

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Balita
29/11/88

DO No. 23/76
LA No. (LA)
AA No. (AA)
CP No. (CP)

Assam Advt. No. (Class 1) Also, i Am. APPLICANT(S) ---
RESPONDENT(S) ---

Division of Advt. No. 23/76
List of Advt. No. 23/76 is the applicant.

Mr. B.K. Sharma
B. - M.L.L.B.
S. - B.A.

Mr. A.K. Choudhury, learned Addl. C.G.S.C.,
for the Respondents.
Mr. M. Das, learned Government Adv.
for the Respondents.

Court's DECIDE

Office Date 17-7-96 Date 17-7-96

17-7-96 Date 17-7-96

17-7-96 Date 17-7-96

17-7-96 Date 17-7-96

32/6/96

17-7-96

17-7-96

19.6.96

Learned counsel Mr. B.K. Sharma for the applicants. Mr. A.K. Choudhury, learned Addl. C.G.S.C., for the respondent Nos. 1, 2 and 9. Mrs. M. Das, learned Government Adv. for respondent Nos. 3

7.

Permission under, 4(5)(t) of the Central Administrative Tribunal (Procedure) Rules, 1987, granted as prayed for.

Heard the counsel the parties for admission. Perused the contents of the application and relief sought for. The grievance of the applicants in this application is that the absence of regular preparation of sex list and Triennial Cadre Review is prejudicial to their interest. The application is admitted. Issue notice on the respondents by registered post. Written statement within one month.

10.7.96

Notice duly served
Respondent Nos. 1, 2, 3, 4, 5, 6, 7

PN

List of 22, 214

statement and further order
was issued by the Board of
Delegates to be read at Sharp's
preacher. The interim
terms proposed for adoption
however, the premonition
to be the sentinel scale
to the rest of this O. A.

alkem

224, 1, 95

1000 रुपये द्वितीय वर्ष
से १८८८ वर्ष तक द्वितीय वर्ष
मात्रातः द्वितीय वर्ष तक द्वितीय वर्ष
द्वितीय वर्ष तक द्वितीय वर्ष

30.8.96

Mr. A. K. Choudhury, Addl. C. S. C. or
Respondent Nos. 1, 2 and 3.

Mrs. McDermott, Gowri. Addressing a letter to
respondent Nos. 2 and 3 they say that they have no
substantive objection to the application. By whom and

Adjourned for written statement and further order to 26.9.96.

Mendes

18.9.96

Vide Order of today in M.P. 110 of 1996 (O.A. 96 of 1996) Shri Rajpal Singh, IFS and Shri K.S.P.V. Pavan Kumar IFS, petitioners in the M.P., have been allowed to be impleaded as respondent Nos. 10 and 11 respectively in this O.A. Copy of the O.A. may be served by the applicants on the respondent Nos. 10 & 11 respectively.

23.9.96

*Copy of order dtd.
18.9.96 issued to
the concerned
parties on 23.9.96.*

List for written statement by the respondent Nos. 10 and 11 on 26.9.96 as already fixed in the case of other respondents.

*Copy of the order be supplied to the counsels
of both the parties.*

*Recd**62*

Member

*No. of statement - No. 10 & 11
served by the Resps. on
26.9.96*

Learned counsel Mr. G.K.Bhattacharjee for respondent Nos. 10 and 11. Written statement has not been submitted by them as the copy of the application has not been served by the applicant. The applicant is directed to serve copy of the application on respondent Nos. 10 and 11.

None present for the applicant and other respondents.

No written statement has been submitted.

List for written statement and further orders

on 14.11.96:

62

Member

*trd**M/27/96*

*No statement has not been
served*

14-11-96

Mr. B.Mehta counsel for the applicants. Learned counsel Mr. A.K.Choudhury for respondent No.1,2 & 9. Mrs.M.Das for respondent No.3,5,& 7. Written statement has not been submitted.

List for written statement and further order on 6-12-96.

62

Member

(15)

O.A. No. 96 of 1996

6.12.96

Mr. S.Sarma for the applicants.

None for the respondents.

Written statement have not
submitted.

List for written statement and fur
orders on 3.1.1997.

(16)
Member

trd
M 6/12

22-1-97

3.1.97

Written statement
has not been submitted.

Mr B.K.Sharma for the applicants.
Mr A.K.Choudhury, Addl.C.G.S.C for respon-
dent No.1 submits that Respondent No.1
will not submit separate written state-
ment but would rely on the written state-
ment to be submitted by respondents No.3
& 4. Mrs M.Das for respondents No.5 & 7
seeks time for filing written statement.
Allowed. None for the other respondents.

List for written statement and
further orders on 27.1.97.

(17)
Member

pg
M
6/1

27.1.97

Mr G.K.Bhattacharya, learned counsel
appearing for respondents No.10 & 11
prays for further extension of time to
file counter. As last chance we are
allowing 7 days time to file counter.

List on 3.2.1997 for counter and
further orders.

(18)
Vice-Chairman

31.1.97

Reply has not been
filed by the respondents.

ab
(19)

(19)
Member

pg
M 27/1

3.2.97

Dr Y.K. Phukan, learned Sr. Govt. Advocate, was appearing on behalf of respondents 3, 2 & 4 prays for further one week time to file written statement. From the order sheet it appears that the time was extended from time to time for filing written statement. However, for the ends of justice one week time is granted as last chance. If no written statement is filed in the next date, the case will proceed without written statement.

List on 10.2.97 for written statement and further orders.

4.2.97

WTS filed on behalf
of Respondents 10 & 11 in
Laws in order of 18.7.96 passed
in MP 110/96.

6/2
Member


Vice-Chairman

6-2-97

10.2.97 Written statement has been filed on behalf of the State of Assam.

Written statement on behalf of respondent Nos. 10 & 11 also submitted by Mr. G.N. Das, counsel for the applicant.

On 3.1.97 Mr. A.K. Choudhury, Addl.C.G.S.C. submitted that he will not submit separate written statement but would rely on the written statement to be submitted by the respondent Nos. 3 & 4. There is no other representation from other respondents. Therefore the case be listed for hearing on 11.3.97.

6/2
Member


Vice-Chairman

trd

On the prayer of Mr. S. Sarma, learned counsel appearing on behalf of the applicants hearing adjourned to 13.3.1997.

Member

Vice-Chairman

trd

13-3-97 Mr. G.K. Bhattacharjee counsel for the Respondent Nos. 8 & 9 is present. List for hearing on 11-4-97.

16-4-97

(1) Memo of appearance

Filed by Mr. A.K. Choudhury

Addl. C.G.S.C. and Mr. Y.K.

~~20~~ Phukan, with Mr. M. Das

Govt. Adv. ^{also} has filed.

60
Member

20

11.4.97

On the prayer of the learned counsel to the parties let this case be listed for hearing on 16.5.97.

60
Member

Vice-Chairman

W/S. hs. b/w 6/7
R. No. 3, 5, 10, 11.

nkm

614

2) Notice duly served on
R. No. 3, 4, 5, 6 & 8.

16.5.97.

Left over. List on 10.7.97 for hearing.

60
Member

Vice-Chairman

nkm

20/5

1) Notice duly served on
R. Nos. 3, 5, 6 & 8.

2) W/S. hs. b/w filed on
R. Nos. 3, 5, 10 & 11.

10.7.97

Heard the learned counsel for the parties. Hearing concluded. Statements delivered in open court on separate sheets and kept in file. The application is disposed of. No order made. No order made to costs.

60
Member

nkm

Received in
the judicial office
on 16/7/97 at
3.30 P.M.

Received copy of the
order of 10.7.97 on behalf of
Mr. M. Das, G.A., for
Govt. Adv. ^{also} has filed.

16/7/97
General (1)
Central Administrative Tribunals
Govt. of India
Court of Appeals
Govt. of India
Court of Appeals
Govt. of India

16/7/97

30.7.52

Copy of the Judgment

is being sent to the Secy. for
see. for issuing
same to the party,

Issued vide

nos. 2572 to 2583

on 30.7.52. Through

and with A/o:

31/7/52

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.96 of 1996

Date of decision: This the 10th day of July 1997

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

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

1. Assam Forest Services (Class-I) Association,
C/o Assam State Zoo Division, Guwahati-5,
represented by its General Secretary, Shri N. Moral,
C/o the Conservator of Forests, Central Assam Circle,
Guwahati.
2. Shri K.C. Dutta,
Divisional Forest Officer (Monitoring),
Office of the Principal Chief Conservator
of Forests (Social Forestry),
Guwahati.Applicants

By Advocate Mr B.K. Sharma, Mr B. Mehta and
Mr S. Sarma.

-versus-

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Environment and Forests,
New Delhi.
2. The Union Public Service Commission,
Represented by the Chairman,
Dholpur House, New Delhi.
3. The State of Assam, representation by the
Secretary to the Government of Assam,
Department of Forests,
Dispur, Guwahati.
4. The State of Meghalaya, represented by the
Secretary to the Government of Meghalaya,
Department of Forests,
Shillong.
5. The Chief Secretary to the Government of Assam,
Dispur, Guwahati.
6. The Chief Secretary to the Government of Meghalaya,
Shillong.
7. The Principal Chief Conservator of Forests,
Assam, Guwahati.
8. The Principal Chief Conservator of Forests,
Meghalaya, Shillong.
9. The Inspector General of Forests &
Special Secretary, Government of India,
Ministry of Environment & Forests,
New Delhi.
10. Shri Rajpal Singh, IFS,
Asstt. Conservator of Forests, Sonitpur District,
Tezpur.

11. Shri K.S.P.V. Pavan Kumar, IFS,
Asstt. Conservator of Forests,
Manas National Park,
Barpeta. Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate, Assam, and
Ms M. Das, Government Advocate, Assam.

O R D E R

BARUAH.J. (V.C.)

In this original application the applicants have prayed for direction to the respondents, namely, respondent Nos.3, 5 and 7 to immediately convene a meeting of the Selection Committee towards the preparation of select list and to prepare a select list for the year 1995-96 for promotion to Indian Forest Service from the officers of the State Forest Service (for short SFS) eligible for promotion and also to hold Triennial Cadre Review and to prepare select list as envisaged under the rules. The applicant further prays for direction to the respondents to give seniority and the year of allotment of the officers of SFS as per select list.

