

"This means that the two requirements, namely, officiating appointment to the senior post and inclusion of the name in the select list must be fulfilled before the benefit of officiation can be availed by a promoted officer for the purpose of seniority. From the said provisions it necessarily follows that both these conditions must be satisfied not only at the stage of commencement of the period of officiation but should continue to be satisfied during the entire period of officiation till appointment is made to the service." (S.S. Choudhary v. State of Bihar)

Although these conditions were satisfied on 18.1.1982 when the list included respondent's name the officiation in the cadre post interrupted on 9.1.1984 and did not continue on the date of appointment i.e. 9.12.1985.

31. In this connection Mr. Roy advanced an ingenious argument which on its face appears attractive and plausible though we find it difficult to accept the same. The learned counsel argues that by reason of the fact that Dy. C.E. was in service since 5.6.1980 till the date of induction

*Dijendra Singh*

that respondent No.5 was all along holding the senior post and even though he may have been required to work in additional posts of DFO and Project Manager he did not cease to be Dy C.F. The learned counsel stated that prior to the appointment of respondent No.5 as the Project Manager he was posted as DFO, he left the charge of that post and was thereafter appointed as the Project Manager but this had happened while he continued to hold the rank of Dy C.F. He was thus officiating in the senior post. He submits that the posting of respondent No.5 as Project Manager was by way of State Deputation as can be seen from the additional documents that have been produced by respondent No.5. The learned counsel also submits that placing the respondent No.5 under 'dual charge' (i.e. as Dy C.F. and DFO/Project Manager) is justifiable on the principle analogous to F.R.49. These submissions of the learned counsel amount to suggesting that respondent No.5 was notionally holding the rank of senior post and even though he may have been discharging the duties in other functional posts that still amounted to his officiation in the senior post of Dy C.F. It is also suggested that since the post of Project Manager was declared as equivalent to the cadre post the functioning of the respondent No.5 in that post amounted to officiation in the rank of Dy C.F. since he was shouldering equal responsibilities as that of Dy C.F.

32. Accepting the above submissions in our opinion will result in doing violence to the language and the object behind the Proviso to Explanation 1 to clause 3(2)(c) of IFS (Regulation of Seniority) Rules, 1968.

The said proviso reads as follows:

Provided that where an officer is appointed to the Service by promotion under Rule 8 of the Recruitment Rules on the basis of his name having been included in the first Select List prepared by the Selection Committee constituted under Regulation 3 of the Indian Forest Service (Appointment by Promotion) Regulations 1966, the period of continuous officiation in a senior post or post declared equivalent thereto prior to the date of inclusion of his name in the first Select List shall also count if such officiation is approved by the Central Government in consultation with the Commission." (Emphasis supplied).

There is no material produced to show that the Central Government had in consultation with the Commission approved the officiation of the respondent in the post of Project Manager on deputation to be officiation in a senior post. The ex post facto approval does not refer to the same. That period

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123

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therefore cannot ipso facto be described as 'continuous officiation'. compliance with the requirement of the proviso cannot be deduced from the implication as is suggested by the learned counsel. Such an implication would amount to stretching the language of the proviso beyond its legitimate purpose. Such an interpretation would be pregnant with the danger of a State Government giving the rank of a cadre officer to a State officer undeservedly so as to gain seniority over a direct recruit on his induction in the Service. This is even demonstrable in the instant case. The initial order of appointment of respondent No.5 dated 5.6.1984 as Dy C.F. shows that it was "to officiate temporarily". Since he was appointed as Assistant Conservator this appointment was on promotion. That necessarily implies that at that time there was need to appoint a Dy C.F. (which is a cadre post). Yet the respondent was posted firstly as DFO and then as Project Manager. That goes to show that the appointment of the respondent as Dy C.F. was in fact intended to confer benefit on him of the rank of cadre post although his services were not required for the post of Dy C.F. This was something which the State Government did while impinging upon the Scheme of the Central Indian Forest Service. Doubtless the Rules & Regulations of the Service would govern the cadre post and a State Officer could not be pushed into a cadre post merely by giving him the rank of Dy C.F.

33. Even otherwise it appears to us that the posting of the respondent as DFO amounted to cessation in the 'continuous officiation' in the senior post of Dy C.F. Annexure II-1 produced on behalf of the respondent No.5 along with his rejoinder dated 8.2.1996 clearly shows that the respondent had on 6.1.1984 made over the charge as Divisional Forest Officer and received the charge as Dy C.F. That means that for sometime earlier to 6.1.1984 he was posted as DFO. That date has not been disclosed nor the nature of that appointment can be gathered as the order of appointment has not been produced. In this context it is pertinent to note that respondent No.3 do not admit that the post of DFO is of the same rank as Dy C.F. and therefore is to be regarded a cadre post. Indeed that is the contention of the applicant which is disputed by the said respondents. Thus their stand is contradictory and it cannot therefore be inferred that they had posted the respondent No.5 as DFO treating it as equivalent to Dy C.F. They had also not declared the post of DFO as equivalent in status and responsibility to the cadre post of Dy C.F. consistently with their stand that these otherwise are not the same or equivalent posts. We therefore find it difficult to accept the argument that the respondent No.5 was holding a dual charge, and did not lose the benefit of the rank as Dy C.F. Even otherwise, his posting at one and the same time in two senior posts (assuming both are equivalent) has neither been claimed nor explained nor has been justified.

Dr. J. S. Shukla

6/5/84

48

34. Mr Roy submitted that such are not the pleadings of the applicant and therefore he cannot hope to get advantage of these features. It is true that in specific terms such pleadings have not been raised. However we find that in general terms the applicant has disputed the fact of continuous officiation of respondent No.5 in a senior post and the aspects considered above have arisen during the submissions of the counsel and the documents submitted by respondent No.5 himself. Hence we are not impressed by this submission.

35. Thus we hold that the respondent No.5 ceased to officiate in a senior post of Dy. C.F. when he was posted as DFO and thereafter from the date on which he joined the post of Project Manager, HDP Corporation Ltd., i.e. from 9.1.1984 and consequently he does not fulfil the condition of continuous officiation.

36. We may refer here to the rulings cited by the learned counsel. Mr A. Roy drew our attention to the following decisions:

- i) Harjeet Singh etc. -vs- Union of India and others,  
AIR 1980 SC 1275.
- ii) Amrik Singh and others -vs- Union of India and others,  
AIR 1980 SC 1447.
- iii) M.V. Krishna Rao and others -vs- Union of India and others,  
1994(2) SLJ 209.
- iv) Union of India etc. -vs- G.N. Tiwari and others,  
(1985) Suppl.3 SLR 744.

37. In Harjeet Singh's case the Hon'ble Supreme Court while dealing with the rules governing Indian Police Service and in the context of temporary appointment of non-cadre officers in cadre posts has observed in the context of Rule 9 of the I.S. Cadre Rules that such appointment is subject to the directions of the Central Government who may terminate such appointment and that the Central Government too is bound to obtain the advice of the UPSC if appointment is to extend beyond six months. With respect to the UPSC the need for strict adherence with Rule 9 of the Cadre Rules. As discussed above we find on the facts of this case that there

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125  
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has been no strict compliance with Rule 6. Hence the ruling does not help Mr Roy.

28. In *Anant Singh's* case which also related to IPS, although the Supreme Court has disapproved the violation of the provisions of Rule 6 but in the facts of that case it was held that the officiation could be taken into consideration and the relaxation of the Rules by the Central Government was held good. Mr Roy submitted that the ex post facto approval given by the Central Government to the officiation of respondent No.5 should be held valid on the same analogy. It is true that the Central Government can relax the Rules in exercise of its power under Rule 6 of the All India Services (Residuary Matters) Rules 1960. Such exercise, however, must appear to have been carried out in good faith and must be equitable. Since in our view the Central Government does not appear to have been given complete information its exercise of the power to relieve the respondent No.5 of the violation of Rule 9 or to approve his officiation as in compliance with the Rules cannot be held proper nor can it be sustained. With respect the above decision does not help Mr Roy.