2. The facts for the purpose of disposal of this application are:

The applicant No.1 is an association of Class I officers under SFS. The members of SFS have formed this association to protect and promote the interest of the members of the association. The applicant No.2, Divisional Forest Officer is also an affected person and a member of the association. The grievance of the

applicants.....

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applicants is that the respondents have not prepared the yearwise selection and also have not held the Triennial Cadre Review meeting and as a result the members of the association are facing hardship and have also been deprived of their legitimate claims.

3. After admission of this application in usual course the respondents have entered appearance. Respondent Nos.3 and 5 have filed written statements. The private respondent Nos.10 and 11 have also filed written statement. However, the other respondents have not filed any written statement. The matter is listed for hearing today.

4. We have heard Mr S. Sarma, learned counsel for the applicant and Ms M. Das, learned Government Advocate, Assam. Ms Das has informed this Tribunal that a meeting of the Selection Committee was held in New Delhi for the purpose of selection of candidates for promotion to IFS cadre on 7.8.1996. A select list was thereafter prepared for recruitment to the IFS cadre. This list was accepted and approved by the Government of India and the Union Public Service Commission. The State Government has already moved the Government of India for appointment of the selected officers.

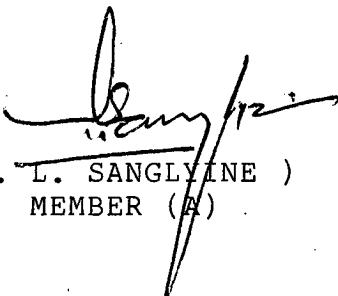
5. In view of the submission made by Ms Das the application, so far as the prayer of the applicant association to convene a meeting as mentioned in prayer No.1 of the application, has become infructuous. Regarding holding of Triennial Cadre Review, prayer No.2 of the applicant association, Ms Das submits that the Government is going to take steps very soon in this regard.



6, Considering the submissions of the counsel for the parties we do not find any ground to proceed with the application. Accordingly we dispose of this application with a direction to the respondents, more specifically respondent Nos.3 and 5 to hold the Triennial Review Cadre as early as possible, at any rate within a period of three months from the date of receipt of this order.

7. The application is accordingly disposed of. However, in the facts and circumstances of the case we make no order as to costs.

8. Furnish a copy of this order to Ms M. Das, learned Government Advocate, Assam, by 14.7.1997.


(G. L. SANGLYINE)

MEMBER (A)


(D. N. BARUAH)

VICE-CHAIRMAN

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

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

12 JUN 1996
Guwahati Bench
Case No. 96/96

Title of the Case : O.A. No: 96 of 1996

Assam Forest Services (Class-I) Association
& Another ... Applicant

- Versus -

The Union of India & Others ... Respondents

I N D E X

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For use in Tribunal's Office :

Date of filing : 17-6-96
Registration No. : OA 96/96

Ramu
REGISTRAR
17-6-96

*R. K. Choudhury
17-6-96*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

File by *Subhashan*
16.6.96

O.A. No. 96 of 1996

BETWEEN

1. Assam Forest Services (Class-I) Association,
C/O Assam State Zoo Division,
Guwahati-5, represented by its
General Secretary - Shri N. Moral,
C/O the Conservator of Forests,
Central Assam Circle,
Guwahati-5.
2. Shri K.C. Dutta,
Divisional Forest Officer (Monitoring)
Office of the Principal Chief Conservator
of Forests (Social Forestry),
Zoo Narengi Road, Guwahati.

... Applicants

AND

1. The Union of India,
represented by the Secretary
to the Government of India,
Ministry of Environment and Forests,
Parvabharan Bhawan, CGO Complex,
Lodhi Road, New Delhi.
2. The Union Public Service Commission,
represented by the Chairman,
Dholpur House, Shahjahan Road,
New Delhi.
3. The State of Assam,
represented by the Secretary to
the Government of Assam,
Department of Forests,
Dispur, Guwahati-6.
4. The State of Meghalaya,
represented by the Secretary to
the Govt. of Meghalaya,
Department of Forests,
Shillong.
5. The Chief Secretary to the
Government of Assam,
Dispur, Guwahati-6.

Contd... P/2.

6. The Chief Secretary to the Government of Meghalaya, Shillong.

7. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8

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

9. Inspector General of Forests & Special Secretary, Government of India, Ministry of Environment & Forests, Lodhi Road, New Delhi-110 013.

10. Sri Rajpal Singh, I.F.S. JSAH Conservator of Forests, Sonitpur Forest Dept., Tezpur ... Respondents

11. Sri K. S. P. V. Param Kumar, I.F.S. ASAH Conservator of Forests, Manas Park, Buxa, Darjeeling

*Vide N.P. 119/96
order add.
18/9/96*

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

1. The instant application is not directed against any particular order but has been filed making a grievance against the persistent negligence on the part of the respondents towards statutory obligation of preparation of year-wise ~~selection~~ select list for the purpose of promotion of the State Forest Service Officers to the Indian Forest Service.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The applicants further declare that the instant application has been filed within the period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the petitioner No. 1 is the Association of Assam Forest Service (Class-I) Cadre Officers and its represents the interests of its members. In the instant case, it represents the Assam Forest Service (Class-I) Officers and the instant application has been filed on their behalf making grievance against their non-promotion to the Indian Forest Service. The petitioner No. 2 is the Divisional Forest Officer (Monitoring) in the office of the Principal Chief Conservator of Forests, Assam and is a member of the said Association. He is also aggrieved by his non-promotion to the Indian Forest Service because of the non-challant and apathy on the part of the respondents and hence this application making a grievance against the same. The applicants may be permitted to move this application granting permission under Rule 4(5)(b) of the CAT (Procedure), Rules, 1987.

4.2 That the members of the applicant No. 1 as well as the applicant No. 2 belongs to the Class-I State Forest Service. The officers of the State Forest Service (SFS) on attaining the eligibility and fulfilment of other requirements are entitled to be considered for promotion to the Indian Forest Service in terms of the rules and regulations holding the field. In this connection, mention may be made of the Indian Forest Service (Appointment by Promotion) Regulation, 1966. In terms of the regulation 5 of the said regulations, the selection committee as indicated in the regulation 3 for the purpose of preparing the select list of such members of the SFS as are held by them, to be suitable for promotion to Indian Forest Service (IFS) shall ordinarily meet at an interval not exceeding one year. The number of members of the SFS included in the list shall not be more than twice the number of substantive vacancies

X

in the course of the period of twelve months commencing from the date of preparation of the list in the posts available for them under Rule 9 of the Recruitment Rules or 5% of the senior post shown against item No. 1 and 2 of the cadre schedule of each State or group of States whichever is greater.

4.3 That the applicants state that after preparation of such select list, appointment to the IFS are to be made in terms of the Regulations 8 and 9 of the Regulations. Similarly Rule 8 of the IFS (Recruitment) Rules, 1966 provides that the Central Government may on the recommendation of the State Government concerned and in consultation with the Commission may recruit to the services, persons from amongst the substantive members of the SFS.

4.4 That the applicants state that the State of Assam and Meghalaya constitute the joint cadre in terms of IFS (Cadre) Rules, 1966. The strength and composition of each of the cadre constituted under the Rule 3 of the rules shall be as determined by the Regulation made by the Central Government in consultation with the State Government in this behalf. Sub-rule 2 and Rule 4 provides that the Central Government shall, at the interval of every three years re-examine the strength and composition of each such cadre in consultation with the State Government concerned and may make alteration therein as it deems fit. The IFS (Fixation of Cadre Strength) Regulation, 1966 provides the strength and composition of cadre of the IFS in each of the State as specified in

18

the Schedule thereto. The State of Meghalaya and Assam constitute joint cadre and the posts to be filled up by promotion are as indicated in the Schedule to the IFS (Fixation of Cadre Strength) Regulations, 1966.

4.5 That the applicants state that from the aforesaid Rules and regulations it is clear that the respondents are duty bound to convene the Selection Committee at one year interval for the purpose of preparation of select list of suitable SFS officers to be promoted to IFS. It is the further ~~ex~~ requirement of the rule that there shall be a cadre review at the interval of three years.

4.6 That the applicants state that so far as the joint cadre of Assam and Meghalaya is concerned, it has all along been a routine affair of violation of the aforesaid rules and regulations in the matter of preparation of select list for the purpose of promotion to the IFS and so also in the matter of tri-ennial cadre review. The State Forest Service was constituted in the year 1966 and as indicated above, Rule 5 of the Promotion Regulations 1966 requires preparation of select list annually comprising of substantive members of the SFS. As per Rule 5, proviso (3) Sub-rule (1) the minimum qualifying service is ~~is~~ 8 years. Many of the SFS officers have completed more than 8 years of service but yet they are to be considered for promotion and in absence of any regular preparation of select list and tri-ennial cadre review envisaged under the aforesaid rules and regulations there is a persistent deprivation of the officers of SFS from

their legitimate promotion to IFS. Be it stated here that unlike the direct recruit IFS officers, the promotee officers on their selection and promotion to IFS are directly put to the senior scale. On the other hand, the direct recruit IFS officers are recruited to the service in junior scale and they are entitled to be considered for promotion to the senior scale only on completion of requisite numbers of years of service. Their such promotions to senior scale and appointment of the IFS officers to the senior scale of IFS has got a direct bearing inasmuch as the seniority of the promotee officers are fixed having regard to the directly recruited officers who have been promoted to senior scale and accordingly, the year of allotment is determined in terms of Rule 3(2)(c) of the IFS (Regulation of Seniority) Rules, 1968.

4.7 That the applicants state that as against requirement of the rules for preparation of select list every year, no select list was prepared in respect of joint cadre of Assam and Meghalaya during the period of 1969 to 1975. It was only in the year 1975, a select list was prepared and promotions were made. Thereafter again there was no select list for year 1976 and in the year 1977, a select list was prepared for four vacancies. It will be pertinent to mention here that as against the requirement of the rules, for tri-ennial cadre review, there is no cadre review all these years. It was only in 1978, cadre review took place under Rule 4 of the IFS (Cadre) Rules, 1966. After the aforesaid

select list of 1977, there was a further gap of five years during which period no select list was prepared. It was only in the year 1983, a select list was prepared. In the year 1983, a cadre review also took place. Further cadre review took place only in the year 1987 and 1995.

4.8 That the applicants state that from the aforesaid factual position regarding preparation of select list and tri-ennial cadre review it will be seen that the respondents have all along neglected in their duty to carry out the statutory mandate cast upon them for timely preparation of select list and cadre review. Because of such apathy and non-challant attitude on the part of the respondents, many of the SFS Officers did not get their promotions in time. Many of the officers even did not get the promotion to IFS and they had to retire as SFS Officers only. Again there has been no select list for promotion to IFS and the select list which was prepared in 1991 was challenged before this Hon'ble Tribunal by filing O.A. 6/92 and O.A. 10/92 and the Hon'ble Tribunal was pleased to stay the same and eventually no promotion could be made from the said select list. Similarly in the year 1993, yet another select list was prepared. Same was challenged by filing O.A. 106/93 and the Hon'ble Tribunal was pleased to stay the select list and consequently, no promotion could be made. During the intervening year 1992, there was no select list.

4.9 That in the year 1994 another select list was prepared reconvening the meeting of the selection

committee of 1993 making a challenge to which further O.As. were filed before this Hon'ble Tribunal which have been registered and numbered as O.A. No. 161/94, O.A. No. 7/95, and O.A. No. 8/95. This time Hon'ble Tribunal did not grant any stay order but observed that any promotion made from the select list would be subject to the result of the case. Pursuant to such an order, the selected candidates have been appointed except one selected candidate in respect of whom some more clearance is required. Thus it will be seen that after 1993, there was again no selection for the years 1994, 1995 and 1996.

4.10 That the applicants state that as per the gradation list of State Forest Service Officers as on April 1993, the incumbents therein up to Serial No. 35 are required to be considered ignoring those who have already been appointed to IFS.

A copy of the gradation list as of April 1993 is annexed herewith as ANNEXURE-1.

4.11 That according to the information derived by the applicants there are five vacancies to be filled up by promotion, three for the State of Assam and 2 for the State of Meghalaya. Anticipated vacancies are around 10. Thus total number of vacancies for which a select list is to be prepared is 15. In terms of the rules and regulations holding the field, a select list is to be prepared taking into account the anticipated vacancies as well as existing vacancies.

4.12 That as already stated above, there has been persistent negligence and laches on the part of the

respondent in not preparing the select list as regular intervals as required under the rules as a result of which the SFS officers have been suffering immensely.

4.13 That in the year 1995, the Government of Assam by its letter No. AAI.32/94/13 dated 24.3.95 intimated that the meetings of the Selection Committee of the UPSC for selection of officers for promotions from State Civil Service, State Police Service and State Forest Service to IAS, IPS and IFS respectively under the Assam Meghalaya Joint Cadre would be held at Hotel Brahmaputra Ashok on 25.3.95 and 28.3.95 respectively. To the best of knowledge of the applicants no select list was prepared in respect of SFS officers for being promoted to IFS.

A copy of the said letter dated 24.3.95 is annexed herewith as ANNEXURE-2.

4.14 That the applicants state that the same old story was repeated again towards preparation of a select list of SFS officers towards promotion to IFS. Except various communications no effective steps have so far been taken for preparation of the select list as a result of which the SFS officers are going to lose another precious year and in the process they will also suffer in the matter of their year of allotment and fixation of seniority. In this connection, communications dated 2.2.96, 14.2.96, 8.2.96, 16.2.96, 6.3.96, 19.4.96 may be referred to. By letter dated 2.2.96, it was intimated that the meeting of the Selection Committee of the UPSC would be held on 6.2.96 at Shillong. Thereafter by letter dated 14.2.96 it was intimated that the meeting of the UPSC

27

scheduled on 16.2.96 has been postponed as communicated by the UPSC. This letter of 14.2.96 was preceded by telegraphic message dated 8.2.96 renotifying the date of meeting as 16.2.96. Again by letter dated 16.2.96 the documents as indicated therein were directed to be sent by the UPSC. Again by communication dated 6.3.96, issued by the UPSC, the Selection Committee meeting was notified to be held on 12.3.96 and 13.3.96 in respect of Meghalaya IFS and Assam IFS respectively. However, from the letter dated 19.4.96, further clarifications have been sought by the UPSC from the Government of Assam meaning thereby that no meeting was held as was notified.

Copies of the aforesaid communications are annexed hereto as ANNEXURES-3 to 8.

4.15 That the applicants state that as against their right of consideration in earlier years even the right of their consideration for the year 1996 is sought to be taken away by the apathy shown by the respondents. Be it stated here that in the year 1987 a cadre review took place as notified vide letter No. 16016/11/87-AIS(II)-A dt. 28.10.87. By this cadre review promotion quota was increased upto 25. As against the mandatory requirements of cadre review at the interval of three years, the next ~~date~~ cadre review took place only in 1995 notifying vide letter No. 16016/II/95-AIS(II)-A dt. 9.11.95. By this notification promotional quota was increased to 28. This will show that had there been regular tri-ennial cadre review as envisaged under the relevant rules, there would have been sufficient increase in the promotion quota and the respondents having not done so, the SFS officers are consistently deprived of their benefit of promotion. Adding insult to the injury, the select list having not been prepared every year they are further deprived of such promotion. Now a stage has come that

even in the year 1996, there will be no select list not because of any valid reason but because of the inaction and apathy shown by the respondents as will be evident from the aforesaid communications.

4.16 That the applicants state that although no select list has been prepared in respect of SFS Officers but the concerned authorities including the concerned officials respondents have prepared a select list for the other two allied services viz. IPS and IAS. Thus it is a clear case of discrimination to the SFS officers alone.

4.17 That the applicants state that as against the deprivation of the SFS officers, a step-motherly attitude to them, the direct recruit officer are always favoured. In this connection, mention may be made of their promotion to senior scale even before completion of four years of services. Instances are at gallore to show that the direct recruit officers have been promoted to the senior scale without complying the provisions of Rule 6(A) of the IFS (Recruitment) Rules, 1966. Instances are also at gallore of showing favour to the direct recruit officers towards granting senior scale jeopardising the interest of the promotee officers. In this connection mention may be made of one Shri Sandeep Kumar, IFS who even after remaining away from duties very frequently without any knowledge and permission of the authorities has been granted the senior scale of pay on 21.2.95. In this connection letter No. FRE. 204/91/58 dated 17.6.95 issued by the Commissioner & Secretary to the Government of Assam to the Government of India may be referred to by which a request has been made to withdraw said Shri Sandeep Kumar, IFS from the State of

Assam.

A copy of the said letter dated 17.6.95 is annexed herewith as ANNEXURE-9.

4.18 That the applicants state that it has been all along the systematic deprivation of the SFS officers in the matter of their promotion to IFS and even after their promotion to IFS, they always suffer in the matter of their assignment of seniority and allotment of year ~~itself~~. The direct recruit officers are always shown favour by granting them senior scale which has got direct bearing with the seniority and year of allotment as per ~~xx~~ provisions of Rule 3(2)(c) of the IFS (Regulation of Seniority) Rules, 1968.

4.19 That the applicants state that the direct recruits being at the helm of affairs are always bent upon to see that the promotee officers are systematically deprived so that they can occupy the ~~good position~~ key position in service and taking advantage of the apathy shown by the respondents, ^{Scored much} they have all along ~~secured~~ marks over the promotee officers. When the direct recruit officers can be promoted even before completion of four years of service and even before fulfilment of the requisites as envisaged under Rule 6(A) of the IFS ~~Re~~ (Recruitment) Rules, 1966, there is no earthly reason as to why the respondents should not carry out their responsibility and duty towards preparation of select list every year and tri-ennial cadre review.

4.20 That the applicants state that as in the past this time also they are apprehensive that the select list of 1996 will never be prepared. In the meantime, the direct recruit officers without fulfilling the condition precedent

to get senior scale as envisaged under Rule 6A of the IFS (Recruitment) Rules, 1966 may be promoted to senior scale and after such promotion, the members of the SFS are promoted, they will rank junior in the matter of seniority and year of allotment to those direct recruits. In view of the facts and circumstances stated above, it is a fit case for passing an interim order directing the respondents not to promote any IFS officers to senior scale till the members of the SFS are considered for promotion for IFS are promoted to IFS.

4.21 That the applicants state that since it is incumbent on the part of the respondents to prepare the select list every year and to hold the triennial cadre review and they having failed to perform their duties and responsibilities in that respect, the SFS officers cannot be made to suffer and accordingly, appropriate direction are required to be issued for preparation of select list at such intervals as would have been ~~max~~ prepared had there been tri-ennial cadre review and preparation of select list in time. For example, although there must be a select list of 1996 but in fact the said select list ought to have been prepared in 1995 as was notified by the respondents, the SFS officers cannot be made to suffer for not preparing the select list in time and in the process they cannot be deprived of their seniority and year of allotment.

4.21 That the applicants state that there is a rule indicating the manner in which the select list is to be prepared. The respondents are duty bound to follow the rule and there cannot be any deviation from the same without any valid reason. The respondents cannot be allowed to act in

an arbitrary manner so as to deprive the SFS officers all along. The requirement of the rules being preparation of the select list every year and cadre review at the interval of every three years, the respondents by their inaction cannot allow the same to be lapsed and appropriate direction is called for in the instant case to the respondents to go for cadre review and preparation of the select list in terms of the rules and regulations holding the field at such intervals as is required under the said rules and regulations.

4.22 That the applicants state that in terms of the aforesaid rules and regulations the respondents are duty bound to prepare separate selection ^{list} for vacancies for each year and bunching together all the vacancies to be included in a particular ~~xxx~~ select list after a lapse of years together is wholly unjustified and accordingly appropriate direction is called for in the instant case to consider the case of the promotion of the SFS officers against vacancies occurring in the years preceding the last of such year.