29. In *G.N. Tiwari* in the facts of that case there was a deemed approval by the Central Government to the officiation in the cadre post of the officers belonging to the State service since the State Government had sent a report to the Central Government and the Central Government had also asked for consolidated proposal of officiation of non-cadre officers on cadre posts. This decision with respect has no application to the present case because there has been approval given by the Central Government and no question of deemed approval has arisen. The decision does not lend any support to the case of respondent No.5.

30. The decision in *M.V. Krishna Rao* takes the view that prior concurrence of Central Government was not obligatory and that proviso to Sub-rule 2 does not apply to select list officers unless officer not next in order is appointed. That was also a case relating to IPS. Although reports

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had been sent by the State Government there was no response from the Central Government and after several years the Central Government declined to approve the officiation. That stand was disapproved by the Court. This decision undoubtedly is much nearer to the line of argument of Mr Roy but we find it difficult to apply the same as we are not satisfied about the reports having been sent by the State Government and even if sent by them they had fully disclosed all the material facts to enable the Central Government to exercise its power of approval.

41. We may note here a few more decisions. In *Erishna Holari Srinivasa -vs- State of U.P.* and another, (1993) Suppl 3 SCC 610. It was held by the Supreme Court that prior concurrence for officiation beyond the prescribed period is mandatory. In the instant case since the question relates to validity of the ex post facto approval we do not propose to invalidate the officiation of the respondent No.5 for want of prior approval but would explain that the Central Government would be required to bear the burden of this aspect. In the case of *Syed Khalid Raza & others -vs- Union of India and others*, 1993 (1) Suppl 3 SCC 575 (also a case relating to 1991) the Supreme Court was pleased to observe that where the vacancy/ vacancies continue for more than three months, the prior concurrence of the Central Government is mandatory and that if it continues for more than 6 months prior approval of the UPSC is also mandatory. Any appointment in violation thereof is not an appointment in accordance with the law. We think that the import of this decision has also to be borne in mind by the Central Government.

42. Mr P.K. Sharma, the learned counsel for the applicant, refers to the decision of this Bench (Guwahati) of Central Administrative Tribunal in *V.K. Vishnoi and others -vs- Union of India and others*. It was held therein that relaxation in Recruitment Rule is not permissible. This aspect is also required to be borne in mind by the Central Government.

43. The peculiar facts of this case and absence of adequate material as also absence of proper pleadings we are inclined to leave the question of redetermination of the year of allotment of respondent No.5 in the light of the principles emerging from the above mentioned rulings and

Dipendra Kumar

129

150

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our findings to the Central Government. In this context we may also mention that Mr B.K. Sharma relies upon Explanations I, II, IV, and second proviso thereof of Rule 3 of I.S. (Regulation of Seniority) Rules 1968. The Central Government as the Cadre Controlling Authority has also to consider the position in respect of officiation of respondent No.5 keeping in mind these provisions.

44. Another circumstance pointed out by the applicant to vitiate the decision contained in the impugned order is that the State Government had misled the Central Government on Tripura vacancies. Relying upon the letter of the Principal Chief Conservator of Forests, No.F 3(19)/For/Estt-83/1432 dated 17.9.1985 to the Under Secretary to the Government of Tripura it is submitted that whereas only 5 posts in promotion quota of  $\frac{1}{3}$ rd were available these were shown as 6 in an effort to accommodate respondent No.5. The said letter was relating to the determination of seniority of the applicant and the respondent No.5 and one more officer. This seems to have been the information supplied to the Central Government as was called in connection with the representations of the officers and which is referred to in the written statement of respondent No.1 as 'further verification' by the State Government. The particulars stated show that total number of senior plus central deputation posts was 17 in Tripura (in 1981).  $\frac{1}{3}$ rd promotion quota therefore could be 5 (as fraction is to be ignored) as per decision of the Government of India but these are shown as 6. Consequently it is stated that there was one post against promotion quota vacant in Tripura part. Total number of posts for Manipur is shown as 15. The promotion quota would be 5 but it is shown as 4. There is therefore substance in the grievance that one post from Manipur quota was diverted to Tripura quota and the allegation that it was done to favour respondent No.5 cannot be said to be baseless. However this circumstance appears to us to be more relevant to the ground of lack of bonafides on the part of the State Government and not strictly for the consideration under discussion. It may be mentioned that in the letter dated 2.1.1988 the Central Government had stated that "As per the information available on the records of this Department, no vacancy was anticipated

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In the light of above decision we hold that the benefit of post facto approval given by the Central Government to the officiation of Independent No.5 in a cadre post for the period between 1982 and 1985 is not available and it had to lapse and this officiation could not be taken into account while fixing the seniority of Independent No.5 in the Service.

46. With our conclusion on point No.2 as above it must follow that there was no affiliation of the respondent No.5 in a senior post within the meaning of Explanation 1 to Rule 3(2)(c) of the Seniority Rules and that is not a factor to be taken into account for determination of the year of allotment. We think that this is a situation as discussed by Their Lordships of the Supreme Court in O.S. Singh -vs- Union of India, 1995(5) SLR (SC) 626 (Paras 9 to 13). That case related to IPS Cadre but the predominate provisions governing IPS being similar to IFS Rules presently concerned it will be apt to quote the material observations:

"But there may be a situation when a person is appointed to the Service by promotion without his having officiated on a senior post prior to his substantive appointment. How is the year of allotment to be assigned to such an officer? A literal interpretation of Rule 3(3)(b) of the Seniority Rules would lead to the result that Rule 3(3)(b), when it talks of continuous officiation in a senior post, only envisages cases where an officer before his substantive appointment to the service has officiated in a senior post and it does not make any provision in respect of a situation where an officer is appointed substantively to the service without his having officiated in a senior post prior to his substantive appointment to the service. In other words, Rule 3(3)(b) suffers from 'casus omissus'. Before we reach this conclusion it may be pointed out that judicial decisions reveal two trends."

Drigensdahl



"12. If Rule 3(3)(b) is so read as to effectuate the intention of the rule making authority then the considerations referred to therein which apply in the matter of assignment of years of allotment in cases where an officer has officiated prior to the date of his substantive appointment, must necessarily apply for the purpose of assigning the year of allotment of an officer who has been substantively appointed without being required to officiate. In such a case his year of allotment will have to be determined with reference to the year of allotment of junio-most among the officers directly recruited to the service who officiated continuously in a senior post from a date earlier than the date of substantive appointment of the promotee officer. For that purpose the expression "such officiation" in the context of the promotee officer in Rule 3(3)(b) will have to be construed as meaning "substantive appointment" in cases where the promotee did not officiate in a senior post before his substantive appointment to the service."

"13. We arrive at the same result if we proceed on the basis that there is a casus omissus in Rule 3(3)(b) in the matter of assignment of year of allotment for an officer appointed by promotion who has not officiated prior to his substantive appointment to the Service and the said omission cannot be filled by the Court by judicial interpretation. This would only mean that the Seniority Rules are silent in the matter of assignment of year of allotment of such a promotee officer. In that event the competent authority can assign the year of allotment to such an officer in exercise of its administrative discretion. The only question that would arise in respect of such an officer is whether in the exercise of its administrative discretion the Government has acted arbitrarily."

Thus the position would be that even if the officiation of the applicant at Gurni Forest Division is treated as still is entitled to be assigned 1978 as the year of allotment to the Service and in so far as respondent No.5 is concerned the basis would be the date of his appointment to the service, i.e. 9.12.1985. Hence the basis adopted in the order of Central Government dated 18.1.1987 that as on 18.1.1987 Shri S. Singh was the junio-most among the directly recruited officers in the Joint Cadre continuously officiating in a senior post would not be the correct criteria to be adopted. The position of S. Singh vis-a-vis the applicant may stand differently with which we are not concerned in this application, but in so far as his position vis-a-vis respondent No.5 is concerned that has to be redetermined in the light of our above conclusion.

47. Mr. B.K. Sharma submitted that even the comparison with S. Singh is not correct and as to who was junio-most direct recruit officiating in senior post will be the determining factor for assignment of the year of allotment to respondent No.5. The respondents have also not provided

Dajendra Shrivastava

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any particulars in respect of officiation of S. Singh. Even otherwise S. Singh being of 1977 batch and the applicant of 1978 batch the applicant is entitled to claim to have been the junior most direct recruit as on 18.1.1982 assuming officiation of respondent No.5 from that date is to be taken into account. This submission is not prejudicial to the challenge to the officiation of respondent No.5 on 18.1.1982 in a senior post.

Para 10.4

40. There are several circumstances which point to the distinct possibility of the decision of the Central Government determining the post of allotment of the respondent No.5 as 1977 being based upon an incorrect or incomplete information sent by the State Government. That inference is strengthened from some of the statements contained in the written statement of respondent Nos.1 and 2. In para 12 it is submitted that according to the information furnished to them by the respondent No.3 the respondent No.5 had been continuously officiating in senior posts included in the Tripura part of Manipur-Tripura Joint Cadre of the IFS from a date prior to the inclusion of his name in the Select List and continuously upto the date of his promotion to IFS. It is further stated that the said officiation had been duly approved by the Central Government in terms of Rule 9 of the Cadre Rules in consultation with the UPSC. Further it is stated that in the light of representations of applicant and other officers the fact whether respondent No.5 had actually officiated in a senior post was again verified by the respondent No.3 and it was only upon a categorical clarification furnished by the said respondent to the answering respondents that the said period of officiation was taken into account by the Central Government in consultation with the UPSC in determination of seniority of respondent No.5. It is reiterated further on that the Central Government had relied on the report furnished by the respondent No.3 according to which the junior most of the officers continuously officiating in senior posts on 18.1.1982, the date relevant to determination of seniority of respondent No.5, was Shri Singit whose year of allotment is 1977. It is abundantly clear from these statements that the decision of the respondent Nos.1 and 2 contained in the Impugned order was based upon the information supplied by the State Government

and.....

*Dr. J. S. Singh*

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and not on any other material.

49. The respondent No.3 in the circumstances was expected to come clear in the matter and to have placed the relevant material before the Tribunal from which the nature of information supplied to the Central Government could be gathered. They have however chosen to keep back that material. From the statements made by the respondent Nos.1 and 2 it appears that the respondent No.3 had given the impression in their report that respondent No.5 was continuously officiating in the cadre post of Dy C.F. since prior to 18.1.1982 and from that date till he was appointed to the Service on 0.12.1985. There is room to believe that they had suppressed the fact from the Central Government that respondent No.5 was firstly appointed as DFO and then to the post of Project Manager, TFDP Corporation Ltd. They do not appear to have informed that he was sent to those posts without leaving the charge of the post of Dy C.F. which stand to now taken presumably as an afterthought. They also do not seem to have informed that the appointment as Project Manager was on State Deputation. Had these facts been brought to the notice of the Central Government then the written statement of respondent Nos.1 and 2 would have revealed that that arrangement was approved by the Central Government after it was satisfied that that was permissible under the rules and necessary and they would not have admitted as they have done that the post of Project Manager was not a cadre post. Likewise the respondent No.3 have not shown as to whether during further verification at the instance of Central Government after representations were filed that the fact of posting of respondent No.5 as Project Manager and nature of that appointment was placed before the Central Government and for that matter he was earlier posted as DFO.

50. Heavy reliance has been placed by the learned counsel Mr A. Roy on behalf of respondent No.5 upon the ex post facto approval given by the Central Government to the officiation of respondent No.5 in the cadre post continuously.

51. The ex post facto approval was given by the Government of India, Ministry of Environment and Forests by letter No.17020-2/82-IFS II dated 14.2.1986. The letter refers to the State Government's letter

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No.1.....

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No.F.10(12)-GA/80 dated 5.12.1985. Apparently the action of Government of India was in pursuance of that letter. The State Government, i.e. respondent No.3 have not produced the said letter for our perusal. Whatever information may have been supplied in that letter is very crucial to know whether the fact of posting of respondent No.5 as DFO and thereafter to the non-judicial post of Project Manager, its nature and the circumstances in which this necessitated was brought to the notice of the Central Government. The suppression of that letter leads to the inevitable inference that that information had not been furnished to the Central Government. Had the facts furnished the Central Government may not have perhaps been disposed to accord ex post facto sanction and would have also dealt with that aspect in their written statement. This inference is further fortified by the contents of the aforesaid letter of Government of India. After referring to the State Government's letter (dated 5.12.1985) it proceeds to state:

"and to convey ex-post-facto approval of the Central Government in consultation with the Union Public Service Commission in the terms of Rule 9 of the Indian Forest Service (Cadre) Rules to the officiation of following officers in posts included in Tripura part of the Manipur/Tripura Joint Cadre of IFS for the periods mentioned against their names:

Sr.No.	Name	Period of Officiation		Remarks
		From	To	
2.	Shri R.N. Singh	5.6.80	8.12.85	Appointed to IFS with effect from 9.12.85"

This indicates that the State Government had in all probability pointed out only that the officiation was as Dy Conservator. It also suggests that the fact of posting as Project Manager in all probability was not disclosed. Thus the circumstance of approval which formed the basis for determination of the year of allotment of respondent No.5 itself has to be held to be vitiated as it appears to be based on wrong and/or incomplete information.

52. The approval is also assailed assailed by the applicant's counsel Mr B.K. Sharma as being in contravention of the rules on the ground that

Dr. J. S. Shukla

Rule 9.....



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Rule 9 envisages prior approval and does not permit ex post facto approval. There is great force in this submission. Rule 9(1) requires that before appointing a non-cadre officer to a cadre post in the State the State Government has to be satisfied that the vacancy is not likely to last for more than three months or no suitable cadre officer is available for filling a vacancy. The State Government, i.e. respondent No.3 have however not provided any details nor have even asserted that such a satisfaction was reached or was conveyed to the Central Government. Likewise, proviso to Rule 9(2) lays down that a non-cadre officer shall be appointed to a cadre post only with the prior concurrence of the Central Government where the appointment exceeds three months. In such a case a report has to be made to the Central Government with reasons therefor. It is open to the Central Government to direct the termination of the appointment on receipt of the report. The written statement of respondent No.3 shows that the extensions given to the respondent No.5 as Dy C.F. even after 16.1.1982 dated 24.3.1982, 15.3.1983, 20.8.1983, 21.3.1984, 16.3.1985 and 1.10.1985 were all for six months each. The proviso to Rule 9(2) has thus been observed only in breach. The reasons for justifying ex post facto approval have also not been revealed. It is also not shown by the respondent Nos.1 and 2 as to under what provision of the Rules and under what circumstances ex post facto approval was considered justified. We are therefore of the view that the approval accorded by the Central Government stands vitiated. That has therefore been wrongly taken into account while determining the year of allotment of respondent No.5.

53. Mr Roy sought to refer to some additional documents produced by respondent No.5 during the course of hearing on 8.2.1996. The letters dated 6.10.1986, 24.3.1982, 15.2.1983, 29.3.1983, 19.10.1983 and 4.5.1984 from the Government of Tripura to the Government of India undoubtedly are in the nature of reports seeking approval to the continuation of respondent No.5 in the rank of Dy C.F. Some reasons therefor were also given. We cannot however act on the basis of these documents produced at this belated stage because the respondent No.3 do not claim in their written statement that such reports were sent from time to time nor the written statement.....