4.23 That the applicants state that the applicant No. 1 made a representation pertaining to their grievances on 27.11.95 to the Inspector General of Forests, Government of India, during his visit to the State of Assam. In the said representation the Association have highlighted all their grievances as to how they have been systematically deprived in the matter of their promotion to IFS. The Inspector General of Forests and Special Secretary, Government of India was kind enough to respond to the said representation by his letter No. 13/IGF/PPS/95 dated 29.11.95 addressed

to the Chief Secretary to the Government of Assam, Dispur. By the said letter referring to the representation of the Association submitted on 27.11.95 and regarding their grievances in service condition and other matters, it was urged upon to look into the matter and to do the needful to mitigate their grievances. However, as in the past nothing has been done so far towards redressal of their grievances.

Copy of the representation dated 27.11.95 and the responding letter thereof dated 29.11.95 are annexed herewith as ANNEXURES 10 and 10A respectively.

4.24 That the applicants state that the instant application has been filed under compelling circumstances and in view of persistent deprivation of the members of the Association of their legitimate promotion by way of inaction on the part of the respondents and accordingly, it is a fit case for passing an interim order as has been prayed for. Further having regard to the urgency of the case, the matter is required to be disposed of at the earliest possible time. Any amount of delay towards disposal of the matter will cause further loss to the applicants. In such a peculiar facts and circumstances of the case, appropriate direction is also called for towards immediate preparation of select list for the year 1995-96 without prejudice to the contentions made in this application.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that in action on the part of the respondents cannot come in aid of the respondents towards violation of the rules and regulations holding the field.

5.2 For that it being mandatory to hold cadre review at the interval of every three years and prepare select list at the gap of one year, the respondents cannot defy the same in violation of the rules and regulations.

5.3 For that from the sequence of events shown in the head - "Facts of the Case", it is amply evident that the respondents have persistently shown negligence in the matter of promotion of the SFS to IFS, the SFS officers have suffered immensely for no fault of their own.

5.4 For that the applicants although cannot ~~not~~ claim promotion to IFS as a matter of right ; but their right of being considered cannot be taken away in the manner as has been done by the respondents in the instant case.

5.5 For that there has been discrimination in violation of Articles 14 and 16 of the Constitution of India and accordingly same is required to be ~~not~~ interferred by this Hon'ble Tribunal by way of appropriate direction.

5.6 For that the respondents cannot delay holding of Selection Committee meeting arbitrarily and from various communications and sequence of events, it is amply evident that they are just not interested in holding the Selection Committee meeting in time.

5.7 For that there cannot be two different kind of approach - one for the promotee officers and the other for the direct recruit officers. In case of direct recruit officers, there has been persistent violation of the rules and regulations but the same is for the purpose of extending benefits to them. On the other hand, there is also violation of rules and regulations in respect of promotee officers but the same is by way of victimisation of the SFS officers.

5.8 For that the respondents are duty bound to prepare the select list at regular interval as envisaged under the Rules and also to hold cadre review at three years intervals and any kind of deviation without any reasonable excuse is required to be viewed seriously and the applicants are to be granted appropriate reliefs as may be deemed fit and proper under the facts and circumstances of the case.

5.9 For that due to laches and negligences on the part of the respondents, the SFS officers cannot be made to suffer and appropriate direction are required to be issued towards redressal of long standing grievances of the applicants. It is a fit case for issuance of direction towards preparation ~~xx10~~ of select list every year alongside tri-ennial cadre review. Such select list should be directed to prepare at regular intervals as would have been prepared but for the inaction on the part of the respondents.

5.10 For that in any view of the matter, the inaction on the part of the respondents is not sustainable and appropriate direction is required to be issued towards redressal of the grievances of the applicants.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicants have got no other alternative or efficacious remedy than to approach this Hon'ble Tribunal.

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

The applicants declare that they have not filed any application, writ petition or suit in respect of which this application has been filed before any other Court, or authority and/or any other Bench of this Hon'ble Tribunal nor such application, writ petition or suit is pending before any of them.

8. Reliefs sought :

Under the facts and circumstances stated above, the applicants pray that the instant application be admitted, records be called for and on perusal of the records and upon hearing the parties on the cause or causes that may be shown, may be pleased to allow the application with the following directions to the respondents.

9x

- (i) to immediately convene the meeting of the Selection Committee towards preparation of the select list and to prepare the select list for the year 1995-96 for promotion to IFS from amongst the SFS officers eligible for such promotion ;
- (ii) to hold tri-ennial cadre review and to prepare select lists at such intervals as was due and as in envisaged under the rules and regulations governing the IFS and to assign correct seniority and year of allotment on the basis to the S.F.S.

SFS officers who are included in such select list

- (iii) to direct the respondents not to promote any direct recruit officers to the senior scale of IFS till such time the above directions are complied with and further not to promote any direct recruit IFS Officers to the senior scale without complying the provisions of the Rule 6A of the IFS (Recruitment) Rules, 1966.
- (iv) Any other relief or reliefs to which the applicants are entitled under the facts and circumstances of the case.
- (v) Cost of this application

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the O.A., an interim order may pleased be passed directing the respondents not to promote any IFS officers to senior scale till such time the SFS officers are considered for promotion to IFS and they are promoted to IFS and further not to promote any IFS officers to senior scale without fulfilling the requirements of Rule 6A of the IFS (Recruitment) Rules, 1966.

10.....

The application is filed through Advocate.

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

- (i) I.P.O. No. : 09 346/70 (ii) Date 1.6.96
- (iii) Payable at : ~~000000~~ G.P.O. Gurgaon

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

[Signature]

VERIFICATION

I, Shri N. Moral, aged about 42 years, son of Late Brasanna Ram Moral, at present working as Asstt. Conservator of Forests in the office of the Conservator of Forests, Central Assam Circle, Guwahati, the General Secretary of the Assam Forest Service (Class-I) Association, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraphs 5 are true to my legal advice and I have not suppressed any material facts. I am fully competent and authorised to sign this verification on behalf of the applicants.

And I sign this verification on this the 17/5
day of June 1996 at Guwahati.

Nilamani Moral

General Secretary,
Assam Forest Service
(Class-I)
Association

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::::DISPUR, GUJAHATI-6

ORDERS BY THE GOVERNORNOTIFICATION

Dated Dispur, the 19th April, 1993



NO. FRE.11/90/175 : The Governor of Assam is pleased to notify and publish the draft gazette list of the State Forest Service Officers (Class-I) (as per statement enclosed) under the Forest Department with immediate effect.

This cancels this Department Notification No. FRE.59/82/Pt/150, dtd. 16.11.89.

Sl.No.	Name of officers with Home District	Date of birth	Date of first entry	Date of entry in Govt. Service.	Whether confirmed to Forest Service	Whether SC/ STP/STH.	Remarks
1	2	3	4	5	6	7	8
1.	Sri Mon Mohan Pathak, (Bazpeta).	1.3.39.	4.4.54.	1.4.54.	Yes	-	Promoted to C.F.
2.	Sri Chandra Kanta Das, (Nagaon)	1.6.42	2.4.69	2.4.69.	Yes	SC	
3.	Sri Nagen Das (Kamrup)	1.6.43.	2.4.60	2.4.65	Yes	-	
4.	Sri Sarat Ch. Phatouali, (Lakhimpur)	1.7.41.	2.4.69.	2.4.69.	Yes	STP	
5.	Sri Tapas Kr. Das (Cachar)	9.4.50.	31.3.73.	31.3.73.	Yes	-	
6.	Sri Nirmal Kr. Sarma, (Nagaon)	1.5.47.	31.3.73	31.3.73.	Yes	-	

Attested
Dated.....

contd.....2/-

Attested.
Advocate.

-22-

1	2	3	4	5	6	7	8
✓ 7.	Sri Hemanta Kr. Saikia, (Lakhimpur).	1.2.47.	31.3.73	31.3.73	Yes	2TP	
✓ 8.	Sri Kanak Ch. Dutta, (Kamrup).	1.2.48	31.3.73	31.3.73	Yes		
✓ 9.	Sri Surajit Dutta, (K & J Hills).	16.3.52	3.3.74.	3.3.74	Yes		
✓ 10.	Sri Surendra Nath Bhagohain (Sibsagar).	1.5.50	3.3.74	3.3.74	Yes		
✓ 11.	Sri Sairul Islam (Sibsagar)	13.9.49	3.3.74	3.3.74	Yes		
✓ 12.	Sri Hari Prasad Phukan, (Kamrup)	1.2.50	3.3.74	3.3.74	No		
✓ 13.	Sri Durga Kanta Basumatary, (Kokrajhar).	9.4.53	27.2.75	27.2.75	Yes		

contd.....3/-

1	2	3	4	5	6	7	8
14.	Sri Jitū Das (Kamrup)	1.3.53.	27.2.75.	27.2.75	Yes	SC	-
15.	Sri Binod Behari Nobis (Kamrup)	1.1.51	27.2.75.	27.2.75.	Yes	-	-
16.	Sri Mohammad Ali(Kamrup)	15.5.37.	1.4.58.	2.4.76.	Yes	-	-
17.	Sri Md. Ali (Kamrup)	1.1.51	1.4.58.	2.4.76.	Confirmed as F.R.	-	-
18.	Sri Chunilal Chakraborty, (Sylhet)	1.4.36.	1.10.59.	30.3.76.	-do-	-	-
19.	Sri Ranjan Ali (Dhubri)	1.2.36.	1.10.59.	15.12.76	-do-	-	-
20.	Sri Prema Dhar Neog, (Sibsagar).	1.3.37.	1.10.59.	30.3.76.	-do-	-	-
21.	Sri Gopal Kr. Gogoi, (Lakhimpur).	1.2.38.	28.9.60.	21.12.76.	Yes	-	-
22.	Sri Thaneswar Hazarika, (Sibsagar).	1.11.35.	28.9.60.	15.12.76.	Confirmed as F.R.	-	-
23.	Sri Padma Kanta Gayán, (Darrang).	1.4.39.	28.9.60.	15.12.76	Yes	-	-
24.	Sri Taraprasad Changkakaty, (Darrang).	1.5.40.	1.10.61.	15.12.76.	Yes	-	-
✓ 25.	Sri Jitendra Ch. Dey, (Gongaigaon).	1.9.39.	1.10.61.	15.12.76.	Yes	-	-
26.	Sri Partha Sarathi Das, (Barpeta)	2.12.52.	30.4.78.	30.4.78.	Yes	-	-
27.	Sri Altaf Ahmed (Kamrup)	27.2.56.	30.4.78.	30.4.78	Yes	-	-
	Sri Sushanta Nayak(Kamrup)	29.2.55.	30.4.78.	30.4.78.	Yes	SC	-

Attested.
Advocate.