*Dr. J. S. Chatterjee*

statement of respondent Nos.1 and 2 indicate that these reports were received and were considered at the time of giving the ex post facto approval. Mr Roy submitted that there would arise the presumption that the Central Government in the course of its ordinary business had considered them. We think that in the face of the written statement there would be no justification to act on the basis of such presumption. What however is fatal to the argument is that the State Government had not revealed in these letters to the Central Government that while approval to continuation of respondent No.5 as Dy C.F. was being sought his services were utilised in other posts viz. DFO and Project Manager. That fact seems to have been advisedly suppressed. This fortified our view that the approval of the Central Government was the product of incomplete and incorrect information supplied by the State Government and is thus vitiated.

Point Nos.5 and 6

34. For the reasons so far discussed we hold that the decision of the Government of India contained in the impugned order assigning 1977 as year of allotment to respondent No.5 cannot be sustained in law. The manner in which the State Government conducted itself has not been consistent with the rules. It borders on malafides and appears biased in favour of respondent No.5. The year of allotment of respondent No.5 therefore is required to be redetermined. We would have not hesitated to do so but for the fact that all the relevant material has not been made available to us by the State Government to enable us to verify all the relevant facts to arrive at a fair decision. Moreover it is essentially a matter within the province of the Central Government. Hence we will leave that task to be undertaken by the respondent No.1.

35. It appears that during the pendency of the application the respondent No.5 has been promoted as Conservator of Forests and the applicant had also officiated in spells as Conservator of Forests. He is presently on Central Deputation to Madhya Pradesh. The redetermination of year of allotment of respondent No.5 may have some impact on these developments. Therefore that is not the subject matter of the O.A. we leave all these.....

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these questions to be suitably dealt with by respondent Nos.1 and 3 in due course.

56. The respondent No.5 has contended that the application is barred by limitation. However it is not shown as to how it is barred. The impugned order is dated 18.1.1991. The applicant submitted a representation on 2.4.1991. A reminder was sent on 6.8.1991. The O.A. was filed on 18.6.1991. The respondent No.1 merely states that the representation was rejected but no date is mentioned. Hence no question of bar of limitation under Section 21 of the Administrative Tribunals Act can arise. The objection is therefore rejected.

57. In the result following order is passed:

ORDER

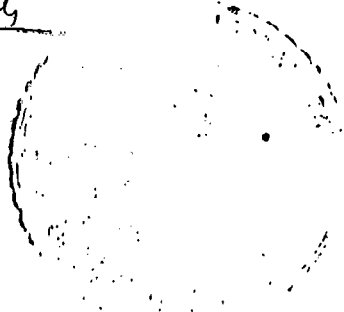
i) The impugned order dated 18.1.1991 (Annexure 2) passed by the Government of India to the extent of determining the year of allotment of the respondent No.5, Shri R.N. Singh, as 1977 and directing his placement in the Gradation List as mentioned therein is hereby set aside subject to following clauses:

ii) The Government of India, Ministry of Environment and Forests, the respondent No.1 are directed to re-determine the correct year of allotment of the respondent No.5 in accordance with the Rules in the light of the foregoing discussion in the judgment and determine his placement in the Gradation List consistently therewith. For this purpose the approval accorded to the continuous officiation of respondent No.5 on 14.2.1986 shall be ignored.

iii) The respondent No.1 are requested to complete the above exercise within a period of three months from the date of communication of this order but in any event not beyond a period of six months thereafter.

iv) All consequential questions as may arise on change of the year of allotment of respondent No.5 are left to be dealt with by respondent Nos.1 and 3 relative to the respondent No.5 as well as the applicant.

*Dr. J. S. Chaturvedi*



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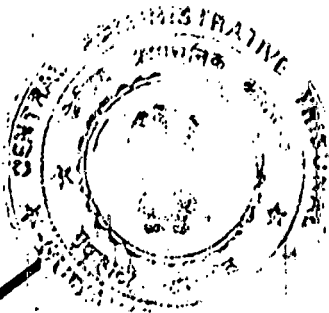
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consistently therewith.

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The original application is partly allowed. No order as to costs.

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W. J. C. H. 18 18 18



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*[Signature]*  
27/3

So far Officer (S)

Joint Secretary (S)  
Joint Administrative Tribunal  
Joint Secretary (S)  
Joint Secretary (S)  
Joint Secretary (S)

*[Signature]*  
27/3

Dr. J. S. Chakravarti

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F.No.17013-22 /94-IFS-11  
Ministry of Environment and Forests  
Government of India

Karyavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi- 110 003.  
Phone: 4362698  
Fax: 4350578  
Dated 07 March, 1994.

to

The Chief Secretaries,  
All states/ Union Territories.

Subject: Promotion of the State Forest Service Officers to the  
Indian Forest Service - need to consider the eligible  
officers for promotion regularly and forwarding of  
complete proposals- reg.

Sir,

1. I am directed to invite your attention to the provisions of Regulation 3 (1) of Indian Forest Service (Appointment by Promotion) Regulations, 1966, as per which the committee constituted, shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Forest Service as are held by them to be suitable for promotion to Indian Forest Service. It has been observed that in some State cadres, promotions to Indian Forest Service have not been effected for long periods because of one reason or the other. Many State Forest Service officers have genuine grievances for their non-promotion to Indian Forest Service in spite of the vacancies being available in the promotion quota of IFS in the state, although as a matter of fact, the promotion quota specifies only the maximum of the number of State Forest Service officers who could be promoted to Indian Forest Service at a given point of time, and does not give them a right for promotion to the Indian Forest Service.

2. The State Governments are requested to kindly ensure that all the information/ records required by the Union Public Service Commission, for conducting the Selection Committee Meetings are provided in time so that Select List is prepared every year as per promotion regulations.

3. As per proviso to Rule 3 (1) of the Indian Forest Service (Pay) Rules, 1968, subject to the provisions of Sub Rule (2) of Rule 4 of the Indian Forest Service (Recruitment) Rules, 1966, a direct recruit officer has to be considered for

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appointment to senior scale on his completion of four years of service. The eligible officers are to be appointed to Senior scale w.e.f. 1st of April of the year in which they complete four years of service as per instructions issued by this Ministry. While sending proposals to this Ministry, the State Governments are requested to ensure that the promotion proposals are complete in all respects and also all the eligible direct recruit officers are considered and appointed to the senior time scale as per Rules.

4. While sending promotion proposals to the Ministry, the State Governments should invariably forward seniority fixation proposals of the officers proposed to be promoted to Indian Forest Service.

5. It is requested that the instructions mentioned above may kindly be scrupulously followed.

*A. K. Goyal*

( A K GOYAL )  
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

Copy to

Forest Secretaries of all States/ Union Territories.

Principal Chief Conservators of Forests.

File No. 17013/12/90-IFS.II  
GOVERNMENT OF INDIA  
MINISTRY OF ENVIRONMENT AND FORESTS

Paryavaran Bhavan,  
CGO Complex, Lodhi Road,  
New Delhi-110003

Dated the 18th May, 1995

ORDER

The year of allotment and seniority of the undermentioned promotee officers borne on the Manipur-Tripura joint cadre of the Indian Forest Service is required to be determined in terms of the provisions of Rule 3(2)(a), 3(2)(c) and 4(4) of the Indian Forest Service (Regulation of Seniority) Rules, 1968. Their respective dates of promotion to the Indian Forest Service are given below:

S.No.	Name of the officer	Date of appointment to the IFS
1.	Sh. A.K. Sinha (Manipur)	10-3-92
2.	Sh. B.M. Dev (Manipur)	10-3-92
3.	Sh. Kh. Karachand Singh (Manipur)	1.6.92
4.	Sh. K. Prem Kumar Singh (Manipur)	1.6.92
5.	Sh. Jibanlal Datta (Tripura)	17.8.92
6.	Sh. K. Jagdishore Singh (Manipur)	17.8.93

2. None of the six officers has officiated continuously in senior posts for the purposes of Rule 2(g), read with Rule 3(2)(c) of the Indian Forest Service (Regulation of Seniority) Rules, 1968 prior to the date of his promotion to the Indian Forest Service in accordance with the provisions of Rule 9 of the Indian Forest Service (Cadre) Rules, 1966. The year of allotment, therefore, is to be determined to be the same as of the senior most amongst the directly recruited officers in the Manipur-Tripura joint cadre of the Indian Forest Service who have been continuously officiating in senior posts, on the date of promotion of these officers.

3. In terms of the provisions of the Indian Forest Service (Regulation of Seniority) Rules, 1968 referred to in para 1 above, their year of allotment and their placement is determined as under:-

S.No.	Name of the officer	Year of allotment	Placement
1.	Sh. A.K. Sinha	1988	Below Sh. R. Das (RR. 1988)

Dijendra Das

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1	2	3	4
2.	Shri B.M.D	1983	Below Sh. A.K. Sinha
3.	Shri Kh. Kalachand Singh	1988	-do- and below Sh. B.M. Dev
4.	Shri K. Prem Kumar Singh	1988	-do- and below Sh. Kh. Kalachand Singh
5.	Jibanalal Datta	1988	-do- and below Sh. K. Prem Kumar Singh
6.	K. Jagdishore Singh	1988	-do- and below Sh. Jibanalal Datta

Note: The inter-se seniority of the officers who have been appointed to the Indian Forest Service on the basis of the IFS Exam-1983 and onwards has not yet been fixed.

(B. Sanwal)  
Under Secretary to the Govt. of India

- Distribution:
1. The Chief Secretary, Government of Manipur, Imphal.
  2. The Chief Secretary, Government of Tripura, Agartala.
  3. The Secretary, Department of Personnel & Admin. Reforms, Government of Manipur, Imphal.
  4. The Secretary, Appointment and Service Department, Govt. of Tripura, Agartala.
  5. The Principal Chief Conservator of Forests, Manipur, Imphal.
  6. The Principal Chief Conservator of Forests, Tripura, Agartala.
  7. The Accountant General, Manipur, Imphal.
  8. The Accountant General, Tripura, Agartala.
  9. Guard File/ Spare copies.

No. 2(28) / A-100/  
Government of Tripura  
Office of the Principal Chief Conservator of Forests,  
Tripura : Agartala.

Dated, Agartala.  
The \_\_\_\_ th June, 1995.

Copy to :-

1. Shri A.K. Sinha, DCF (P&O) of this office.
2. Shri B.M. Dev, Retired IFS, P.O. Bansarani, Ganga Road, Calcutta - 700070.
3. Shri J.L. Datta, DCF, DFO, Working plan Division No-1, Agartala.
4. Personal file of S/Shri A.K. Sinha, DCF / B.M. Dev, Retd. IFS / J.L. Datta, DCF.

Principal Chief Conservator of Forests,  
Tripura, Agartala.



No. F.2-5/(DK)/Estt/CHDP 174-75

dated 25/5/98

To  
The Secretary  
Appointments, Ministry of P.W.D.  
Govt. of Tripura  
Agartala.

( Through P.Cet, Tripura )

Subj: Right of appointment to senior post.

3 12,

I beg to state that I was appointed to the Indian Forest Service in 1988 & later on allotted to Tripura part of MT cadre. I joined the Indian Forest Service on 4.7.1988 in Indira Gandhi National Forest Academy at Dehradun. I completed the job training and requested for posting in senior post on 12.2.91 ( Annexure-I ).

I was confirmed in the service on 4.7.1991 vide letter No 18012/22/93-JFS-II dated 22.2.96 ( Annexure II ). In PC Madhwa VS Union of India & another the Supreme Court observed that the members of All India Service are entitled as of right to be appointed to the senior post even in first year of the service but they would be entitled to draw pay in the senior scale only after confirmation. The order was quoted by Ministry of Home Affairs vide No 23/46/63-AIS(III) Vol II dated 29.3.06 ( Annex. III ) & directed the state govt. as follows.

1. The direct recruits should be deemed to have appointed to senior post based on the seniority even on the first day of joining in service (by ignoring non cadre officers in cadre post)
2. The payment should be made in senior time scale from the date of confirmation. This order was applicable w.e.f. 1950. In cases Ministry of Home Affairs ordered that claim of senior scale should be made within 3 years of claim. There were 23 senior duty post in 1988 and more than 3 senior post were being

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I am by now a retired officer.

In view of the Supreme Court direction kindly look in to my claim as below:

1. The senior duty post were vacant on 4.7.1988 & I may be appointed to these senior duty cadre post.
2. The arrears in senior scale may kindly be paid wof. 4.7.1991 that is date of confirmation.

Yours faithfully

General Manager

Copy in advance to:

1. The Secretary, A & S Deptt.  
Govt. of Tripura, Agartala.

*De*  
25/5/88  
General Manager

Dy. Secy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH  
O A NO. 276/96

Sh. A.K. Sinha ... .. Applicant

Vs.

Union of India & Others ... .. Respondents

WRITTEN STATEMENT SUBMITTED BY THE RESPONDENT NO.19.

The humble respondent No.19 submits his written statements as follows.

That I am functioning as Divisional Forest Officer, Sadar Forest Division, Agartala. I have gone through the application and understood the contents thereof.

That I had submitted written statement on previous occasion. But at that time, I was not aware of the reply submitted by the respondent No.1, Union of India. Now I have come to know about the written statement of respondent No.1. Respondent No.1 has submitted following (confidential) information which was otherwise not available to me.

(i) That the name of the applicant did not appear in select list of 1989 as claimed by the applicant & indicated by the Govt. of Tripura. The name of applicant was included in the select list on 25.11.91 only.

(ii) That officiation of applicant w.e.f 15.2.91 to 9.3.92 was approved by the ~~State~~ Govt. of India based on the information provided by the State Govt. (The information provided by the Govt. of Tripura to the Govt. of India was incorrect which lead to approval).

That Govt. of India, Govt. of Tripura and Manipur & UPSC are the respondents in the case & I was under bonafide belief that they will protect my interest. It appears that Govt. of Tripura & Govt. of Manipur (Respondent No.2 to 6) have not submitted any replies.

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That I was not able to reply within the stipulated one month notice given by the Hon'ble Tribunal. This was mainly due to non-availability of the documents. The delay may kindly be condoned & the present reply may kindly be accepted by the Hon'ble Tribunal.

In view of this I would like to submit further as below

Para-1. That the statement in respect of this paragraph will be answered in forthcoming paragraphs.

Para-2. That with regards to paragraph 2, the respondent begs to state that the jurisdiction of this Hon'ble Tribunal is not disputed.

Para-3. No comment.

Para 4.1- No comment.

Para4.2 -That the appointment of IFS Officers to the senior time scale falls in purview of the State Govt. who in terms of rule 6 A(2) of the IFS(Recruitment)rules 1966 may appoint a Direct Recruit Officer to a post in the Senior Scale, if having regard to his length of service & experience, they are satisfied that Officer is suitable for appointment to a post in the Senior time Scale of pay. Thus no rules have not been violated while promoting respondents No.13,15 and 17.

Subsequently to his appointment to the IFS vide notification dtd 10.3.92, the year of allotment of the applicant was fixed as 1988 vide order dtd. 18.5.95.

From the written statement of the Govt. of India it is clear that required changes for providing weightage of past service were not applicable at that time to the members of the IFS. These new rules have been notified under IFS(Regulation of Seniority Rules w.e.f 1.1.1998. Thus while allotting year of allotment extent rules are to be applied in case of applicant.

*Qunt*

Further, the senior scale & senior post are two different issues. A member may hold senior post but still not draw senior scale. The senior scale is allowed as per sub rule(I) & (2) of 6 A of IFS(Recruitment) rules while senior post are decided by rule 4(I) of the IFS(Cadre) rules 1966, under which IFS(Fixation of cadre strength) regulations 1966 have been made. The seniority(year of allotment) is decided under Rule 3(2) of IFS(Regulation of Seniority) Rules 1968 by senior duty post & not by senior scale.