1	2	3	4	5	6	7	8
24.	Sri Purnananda Bordoloi, (Nagaon).	17.2.55.	1.5.79.	1.5.79.	Yes	-	
25.	Sri Abdul Shahid Laskar, (Cachar).	1.3.54.	1.5.79.	1.5.79.	Yes	-	
30.	Sri Prabin K. Kotoky, (Sibsagar)	1.4.52	27.2.75.	11.2.81.	Yes	-	
31.	Sri Momoth Kalita (Kamrup)	1.4.50.	31.3.72.	11.2.81.	Confirmed as F.R.	-	
32.	Sri P.P. Changkakaty, (Kamrup)	-	11.2.81.	11.2.81.	No.	-	
33.	Sri Sushil Kr. Sarma, (Kamrup)	1.8.39.	28.9.60.	13.5.81.	Confirmed as F.R.	-	
34.	Sri Eunis Ali (Lakhimpur)	1.3.41.	1.10.62.	15.5.81.	-do-	-	
35.	Sri Rajendra Nath Sonowal, (Lakhimpur).	1.3.42.	1.10.63.	21.5.81.	-do-	STP	
36.	Sri Purna Kanta Hazarika, (Lakhimpur).	1.3.37.	1.10.63.	21.5.81.	-do-	SC	
37.	Sri Ritesh Shattacharjee, (Dibrugarh).	18.5.52.	1.5.77.	6.11.81.	No	-	
38.	Sri Safiuddin Ahmed, (Kamrup).	23.3.59.	6.11.81.	6.11.81.	No	-	
39.	Sri Sanjib Kr. Sarma,	1.1.57.	6.11.81.	6.11.81.	No	-	
40.	Sri Kailash Khergharia, (Jorhat).	-	31.1.82	31.1.82.	No	-	
41.	Sri Partha Pratim Das, (Sarpeta).	1.1.52.	27.2.75.	1.11.82	Confirmed as F.R.	-	
42.	Sri Abdul Kuddus (Darrang)	1.1.53.	1.11.82.	1.11.82.	No	-	
43.	Sri Rup Nath Brahma, (Songaigaon).	1.8.55.	23.4.78.	1.11.82	No	STP	
44.	Sri Debiruz Zamam, (Dibrugarh).	14.1.56	1.11.82.	1.11.82.	No	-	
					contd.....	4/-	

NO. AAI.32/94/13
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL ::::A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI- 781006.

ANNEXURE - 2

@@@@
Dated Dispur, the 24th March, 1995.

WPSD
The Deputy Secretary to the Govt. of Assam,
General Administration Department,
Dispur.

Sub :-

Meetings of the Selection Committee of the
Union Public Service Commission to be held
on 27.3.1995 and 28.3.1995 for selection of
officers of SCS/SPS/SFS for promotion to
IAS/IPS/IFS.

Sir,

I am directed to say that the meetings of the
Selection Committee of the Union Public Service Commission
for selection of officers for promotion from SCS/SPS/SFS
to IAS/IPS/IFS under the Assam =Meghalaya Joint Cadre will
be held at Hotel Brahmaputra Ashoka, Guwahati on 27.3.1995
and 28.3.1995.

You are, therefore, requested kindly to make
necessary arrangement for transport for 9 members of the
Selection Committees coming from New Delhi and Shillong
and their accommodation in Hotel Brahmaputra Ashoka.
Necessary action for declaring them as State Guest may
also kindly be taken.

16/3/95
Yours faithfully,

R.S.C.
(R.S.CHAKRAVORTY)
Deputy Secretary to the Govt. of Assam

Memo No. AAI 32/94/13-A :: Dated Dispur, the 24th March, 1995.
Copy to :-

1. Home (A) Department, Dispur.
2. Forest Department, Dispur.

The meetings of the
Selection Committee for
SPS and SFS will be held
at 10.00 AM and 2.30 PM
respectively on 27.3.95.

They are requested to
invite the members of the
Selection Committee for
SPS/SFS.

By order etc.,

(Signature)

(R.S.CHAKRAVORTY)
Deputy Secretary to the Govt. of Assam

*Attested
by
Advocate*

*ABR
24/3*

CONFIDENTIAL - 26 -

FIXED DATE 39

ANNEXURE-3

NO. AAI. 32/94/133
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL ::A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI- 781006
@@@@@@

Dated Dispur, the 2nd February, 1996.

1. The Deputy Secretary to the Govt. of Assam
Home (A) Department,
Dispur.

2. The Deputy Secretary to the Govt. of Assam
Forest Department,
Dispur.

Sub :- Meeting of the Selection Committee of the
Union Public Service Commission for prepara-
tion of Select lists of SCS officers, etc.

Sir,

In furnishing below an extract of the Union
Public Service Commission's letter No.F.6/2/96-AIS dated
1.2.1996, I am directed to say that the meeting of the
Selection Committee of the Union Public Service Commission
will be held on 6.2.1996 at Shillong. Therefore, necessary
action for submission of proposal relating to your Depart-
ment may please be taken as referred by the Union Public
Service Commission "Proposal with CRs and complete documents
in respect of SPS/SFS officers may also be forwarded so that
the Selection Committee Meetings are held simultaneously."

Yours faithfully,

(D. SAIKIA)
Joint Secretary to the Govt. of Assam

WML

... ...

Attest'd.

Advocate.

3/2/96

NO.AAI.32/94/168
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL: : : A)
ASSAM SECRETARIAT (CIVIL) : : : DISPUR
GUWAHATI-6.

ANNEXURE-4

Dated Dispur, the 14th February '96.

To, 1.

1. The Deputy Secretary to the Govt. of Assam, Home (A) Department, Dispur.
2. The Deputy Secretary to the Govt. of Assam, Forest Department, Dispur.

Sub : Postponement of the meeting of the Selection Committee of the Union Public Service Commission scheduled on 16.2.1996 for preparation of select list of SPS/SPS Officer.

Sikhs

I am directed to say that the meeting of the Selection Committee of the Union Public Service Commission scheduled on 16.2.1996 for preparation of select lists of SPS/SPS Officers for promotion to IFS/IFS has been postponed as communicated by the U.P.S.C vide Fax message No.F.6/2/96-AIS dated 13.2.96, a copy of which has already been furnished to you.

Yours faithfully,

(D. SAIKIA)
Joint Secretary to the Govt. of Assam
Personnel (A) Department.

R/Das/

Attest. ed. /
Advocate.

SHRI A BHATTACHARJYA
CHIEF SECRETARY
GOVT. OF ASSAM
GUWAHATI.

Refyo discussion with the Hon'ble Chairman regarding
convening of Selection Committee meetings for promotion
of SPS/SFS officers to IPS/IFS (.) The meetings of the
Selection Committee for promotion to IPS and IFS will be
held on 16th February, 1996 at Shillong (.) However
proposals and other documents such as ACRS in this regard
have not been received from the State Govt so far (.)
Kindly forward the proposal for IPS (.) through Courier
so that the same can be examined before the meeting (.)
matter most urgent (.)

No. F. 7/2/1996-AIS

Dated 8-2-1996

(N NAMASIVAYAM)
UNDER SECRETARY
UNION PUBLIC SERVICE COMMISSION
TEL. NO. 3381406

No. F. 7/2/1996-AIS

New Delhi

Dated 8-2-1996

Copy by Speed Post in confirmation to the Chief
Secretary, Govt. of Assam, Guwahati.

(N NAMASIVAYAM)
UNDER SECRETARY
UNION PUBLIC SERVICE COMMISSION
TEL. NO. 3381406

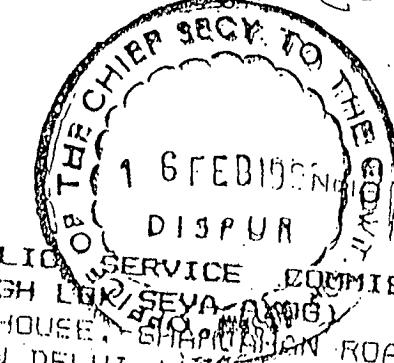
Attest'd.
Advocate.

Dy No. 681
Date 16-2-96Grams: UNISERCOM
Telex: 031-62677
Fax: 011-3385345Bhawani
10/2/96UNION PUBLIC SERVICE COMMISSION
(SANGH LOK SEVA AGRAM)
DOLPUR HOUSE, RAMA BHAVAN ROAD
NEW DELHI-110011The Chief Secretary,
Government of Assam
Guwahati.

(Attn.: Shri H Sonowal, Secretary (Forest))

Subject: IFS - Selection Committee meeting
for promotion to IFS-Assam Segment-Assam
Meghalaya Joint Cadre during 1995-96.

Sir,

I am directed to refer to your letter No. PRE 109/94/59
dated 30.1.96 and to state as follows:(i) CR dossier and Part ACR for all previous periods
shown against each officer in the enclosed list may
kindly be sent.(ii) Integrity certificates of the officers to be
considered may kindly be furnished. It may please be
noted that the Integrity Certificate is required to be
signed by the Chief Secretary.(iii) List of officers against whom disciplinary
proceedings, are pending contains names.
Disciplinary proceedings shall be deemed pending only
if charge sheet has already been served, as laid down
in the Govt. of India letter No.14015/32/91-AIS(I)
dated November 2, 1991. In all the four cases the
enquiry seems to be at initial stage and no charge
sheet seems to have been issued. This position may
please be confirmed.(iv) If Shri B B Nobis is appointed before the date
of meeting; vacancies will be 8. Select List will be
10 and the zone of consideration would be 30. If not
appointed, zone would be 33 including Shri Nobis.
Accordingly names, ACRs and other documents in respect
of 8 more eligible officers and that of Shri Nobis may
kindly be furnished. If no other eligible officer is
available the fact may be so stated.(v) The name of Shri T P Changakakati (Date of
birth 1.5.40) has to appear below Shri Jitu Das
(S.No.10) and above Shri P S Das (S.No.11). Since no
meeting was held for 1994-95 Select List, officers
eligible as on 1.4.94 can also be taken as eligible.
However, he would be extra to the normal zone.