Para 4.3 That Union of India as respondent No. I, states in their reply at para 6 that the continuous officiation from 15.2.91 prior to his promotion on 10.3.92 was approved by the Govt. of India & he is entitled to the benefit of such officiation. However, I would like to submit following for your kind information.

(i) The name of the applicant was included in the select list on 25.11.91 after approval by the UPSC even though his name was considered by the selection committee on 15.3.91. This list before approval by UPSC is called, "list of suitable members" as per rule 5 of IFS(Appointment by promotion) regulation.

Rule 7(3) of IFS(Appointment by promotion) regulations 1966 states "The list as finally approved by the Commission shall form the select list of the members of the State Forest Service".

Thus the applicant was in select list w.e.f 25.11.91 only.

Contd.....4.

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(ii) Such continuous officiation w.e.f 15.2.91 to 16.5.92 by the Govt. of India was based on the false reports of the Govt. of Tripura & therefore invalid.

(a) Under rule 9(2) of the IFS(Cadre) rules 1966, temporary appointment of non-select list non cadre officer to cadre posts beyond 3 months should be done only with prior concurrence of the Central Govt. Thus the continuous officiation w.e.f 15.2.91 to 25.11.91 is bad in law.

In Syed Khalid Rajvi & Others Vs Union of India & Others(1993), Suppl 3 Sec, 575 and in case of Krishna Behari Srivastava - Vs State of UP & Others (1993) Suppl 3 Sec 576 (as quoted by CAT, Guwhati Bench in their judgement No.653 dtd 27.3.96 at point No.41 of Shri R.L.Srivastava, IFS Vs Union of India & others) it was held by the Supreme Court that prior concurrence for officiation beyond prescribed period is mandatory. The Supreme Court also observed that where the vacancy/vacancies continues for more than three months, the prior concurrence of the Central govt. is mandatory and that if it continues for more than 6 months prior approval of the UPSC is also mandatory. Any appointment in violation thereof is not an appointment in accordance with the law.

(b) The officiating appointment was given to Shri A.K.Sinha, the applicant, in the cadre post of DCF(Research) w.e.f 14.2.91 upto 16.5.92 under rule 9(1)(b) of IFS(Cadre) Rules 1966 under which the State Govt. has to satisfy that there is no suitable cadre officer available for filling the vacancy.

Contd....5.

Shri Balbir Singh IFS(1985 Batch) on completion of training at Dehradun on 30.4.91 was kept in the Head Office in Forest Deptt. at Agartala without any cadre post for 9 months from May'91 onward. This period was regularised in 1994 against cadre post. Shri Atul Gupta(1982 batch) was holding non-cadre post of Wild Life Warden in Gumti. Shri R.Das(1988 batch) was given charge of Senior duty post(DFO,BAGAFA) and Sh.D.K.Sharma was given charge of (DFO,Jatanbari) w.e.f Oct'91 to Dec.'91 without being promoted. Though the Senior duty post were vacant & Cadre Officers Shri Balbir Singh, Shri Atul Gupta, Shri D.K.Sharma & Shri R.Das were available but they were not posted to senior duty cadre post. Instead Shri D.K.Sharma & Shri R.Das (1988) were posted as Attached Officer at Teliamura and Udaipur respectively.

It is highly unreasonable on the part of State Govt. to continue officiation of the applicant beyond 3 months inspite of cadre officers being available. Further Govt. of Tripura submitted the wrong information to the Central Govt., which lead to concurrence by Govt. of India.

Thus the continuous officiation w.e.f 15.2.91 to 16.5.91 is against the provisions of law.

c) In para 2 & 3 of its letter No.F 2(3)-GA/89 dt. 24.9.91( Annexure 12 of the application)

Govt. of Tripura asked the approval of Govt. of India for continuous officiation of the applicant

stating that (i) the applicant is a select list officer(though the applicant became select list officer only on 25.11.91) and (ii) "no cadre

Officers" and not (no suitable Cadre Officers) are available for appointment to the vacant cadre post. If the officiation in the cadre post was to be given to the applicant the posting of available cadre officer as on 15.2.91 in the cadre post ought to have been done first but it was not done.

List of IFS Officers in Forest Deptt.		List of IFS Officers on deputation	
Holding Cadre post	on non-cadre post	Central Deputation	Within State of Tripura
1. Shri M. Sarkar	Sri A.K. Gupta (1982)	Sri R.P. Tangwan	Sri D. Nag
2. Shri R.N. Chakraborty.	Balbir Singh (1985)	Sri V.K. Bahuguna	A.K. Singh
3. Shri P.N. Roy	" D.K. Sharma (1988)	Sri J.S. Lalhal	" R.M. Dutta
4. Shri D. Dutta Roy	" R. Das (1988)	Sri S. Talikdar	
5. Shri R. Lushai		Sri J.P. Jadav	
6. Shri M.A. Khan			
7. Shri R.L. Srivastava			
8. Shri R.N. Singh			
9. Shri A. Kumar			
10. Shri C. Krishnan			
11. Shri G.S. Raju			
12. Shri S. Kumar			
13. Shri A.K. Roy			
14. Shri A. Rastogi (1986)			
15. Shri P.K. Pant (1986)			
16. Shri J. Singh (1987)			
17. Shri A.C. Srivastava (1987)			
18. Shri Ngulkhohao (1987)			
19. Shri S.B. Bhattacharjee.			

The State Govt. continued giving illegal certificate w.e.f 15.2.91 to 16.5.92 that no cadre officer is available but did not post Shri A.K. Gupta (1982) Shri Balbir Singh (1985), Shri D.K. Sharma (1988), Shri R. Das (1988) who were available within Forest Department without any cadre post. Some more Officers were also available on non-cadre post within the State i.e Shri A.K. Singh.

Thus the approval of continuous officiation w.e.f 15.2.91 to 16.5.92 by Govt. of India was based on the wrong information provided by Govt. of Tripura and therefore not as per rule & thus invalid.

Contd.....7.



In this regard, Hon'ble Central Administrative Tribunal, Guwhati Bench in the case of Sh. R.L. Srivastava Vs Union of India & Others (Judgement No. 653 dtd 27.3.96) observed

"15. The points that need determination are these.

. . . . .  
. . . . .

(iv) Whether ex-post-facto approval accorded by the Central Govt. to the officiation of respondent No.5 is the result of wrong reports made by the State Govt. and is therefore vitiated and is bad in law?"

Hon'ble Tribunal further observed at 45 of same judgement.

"45. In the light of above discussion we hold that the benefit of ex-post-facto approval given by the Central Govt. to the officiation of respondent No.5 in a cadre post for the period between 1982 and 1985 is vitiated and is bad in law and this officiation could not be taken in consideration while fixing the seniority of the respondent No.5 in the service".

At point No.48 & 52 of the same judgement Hon'ble Tribunal further observed.

"48. There are several circumstances which point to the distinct possibility of the decision of the Central Govt. determining the year of allotment of the respondent No.5 as 1977 being based upon on incorrect information sent by the State Govt. . . . ."

"52. . . . . We are, therefore, of the view that the approval accorded by the Central Govt. stands vitiated. That has, therefore, been

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*Point*

wrongly taken into account while determining the year of allotment of respondent No.5". It is, therefore, clear that ex-post-facto approval of continuous officiation by Central Govt. is bad in law.

c) The Govt. of India vide GI.MHA Letter No.6/54/64 -AIS(I) dtd 26.3.66 quoted under rule 9 of IPS(Cadre) rules 1954 which are same as IFS(Cadre) rules 1966 states at point 2.1(d) & (e). "2.1(d). According to rule 8, read with rule 9 of IAS/IPS(Cadre) rules 1954, a non cadre Officer has to be replaced by a suitable Cadre Officer as soon as one becomes available. The appointment of non-cadre Officer(Select list Officer etc) to hold the cadre post as a stop gap arrangement pending availability of a suitable cadre Officer does not give him any right to continue to hold the cadre post even after a suitable cadre Officer becomes available.

e) . . . . . the select list officers cannot be equated with the direct recruits who are members of the service and entitled to hold senior posts".

Thus Sh. D.K.Sharma(1988), Sh.R.Das(1988), Sh. Balbir Singh(1985) etc. had their right to be posted in senior duty cadre post before giving continuous officiation to the applicant. Sh.D.K.Sharma(1988) & Sh. R.Das(1988) had completed three year probation in July'91(Annexure A).

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Para 4.5 No comment.

Para 4.6

that the applicant was appointed with year of allotment as 1988 vide letter dtd 18.5.92 (Annexure 18 of application). The said letter in para 2 states that none of the Officers continuously officiated in senior posts. These views may have been given by Govt. of India due to above said reasons.

Para 4.7

that the applicant was not a select list officer before 25.11.91 hence under rule 3(2)(c) of IF5 (regulation of seniority) rules 1968 Seniority is to be decided from the date of the inclusion of his name in select list or from the date of his continuous officiation & appointment to such senior post, whichever is later. Further the non-cadre post has to be declared as equivalent to cadre post within three months of appointment which was not done. Therefore, he cannot claim his promotion w.e.f 22.11.90 when he was functioning on deputation to TRPC Ltd.

Para 4.8 -

that Govt. of India in the written Statement has already clarified that the applicant was not a select list Officer from 1989. His name appeared in select list w.e.f 25.11.91.

Para 4.9 -

As in para 4.2.

Para 4.10-

that in the case of IF5, the seniority rules have been revised w.e.f 1.1.98 only. Consequently seniority of the applicant has to be determined by extant rules.

However, his continuous officiation w.e.f 14.2.91 & to 16.5.91 cannot be taken into account because

(i) the approval by Govt. of India was given based on wrong information supplied by the Govt. of Tripura, in view of explanation under Para 4.3.

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*Raw*

(ii) The officiation beyond three months did not have prior approval of Central Govt. as the name of the applicant was included in the select list only on 25.11.91.

Para 4.11: that Indian Council of Forestry Research & Education is not the Cadre Controlling Authority & therefore, this point is not relevant.

Para 4.12 to 4.22 that the applicant in these para states that he should have been assigned 1985 or 1986 or 1987 as year of allotment.

However, in view of the above explanations from para 4.1 to 4.11 we feel that year of allotment 1988 as already assigned is proper. Govt. of India as respondent No.1 is not aware of these facts as explained above & therefore continuous officiation w.e.f 14.2.91 to 16.5.91 is not valid.

Para 5- As already stated above.

Para 6 & 7 No comments.

However, Supreme Court directive in the judgement in P.C. Madhawa Vs. Union of India & Others (as circulated vide Ministry of Home Affairs Govt. of India No.23/46/63-AIS (II) VOL-II dated, 29.3.1966) states that members of All India Services are entitled as of right to be appointed to the senior post subject to availability of vacancies (Annexure - B). There were 23 senior duty post in 1988 & I should have deemed to be appointed to senior post w.e.f 4.7.88 (date of joining service) as per the above directive as there were vacancies.

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Since there was vacancy in senior post vide notification dated 22.11.1990 and Supreme Court directive is followed; not only members of 1988 I.F.S. batch but even 1989 batch is also entitled to senior duty post and senior time scale.

If Supreme Court directive is followed and senior duty post is allowed from date of vacancies to direct recruit the name of Shri A.K.Sinha will appear after direct recruits of 1989 batch, in the seniority list and will be placed after direct recruits of 1989 batch.

The respondent No.20 has already requested the State Govt. to apply the Supreme Court directive (in case of P.C.Madhawa Vs Union of India) to his case(Annexure C).

Thus, firstly, the cadre officers should have been posted in senior duty post before giving officiating appointment to the applicant under rule 9(I) b of IFS (Cadre) rules.

Secondly State Govt. should have submitted correct information with regard to absence of the applicant's name in the select list and availability of Cadre Officers for taking the approval of the Govt. of India. I believe that Govt. of Tripura has given such incorrect information to give undue advantage to the applicant. The approval by the Govt. of India is therefore vitiated & is bad in law. I also had right to be posted in Cadre post alongwith Sh. D.K.Sharma(1988 batch), Sh. Balbir Singh (1985 batch) before giving officiation to the applicant under rule 9(I) b of the IFS (Cadre) rules.

In view of these facts the applicant has no reason to challenge the year of allotment as 1988. The Forest Department is a hierarchical department & therefore frequent changes in seniority affects the interpersonnel relations.

Such review of year of allotment, therefore, may not be called for.

Agartala

Dated : 4.8.98

*Ram L*

Respondent No.19

Verification

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I, R.Das, Divisional Forest Officer having Office at Agartala - 799001, do hereby verify that the contents stated above are true and correct to the best of my knowledge, belief and information and that nothing has been suppressed there from.

Verified at Agartala on this day, the 4th day of August 198.

Agartala

Dated 4.8.98

*Ram Das*

R.Das  
Respondent No.19

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

F. NO. 10012/12/93-IFS-II  
 Government of India  
 Ministry of Environment and Forests

Paryavaran Bhavan,  
 CGO Complex, Lodhi Road,  
 New Delhi - 110003.

Dt. 22nd February, 1996.

NOTIFICATION

In exercise of the powers conferred by Rule 4 of the Indian Forest Service (Probation) Rules, 1968, the President is pleased to confirm the following directly recruited officers borne on the Manipur-Tripura joint cadre of Indian Forest Service with effect from the dates indicated against their names, viz;

S.NO.	Name of the officer ( year of the batch)	Date of Appointment appointment	Date of Confirmation
	S/Shri		
01	V.Ramakanta.	(1984) 21.05.1984	21.05.1987
02	Ashok Kumar	(1984) 21.05.1984	21.05.1987
03.	C.Krishnan.	(1984) 20.06.1984	20.06.1987
04	Surender Kumar	(1985) 27.05.1985	27.05.1988
05	Ajay Kumar	(1986) 02.06.1986	02.06.1989
06	B.N.Mohanty	(1986) 10.06.1986	10.06.1989
07	D.J.N. Anand	(1986) 02.06.1986	02.06.1989
08	S.B.Shashank	(1987) 07.07.1987	07.07.1990
09	S.K.Srivastava	(1987) 06.07.1987	06.07.1990
10	Khazalianan	(1987) 06.07.1987	06.07.1990
11	Lamkhosei Baite	(1988) 04.07.1988	04.07.1991
12.	R.Das	(1988) 06.07.1988	06.07.1991
13	D.K.Sharma	(1988) 04.07.1988	04.07.1991
14	B.S.Misra	(1988) 04.07.1989	04.07.1992
15.	D.K. Upadhayay	(1989) 04.07.1989	04.07.1992
16	Lokho Puri	(1989) 17.10.1989	17.10.1992
17.	Aditya Kumar Joshi	(1989) 17.07.1989	17.07.1992

Sd/- (R. Sanehwal )

Under Secretary to the Govt. of India.

The Manager,  
 Govt. of India Press,  
 FARIDABAD ( HARYANA) -

( with a copy of Hindi version)

Copy to :

1. \*\*\*\*
2. \*\*\*\*
3. \*\*\*\*\*
4. \*\*\*\*\*
5. \*\*\*\*\*
6. The Principal Chief Conservator of Forests, Govt. of Tripura, Agartala.

Sd/- R. Sanehwal.

Under Secretary to the Govt. of India.

Contd..... p/2.



NO.F.2(18)/For/Estt-81/9182-96  
Government of Tripura  
Office of the Principal Chief Conservator of Forests  
Tripura : Agartala

Dated, Agartala, the 19 'th March. 1996.