DRIVE YOUR-6

-29-

Comand & Secy (Forest)

J-Asst Secy

87/21 96, 20-01

1-4-94, 4-12-94, 88-89, 89-90
90-91, 92-93.Attested
Advocate.

Pg.

name does not figure in the eligibility list supplied by you.

(vi) The date of birth against Shri P B Changkakoti (S.No.18) of eligibility list has not been indicated and that may please be done.

(vii) Copy of notification regarding officers appointed from current select list may kindly be sent.

(viii) In the list of SC/ST officers at Annexure I the name of Shri Jitu Das (SC) is missing. From the last year's record it is found that he was shown as SC. The correct position may kindly be intimated.

2. The above mentioned information/documents may be forwarded to the Commission urgently so as to enable them to convene the meeting of the Selection Committee as per schedule.

Yours faithfully,



UNDER SECRETARY

UNION PUBLIC SERVICE COMMISSION

TEL. NO. 33381406

Attested.
Advocate

DR. 963

7-3-96

THE CHIEF SECRETARY
GOVT. OF ASSAM
SUWAHATI

FAX

Comm. Secy. (General)

-31-

ATTN: H. SONOWAL COMMISSIONER
AND SECRETARY OF
GOVT. OF ASSAM.

THE CHIEF SECRETARY
GOVT. OF MEGHALAYA
SHILONG
DISPUR
ATTN: W.M. S. SPARIAT COMMISSIONER
AND SECRETARY OF GOVT.
OF MEGHALAYA.

ANNEXURE-7

Shilong
S/2/96
REFOLET DATED 26TH FEB. 1996 REGARDING SELECTION COMMITTEE MEETING
FOR PROMOTION TO IAS(.) MEETINGS OF THE SELECTION COMMITTEE FOR
PROMOTION OF SCS/SFS OFFICERS TO IAS/IFS CADRE OF ASSAM-MEGHALAYA
JOINT CADRE WILL BE HELD AT SHILONG ON THE DATES AND TIMES INDICATED
BELOW:

MEGHALAYA IAS 11.3.96 AT 11.00 AM

MEGHALAYA IFS 12.3.96 AT 11.00 AM

ASSAM IFS 13.3.96 AT 11.00 AM

INFORMATION DOCUMENTS CALLED EARLIER RELATING TO IAS/IFS MEGHALAYA
AND IFS ASSAM MAY BE FURNISHED AT THE TIME OF THE MEETING(.)
REQUEST MAKE NECESSARY ARRANGEMENTS FOR THE SAID MEETINGS(.)

F.No.10/2/96-AIS
F.No.6/2(2)/96-AIS
Dated: 6th March 1996

(N. NAMASIVAYAM)
UNDER SECRETARY
UNION PUBLIC SERVICE COMMISSION
TELE: 3381406

Copy by post to:

1. The Chief Secretary, Assam
2. The Chief Secretary, Meghalaya
3. Secretary, Govt. of India, Departt. of P&T Attn: Shri. R. Vajirawala
4. Secretary, Ministry of Env. & Forest, Parivarshan Bhawan
Attn: Shri R. Sehgal, US with the request that one officer not below the rank of Jt. Secretary to Govt. of India may be nominated for the IAS meeting.
4. The Secretary Ministry of Env. & Forest, Parivarshan Bhawan
Attn: Shri R. Sehgal, US with the request that one officer not below the rank of Jt. Secretary to Govt. of India may be nominated for the Assam-Meghalaya IFS meetings.

UNION PUBLIC

against
ame will

10.01

Contd...2...

Attested
Advocate

Paravexure - 8

Grams: UNISERCOM
Telex: 031-62677
Fax : 011-3385345

No. P. 10/2/96-A18
Date 19-4-96

UNION PUBLIC SERVICE COMMISSION
(SANGH LOK SEVA AYOG)
DHOLPUR HOUSE, SHAIJAHAN ROAD
NEW DELHI-110 011

To

The Chief Secretary
Government of Assam
Dispur.

(Attn: Shri H Sonowal, Commissioner & Secretary)

Subject : IFS - Selection Committee meeting for promotion to IFS - Assam Segment of Assam-Meghalaya Joint Cadre during 1995-96 - reconvening of the same reg.

* * *

Sir,

I am directed to refer to the subject mentioned above and to say that in view of clarification given by Government of India, Ministry of Environment & Forests regarding the mutual agreement between JCA of Assam & Meghalaya pertaining to transfer of 2 vacancies to Meghalaya state the meeting of the Selection Committee for preparation of the Select List of 1992-93 was reconvened on 7-3-94. Thus no meeting was held for preparation of the Select List of 1993-94 and 1994-95. Accordingly as per the provisions of second proviso to Regulation 5(3) of the Promotion Regulations the officers who were eligible as on 1-4-93 and now as on 1-4-95 have attained the age of 54 years are also to be considered. As such revised eligibility list may be furnished at the earliest.

2. It is not clear as to how many officers have been appointed from the Select List of 1992-93 (finalised on 7-3-94). Vacancy position is also not clear. According to Government of Meghalaya, the Government of Assam is required to release two vacancies in accordance with the agreement of JCA. The State Government is also requested to clarify the vacancy position.

3. It has also been observed that a large number of ACRs are missing. Missing part ACRs may also be furnished.

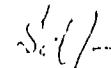
4. The State Government have not furnished the integrity certificate in respect of eligible officers. Certificates regarding adverse remarks is also not in proper format. It is also not clear as to whether cadre-sheet has been issued to the four officers whose names have been included in the list pertaining to DE. As such fresh certificates regarding integrity, DE and communication of adverse remarks may be furnished at the time of the meeting.

5. Complete ACRs of the eligible officers along with the information/documents mentioned may be furnished to the

*Attest'd.
P
Advocate.*

Commission so that meeting of the Selection Committee can be reconvened at the earliest.

Yours faithfully,



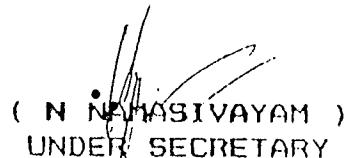
(N NAMASIVAYAM)

UNDER SECRETARY

UNION PUBLIC SERVICE COMMISSION

TEL. NO. 3381406

✓ Copy also forwarded to Shri R N Hazarika, Principal Chief Conservator of Forest, Government of Assam for information and necessary action.



(N NAMASIVAYAM)

UNDER SECRETARY

UNION PUBLIC SERVICE COMMISSION

TEL. NO. 3381406

Attested.
Advocate.

FOREST

GOVERNMENT OF ASSAM

DEPARTMENT ::::: DISPUR

•NO.FRE-204/91/58 Dated Dispur, the 17th June, 1995

From : Shri H. Sonowal, I.A.S.
Commissioner & Secy. to the Govt. of Assam.

To

The Deputy Secy. to the Govt. of India,
Ministry of Environment & Forests,
Paryavaran Bhawan, C.G.O. Complex,
Lodi Road, New Delhi-110003.

Sub : Unauthorised absence of Shri Sandeep
Kumar, IFS (Under Suspension).

Sir,

I am directed to say that Shri Sandeep Kumar, IFS (now under suspension) had joined as Asstt. Conservator of Forests, attached to the Divisional Forest Officer, Haltugaon Division, Kokrajhar on 18.11.91 but he was in the habit of remaining away from duties very frequently and without any knowledge or permission of the authorities. The period of unauthorised absence from duties as shown below indicate clearly the unbecoming behaviour of the officers-

1. From 1-5-92 to 9-6-92 - 40 days.
2. From 7-10-92 to 9-11-92 - 34 days.
3. From 25-11-92 to 16-11-95 - 783 days.

Total 857 days

Being a responsible officer belonging to the Indian Forest Service, Shri Sandeep Kumar should not have indulged in such practices and such irresponsible behaviour is very much un-warranted and unbecoming of an officer of his status.

Attest.
Advocate

- (2) -

Further, Shri Sandeep Kumar, IFS (U/S) was appointed on promotion to the senior scale of pay and posted as Instructor, North East Forest Rangers' College, Guwahati on 21-2-95 but he was reluctant to join in the promotional post and avoided to get his release from the post of Asstt. Conservator of Forests. Remaining absent from his Head Quarters even outside the State he is pressing to modify his posting order through political personalities.

Pending outcome of the Departmental Proceedings against him this State Government have decided to surrender such an arrogant and irresponsible officer from the Assam Wing of Assam-Meghalaya Joint Cadre with the apprehension of deterioration of works and discipline in the cadre.

You are therefore, requested kindly to appreciate the situation as mentioned above and to withdraw Shri Sandeep Kumar, IFS (U/S) from this State.

Yours faithfully,

SD -

Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur

Memo No. FRE.204/91/58-A Dated Dispur, the 17th June, 1995.

Copy to the Principal Chief Conservator of
Forests, Assam, Rehabari, Guwahati-8 for information.

By order etc.,

Commissioner & Secretary to the Govt. of Assam,
Forest Department, Dispur

Attested
Advocate.



OC -36- ANNEXURE- 10

ASSAM FOREST SERVICE (CLASS-I) ASSOCIATION

Estd : 1942

No.....

Date.....

MEMORANDUM

TO SHRI M.F. AHMED, I.F.S., INSPECTOR GENERAL OF FORESTS,
GOVERNMENT OF INDIA DURING HIS KIND VISIT TO THE STATE OF
ASSAM SUBMITTED BY THE ASSAM FOREST SERVICE (CLASS-I)
ASSOCIATION ON 27.11.1995.

Respected Sir,

I, on behalf of the Members of the Assam Forest Service (Class-I) Association and on my own behalf, convey our heartiest welcome to you on your august visit to our State.

We would beg your kind indulgence to submit a few facts related to management of the forests and also man management in the Forest Department in our State in the following few paras :

I. FORESTS :

1.1. That once regarded as a forest rich State, we would painfully submit that the present scenario of Assam forests cannot be termed as rich, in spite of our most sincere endeavours.