Copy forwarded to :-

1. The Secretary, Government of Tripura, Appointment and Services Department, Agartala.
2. Shri Ashok Kumar, IFS, Deputy Director, Damodar Valley Corporation, Soil Conservation Department, Forestry East Division, Haziribagh ( BIHAR ).
3. Shri C.Krishnan, IFS, D.F.O. Research Division, Agartala.
4. Shri Surender Kumar, IFS, Deputy Director, Wild Life Preservation Regional Office (Northern), Bikaner House, New-Delhi.
5. Shri R.Das, IFS, Divisional Forest Officer, Sadar, Agartala.
6. Shri D.K.Sharma, IFS, through the Managing Director, TFDPC Ltd. Agartala.
7. Shri B.S. Misra, IFS, Deputy Conservator of Forests, Advance Centre for Forests & Environment, Allahabad (UP).
8. D.K. Upadhyay, IFS, (On leave) Pailpara, Sarangarh, PO- Sarangarh, Dist- Raigarh (MP) - 496445.
9. Personal file of Shri ...

Sd/- 19/3/96  
Principal Chief Conservator of Forests  
Tripura.



No.23/46/63-AIS(III) Vol.II

Govt. of India,

Ministry of Home Affairs

New Delhi: Dated the 29th March, 1966

8th Chaitra, 1888

To

The Chief Secretaries of all the State Govt.  
(Except Nagaland).

Sub: All India Services-Right of appointment to Senior  
Scale-Supreme Court Judgement in P.C.Modhwa -Vs-  
Union of India and another -implementation of ....

Sir,

I am directed to refer to this Ministry's letter No.23/46/63-AIS(111) dated 11th January, 1965 on the above subject and to say that the matter has been reconsidered in the light of reference and representations subsequently received. The Ministry of Law have also been consulted.

2. The Govt. of India has been advised as under:-

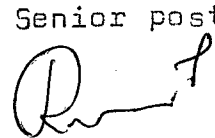
(a). The decision of Supreme Court in Madhwa's case has retrospective effect in the sense that it lays down correct interpretation of rules from the date they were promulgated i.e. 1954. The earlier rules of 1959 would also be the same interpretation. The letter was directed by virtue of Section 4 of the All India Services Act 1951, and would thus have been same statutory force as the rules of 1954.



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b). The Supreme Court has decided that under the relevant rules the members of All India Service are entitled as of right to be appointed to the Senior Post according to their seniority subject to the availability of vacancies. Any action to the contrary would be in violation of Rules and would entitle the officers so denied in the appointment of Senior Scale, to the differences in pay and allowances in the Junior and Senior Scale from the date he becomes due for appointment in a senior post on the occurrence of vacancies.

c). An I.A.S/I.P.S. Officer is however, entitled to the pay in Senior Scale only after his confirmation. This is by virtue of the express provision of the rule 13(1) of IAS/IPS (Probation) rules 1954 which states that during the period of probation an Officer recruited in accordance with rule 7 of the IAS/IPS (recruitment) rules 1954, is entitled to receive salary in the prescribed stages of the Junior time scale only. Rule 4(2) of the IAS/IPS (Pay) rules 1954, no doubt provides that the pay of a member of the service in the Junior time scale shall, on appointment to a post in senior time scale as prescribed. But this general rule would be subject to the specific rule relating to probation contained in the rule 13(i) of IAS/IPS probation rules, 1954. In other words, until his confirmation, a probationer is entitled to pay only in the Junior scale irrespective of whether he is appointed to officiate in a Junior or Senior post.



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Thus direct recruit who is recruited to the service in accordance with rule 7 of the IAS/IPS (Recruitment rules) 1954 may become entitled to a Senior Post if a vacancy occurs, even in the first year of the Service. But he would be entitled to draw pay in the Senior Scale only after confirmation.

(3). The above advice has been considered and it has been decided that the interpretation given by the Supreme Court should be implemented. It has also been decided that the Cadre authorities may give effect to this decision from the date of promulgation of 1950 Rules, but the payment of arrears of pay should be paid from the date three years prior to the date on which an IAS/IPS Officer puts in a Claim.

(4). I am to request that whenever the State Govt. receives a Claim from an IAS/IPS Officer based on the Supreme Court's Judgement in Madhawa's Case, the number of vacancies in Senior post as counted against item 4 of the Code in the Schedule to the IAS/IPS (Fixation of Cadre strength) Regulation 1955, should be determined on the date three years prior to the date on which the Claim is put in by the Officer, by deducting therefrom the number of Cadre officers in position in these posts - the number of non-cadre officers holding such posts being ignored for the purpose of this calculation. Simultaneously the number of direct recruit available for appointment on the Occurrence of these vacancies should also be determined. The direct recruit who have putting their claim in the Senior post according to their seniority and they should be paid the difference between pay and allowances actually drawn by them in the Junior time Scale of

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IAS/IPS and what they would have drawn in the Senior Time Scale of IAS/IPS on appointment to the available senior post ascertained. This would be subject to the condition that pay and allowances in Senior Scale would be payable only after officer has been confirmed in service in terms of the probation rules. This would be a continuous process to be worked out whenever the vacancy occur or diminishes after the dates of respective claim. In the case of every individual officer who has claimed relief, this will be done till the date he is actually appointed to a Senior post.

Payments of arrears of Pay and allowances whenever admissible, would need to be made by the respective Cadre authorities i.e. the State Governemtn. In the case of those affected Officers, who during that period have been working in the Govt. of India, payment will be made by the Ministry/ Department concerned on a certificate of eligibility (giving full details) being issued by the State Govt. concerned.

The representation from IAS/IPS officers claiming relief in terms of the Supreme Court's Judgement in Madhawa's case, already pending with the State Govt. may also be disposed of the light of above decisions.

5) The action taken by the State Govt. in the matter may be communicated to the Govt. of India in due course, giving details of claims, vacancies etc.

6) This issues in consultation with the Ministry of Finance

Yours faithfully,

Sd/-

(Under Secretary to the Govt. of India).

No. 23/46/63-AIS(III) Vol. II dated 29th March, 1966, 9th Chaitra 1888

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Q 1

Dated 25/5/98

To  
The Secretary  
Appointment & Services Deptt.  
Govt. of Tripura  
Agartala.

( Through PCCF, Tripura )

Subj- Right of appointment to senior post.

Sir,

I beg to state that I was appointed to the Indian Forest Service in 1988 & later on allotted to Tripura part of MT Cadre. I joined the Indian Forest Service on 4.7.1988 in Indira Gandhi National Forest Academy at Dehradun. I completed the job training and requested for posting in senior post on 12.9.91 (Annexure -I ).

I was confirmed in the service on 4.7.1991 vide letter No.18012/22/93-IFS-II dated 22.2.96(Annexure II ). In PC Madhwa VS Union of India & another case, the Supreme Court observed that the members of All India Service are entitled as of right to be appointed to the senior post even in first year of the service but they would be entitled to draw pay in the senior scale only after confirmation. The order was quoted by Ministry of Home Affairs vide No.23/46/63-AIS(III) Vol II dated 29.3.66 (Annex. III) & directed the State Govt. as follows.

1. The direct recruits should be deemed to have appointed to senior post based on the seniority even on the first day of joining in services by ignoring non cadre officers in cadre post)

2. The payment should be made in senior time scale from the date of confirmation. This order was applicable w.e.f 1950. In such cases, Ministry of Home Affairs ordered that claim of senior scale should be made within 3 years of claim. There were 23 senior duty post in 1988 and were than 3 senior posts were being



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held by non cadre officer. 163

In view , of the Supreme Court direction kindly look into my claim as below:

1. The senior duty post were vacant on 4.7.1988 & I may be appointed to these senior duty cadre post.
2. The arrears in senior scale may kindly be paid w.e.f 4.7.1 that is date of confirmation.

Yours faithfully

(DK. SHARMA)  
General Manager

Copy in advance to:

1. The Secretary, A & S Deptt.  
Govt. of Tripura, Agartala.
- R. S.

Sd/- 25/5/98  
General Manager