1.2. That, very acute unemployment problem due to deficiency in industrial activities; rampant poverty due to poor productivity in agriculture sector accentuated by series of flash floods during the peak agriculture season; large dependence of the people in fringe forest areas not only for meeting their daily requirements but also adopting it as a source of their

Attested
Advocate

sustenance base; differential price equation of timber and other forest products compared to the relatively affluent states; lure of earning a fast buck by some groups of educated unemployed youths; generation of insurgencies and making forest areas as the rendezvous of the insurgents; all these factors have adversely affected the status of Assam forests.

1.3. That, the State Forest Department's sincere endeavour is reflected in amendment of Assam Forest Regulation vesting more powers upon forest officers to deal with forest offences; creation of the second battalion of the Assam Forest Protection Force; submission of the draft memorandum for adoption of Joint Forestry Management; but very acute financial constraints have compelled to curtail activities in the forests to a large extent which in turn has become another cause of employment shrinkage leading to encroachment and illicit felling in the forests by the people in the border of poverty line.

1.4. That, the aforementioned reasons for depletion of forests are only a few amongst other social, political and economic reasons.

2. MANAGEMENT IN THE FOREST DEPARTMENT :

2.1. That Sir, we would beg to say that while joining the department, we could understand that though in the initial stage we would be serving in the State

Contd.....P/3

Attested
Advocate

Cadre but with a wide scope of getting promoted to Indian Forest Service and promotions thereafter.

2.2. That Sir, to our utter dismay, we find that though as per rule, a State Forest Service Officer, after 8 (eight) years of continuous service is eligible for promotion to the Indian Forest Service but the ground realities indicate that our future career is absolutely bleak which would be evident from the situation projected in the table below :

TABLE - I

1. No. of officers worked in S.F.S. Cadre for 20 - 25 years and more	- 12
2. No. of officers worked in S.F.S. Cadre for 15 - 20 years	- 8
3. No. of officers worked in S.F.S. Cadre for 10 - 15 years	- 29
4. No. of officers worked in S.F.S. Cadre for 8 - 10 years	- 40

2.3. That Sir, this situation has emerged because of following reasons :

2.3.1. Calculation of the promotional posts have been wrongly made without including the number of posts under deputation reserves, leave reserves and training reserves. This point was assailed by the promotee I.F.S. Officers of Madhya Pradesh and West Bengal in their respective Benches of the Central Administrative Tribunals and the Hon'ble Tribunal admitted their prayers and passed judgement in their favour. Inclusion of these posts for calculation of the promotional quota would also have increased availability of the number of posts for recruitment through promotion.

Contd.....P/4.

Attested
Advocate

2.4. The promotee I.F.S. Officers always suffer from lack of promotional scope because of the following reasons :

2.4.1. The select list is not prepared annually violating the mandatory provision under rule 15(1) of the Indian Forest Service (Appointment by promotion) Rules, 1966. Because of this, the promoted officers are denied their due seniority even on promotion as provided under rule 3(2)(c) - Explanational of the Indian Forest Service (Regulation of Seniority) Rules, 1968. The situation in the State can be appreciated from the following :

Select list of 1982 was prepared after a gap of long 7 years, i.e. after 1975. After 1982, the select list was prepared during 1987 and 1989, both of which were incomplete as per provision of rule 15 of the Indian Forest Service (Appointment by promotion) Rules, 1966. Then during 1991 and 1992 select lists were prepared but they were assailed in the Gauhati Bench of the Assam Administrative Tribunal because of inherent defects in those select lists. Then during 1994, the Selection Committee for 1992 was re-constituted and a select list prepared. Though the select list was prepared during 1994, promotion was effected only during March, 1995. But it is a matter of great regret that there has been no initiative yet for preparation of the annual select list for 1995 though a vacancy against promotional quota is currently available.

Contd... P/5

Attested
for
Advocate.

2.4.1. There are large time gaps between the sitting of the Selection Committee and notification of the Select List and the appointment of the officers in the select list. More often than not, this delay greatly damage the service prospects of the promotee officers. This ultimately leads to a perpetual feeling of humiliation and frustration of the S.F.S. Officers, who get promoted to the I.F.S. at the fag end of their service life may create a lot of dampering effect in their drive and initiatives.

3. We would take your kind indulgence in submitting that the status of forest scenario prior to creation of the Indian Forest Service, i.e. during 1966 was perhaps not having the grim look as of to-day. We are sure your esteemed self would appreciate that existence of forests in India can be largely contributed to the sincere and dedicated services of the State Forest Service Officers only and they do not deserve to be neglected and denied their legitimate dues in matters of their service prospects, more so when there has been a special emphasis laid upon involvement of the local people more intimately in conservation and management of forests in the latest Indian Forest Policy.

4. We would further submit before your honour, who is the Cadre Management Authority of the Country, that the Members of the Assam Forest Service (Class-I) Association observe with dismay the special treatment offered to the directly recruited I.F.S. Officers even flouting the eligibility criteria at the time of their promotion. Though promotion to senior-time-scale is subject to clearance of the Departmental Examinations, in many cases, the members of the association observed that they are promoted to senior scale without strictly adhering to this rule. One of the direct recruit I.F.S. officers remained absent without authority for about one

Attested.
Advocate

year and a half but on joining the department and serving for hardly 4 months, he was promoted to senior scale on theoretical completion of 4 years calculated from the date of his joining in the Indian Forest College. This can be construed as a biased inclination of the authorities in favour of the I.F.S. direct recruit officers.

In view of above facts and in consideration of perpetual sufferings endured by the officers of the State Forest Service, we would fervently pray to your honour to take appropriate steps to improve the lot of the State Forest Service Officers of Assam Cadre by adopting the following corrective measures in the Rules and steadfast enforcement of the existing Rules :

1. Immediate preparation of select list for 1995; by July-August, 1996 as many as 6 promotional posts will become available.
2. Inclusion of deputation reserve, leave reserve and training reserve for computation of correct number of promotional posts.
3. Amendment of the Indian Forest Service (Recruitment) Rules by enlarging the promotional quota to 50% of the total cadre strength.
4. Suspension of intake of the direct recruits of I.F.S. Officers till 2000 A.D. so as to allow very senior S.F.S. Officers to get into I.F.S. without losing their serve prospects due to disadvantageous year of allotment resulting from direct recruit intake.

Contd.....p/7

Attested
Advocate

5. In view of availability of a sizeable number of S.F.S. Officers having specialised training, avenues for deputation to Government of India, may kindly be created which would also help easing the stagnation of the S.F.S. Officers.

We would solicit your kind immediate action for which the members of this Association shall be ever grateful.

Thanking you.

N.M. 27/11/75

(N. MORAL),
GENERAL SECRETARY,
ASSAM FOREST SERVICE (CLASS-I) ASSOCIATION,
GUWAHATI

Attested
Advocate



M.F. AHMED

१३८
वन महानियोक्ता एवं विशेष निचिव
भारत सरकार
INSPECTOR GENERAL OF FORESTS &
SPECIAL SECRETARY
GOVERNMENT OF INDIA

No.13/IGF/PPS/95
November 29, 1995.

Dear Shri

ANNEXURE - 11

During my last visit to Assam, SFS Officers of Assam met me on 27.11.95 at about 8.00 PM in the circuit house, Guwahati.

2. They expressed lot of their grievances in service condition and other matters. A copy of the representation submitted by them is enclosed herewith. It seems that most of the issues can be solved at the State level.
3. May I request for your personal indulgence to kindly look into the matter and do the needful to mitigate their grievances.

With kind regards,

Yours sincerely,

Sd/-

(M.F. AHMED)

Encl.: as above

Shri A. Bhattacharva, IAS,
Chief Secretary,
Sachivalaya,
Govt. of Assam,
Dispur.

Copy for necessary action to:-

- 1) Shri Harish Sonewal, Commissioner & Secretary, Forest Department, Govt. of Assam, Dispur.
- 2) Shri R.N. Hazarika, Principal Chief Conservator of Forests, Deot. of Forests, Govt. of Assam, Guwahati.

(M.F. AHMED)

Copy for information to:

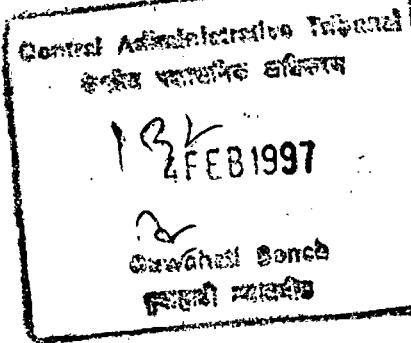
✓ Shri N. Moral, General Secretary, AFS Class I Association, C/o Conservator of Forests, CA Circle, Guwahati, Assam.

पर्यावरण एवं वन मंत्रालय, जी. जो. ओ. कॉम्प्लेक्स, लोदी रोड, नई दिल्ली-110003
Ministry of Environment & Forests, C.G.O. Complex, Lodi Road, New Delhi-110003
Phone : 4361509 Telex : 66185 DOE IN Fax : 4360678 Gram : 'PARYAVARAN'

Attested
Advocate

(44)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH:: GUWAHATI.



O.A. No.96/96.

Assam Forest Service (Class-I)
Association.

-Versus-

Union of India and others.

Written statement on behalf of the impleaded
Respondents No.10 and 11.

I, Shri K.S.P.V. Pavan Kumar, son of Shri K.V.N. Nagendra Sai, aged about 27 years, presently serving as the Assistant Conservator of Forests, Manas National Park, do, hereby, solemnly swear and affirm as follows :-

1. That, by order dated 18.9.96, I have been impleaded as the Respondent No.11 and I am fully conversant with the facts and circumstances of the case. The impleaded Respondent No.10 who is also similarly situated has also authorised me to submit this written statement on his behalf.
2. That, at the outset, before replying to the various allegations/ contentions raised in the application, this deponent begs to state that none of the statements made therein are admitted except those if so specifically admitted in this reply.

Under
Affidavit
5/2/97

undertake to serve
copy on the applicants
procate.
Sd/- 4/2/97
(G.N. Das)
Advocate

contd...

Filed by
S. N. Das
Advocate
14/2/97
KNN Paraffin

3. That the statements made in para 4.1 of the application need no reply.

4. That the statements made in paras 4.2, 4.3, 4.4. and 4.5, being the provisions of the Rules and Regulations, can be taken as substantially correct .

5. That the statements made in para 4.6 are denied and it is denied that violation of the Rules and Regulations in the matter of the preparation of the Select List had become a routine affair. This deponent submits that 8 years of continuous service in the State Forest Service is the minimum eligibility criteria but that does not entitle an officer to claim promotion to the Indian Forest Service (I.F.S. in short).

6. That this deponent refrains from making any comments with regard to para 4.7 but submits that the facts stated therein do not entitle the applicants to stop the promotion of this deponent and Respondent. No.10 to the senior scale of the Indian Forest Service to which they are due.

7. That with reference to paragraph 4.8, this deponent begs to state that the members of the Association themselves are responsible for the Select List prepared in 1991 and 1993 not getting effect to as the cases mentioned in the said paragraph by the members of the Association among themselves . (The deponent craves leave of the Hon'ble Court to produce the orders passed in the cases at the time of hearing.)

8. That with reference to paragraph 4.9, this deponent begs to state that the cases mentioned in the said paragraph were again filed by the members of the Association and this deponent cannot be held responsible.

9. That the statements made in paragraph 4.10 and 4.11 are not admitted except those borne out by records.

10. That this deponent refrains from making any comments with reference to paragraph 4.12 except that the Select Lists prepared were stalled / prevented from being implemented by the members of the applicant- Association.

21. That this deponent has no comments to paragraphs 4.13, 4.14 and 4.15 except that which is borne out by records.

12. That with reference to paragraph 4.16, this deponent states that there has been no discrimination as they are different services.

13. That the statements made in paragraph 4.17 are denied and it is specifically and categorically denied that the State Forest Service Officers are given a step-motherly attitude and that the direct recruit officers are favoured. Under the provisions of the I.F.S.(Pay) Rules, 1968, I.F.S. (Recruitment) Rules, 1966 and the Govt. of India's letter No.20014-22/87/IFS-2 dated 27.4.87, an I.F.S. Officer on the first day of April of the year ~~he is completing~~ 4 years' of service becomes eligible to be promoted to the senior scale subject to the condition that he is not

under suspension and no disciplinary proceedings have been instituted against him. Inspite of the above fact, the State Govt. has, all along, given a step-motherly attitude to the direct recruit I.F.S. Officers in the matter of their promotion to the senior scale and it appears that most of the Officers of earlier batches were promoted to the senior scale with retrospective effect only after they approached this Hon'ble Tribunal and after directions were passed by this Hon'ble Court.

Shri After Hussain Khan, a direct recruit Officer of 1983 batches and Shri Chandra Mohan and 3 others of the 1984 batches had filed applications before this Hon'ble Tribunal for promotion to the senior time scale and these applications were numbered as O.A.128/88 and O.A. 154/88 and this Hon'ble Tribunal, by a common judgment dated 25.7.89, directed that the five petitioners be deemed to be promoted to the senior scale with effect from the respective due date.

Similarly, 3 other Officers of the 1985 batch, namely, D.Bankhawal, N.K. Basu and S.K. Srivastava who had completed 4 years' of service in 1989 and were not given the senior scale approached this Hon'ble Tribunal and the same was numbered as O.A.160(G)89. This Hon'ble Tribunal, by judgment dated 13.9.90, after considering the entire matter and relying on the decisions of the earlier two cases, directed that all the three applicants be deemed to be promoted to the senior scale with effect from the 1.4.89.

Similarly, 4 other officers of the 1986 batch, namely, Shri A.M. Singh, Shrimati Ranjana Gupta, Shri A.K. ^{Jahari} ~~Gohain~~ and Shri J.M. Couli who became eligible to be promoted to the senior scale on 1.4.90 and were not given the promotion due approached this Hon'ble Tribunal and this Hon'ble Tribunal, in O.A. 198/90, by judgment dated 19.7.91, also directed that the applicants be deemed to have been promoted with effect from 1.4.90, (This deponent craves leave of this Hon'ble Tribunal to produce and rely on the judgments of this Hon'ble Tribunal at the time of hearing.).

14. That with further reference to paragraphs 4.17 and 4.18, this deponent begs to state that though the respondent No.10 became eligible to be promoted to the senior scale on 1.4.95 and this deponent on 1.4.96, the State Govt. did not take any steps to promote them to the senior scale. Inspite of the fact that on 1.4.95, atleast two direct recruit Indian Forest Service Officers were eligible for promotion to the senior scales, the State Govt. for reasons best known to them, have allowed State Forest Service Officers who are not even on the Select List to hold charge against atleast 9 cadre posts and even today when this deponent has become eligible with effect from 1.4.96, the State Forest Service Officers are holding cadre posts. It is thus absurd to say that the direct recruit officers are always favoured. In point of fact, this deponent, Respondent NO.10 and another officer have filed an application before this Hon'ble Tribunal

for promotion to the senior scale from the date when it was due and the same which has been numbered as O.A. 141/96 is pending before this Hon'ble Tribunal .

15. That the statements made in paragraph 4.19 are denied and it specifically denied that the direct recruits are at the whelm of affairs and are always bent upon systematically depriving the Assam Forest Service Officers. The direct recruits, at present, ~~are~~, by and large, limited to the level of Asstt. Conservator of Forests and Deputy Conservator of Forests . The promoted Indian Forest Service Officers are holding most of the Conservator of Forests (Super time scale) posts and only five out of the fifteen posts of Conservator of Forests are being held by direct recruit Indian Forest Service Officers. There is no direct recruit Indian Forest Service Officer amongst the four Chief Conservator of Forests above super time scale post and as such the allegation is baseless.

16. That the apprehension expressed in paragraph 4.20 are misplaced. The direct recruits who are eligible to be promoted to the senior scale ought to be promoted in due time .

17. That with reference to paragraphs 4.21 and 4.22, this deponent begs to state that the members of the applicant Association are themselves responsible for delay, if any, in preparing and making appointments from the Select List because of the numerous litigations engaged among themselves .

7.

18. That this deponent is not aware of representations filed by the Association mentioned in paragraph 4.23 but that cannot, in any way, deprive the deponent ~~from promotion~~ due to him.

19. That with reference to paragraph 4.24, this deponent begs to state that no case whatsoever has been made out warranting interference by this Hon'ble Tribunal.

Contd....

8.

VERIFICATION

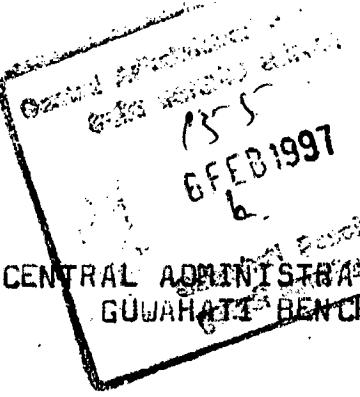
I, Shri K.S.P.V. Pavan Kumar, son of Shri K.V.N. Nagendra Sai, aged about 27 years, presently serving as the Assistant Conservator of Forests, Manas National Park, do, hereby, solemnly affirm and declare that the contents made in paragraph 1 of this written statement are true to my knowledge and those made in paragraphs 2 to 19 are derived from records which I believe to be true.

And I sign this verification on this 5th day of February, 1997 at Guwahati.

KSPV Parag
4/2/1997

Deponent.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



(52)

Harish Sonowal

Yashwant K. Phukan
Commissioner & Secretary
Sr. Govt. Advocate
(Assam)
G. Bhowmik
G. Bhowmik, C.A.T.

Govt. of Assam
Forest Department
6.2.97

D.A. No. 96/96

Assam Forest Service (Class-I)
Association and others.

-Vs-

Union of India and others.

The written statement on behalf of the Respondent No.3 and 5 is as follows :-

I, Shri Harish Sonowal, I.A.S., at present Commissioner & Secretary to the Government of Assam, Department of Forest, do hereby solemnly state as follows :-

1. That I am the Commissioner and Secretary to the Government of Assam, Department of Forest. A copy of the aforesaid application had been served on the Department. I perused the same and understood the contents thereof. I am competent to file this written statement on behalf of the Respondent No.3 and 5. I do not admit any of the allegations/averments which is not borne out of records. All allegations/averments which are not specifically admitted hereinafter are to be deemed as denied.

2. That in regard to the statements made in paras 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.8, 4.9, 4.13, 4.22, 4.23 and 4.24 the answering Respondents have no comment to make. The answering Respondents, however, do not admit anything which is not borne out by records.

Contd... 2.

Received (CP)
26/2/97
(B.K. Phukan)
Advocate
6.2.97

3. That in regard to the statements made in para 4.7 of the application, it is stated that the Triennial review of the Cadre Strength of Assam and Meghalaya was not done till 1978 though the triennial review was due in 1969, 1972 and 1975. As a result, there was no consequent promotional quota in the I.F.S. Cadre. As regards preparation of select list it is mentioned here that during 1976 a select list was approved by the Union Public Service Commission on 4-3-1976 prepared by the Selection Committee at its meeting held on 23.12.75 vide Government of India's letter No.17013/4/75-AIS(IV) dated 26.3.76 and similarly another select list was approved by Union Public Service Commission on 4.3.1978 which was prepared on 25.11.77 vide Government of India's letter No.17013/34/77-AIS(IV) , dated 14.3.78. Another select list was approved by the Union Public Service Commission on 18.1.83 prepared by the Selection Committee during their meeting on 20.12.82 vide Government of India's letter No.17013/25/82-AIS (IV) dated 31.1.83.

Review of the I.F.S. Joint Cadre Assam and Meghalaya took place during 1982, 1987 and 1995 vide Government of India's letter No.(1)No.16016/17/80-AIS(IV)-A dated 27.4.82, (2) No.16016/11/87-AIS(II)-A dated 28.10.87 and No.16016/2/95-AIS(II)-A dated 9.11.95 respectively.

4. That in regard to the statements made in para 4.10 of the application, it is

stated that they are matters of records. However, it is pointed out that all the eligible officers cannot be promoted to I.F.S. though they may fulfil the required criteria. The case of promotion comes into consideration in accordance with the available vacancies against promotional quota.

5. That the statements made in para 4.11 of the application are not correct. The number of existing and anticipated vacancies were five at the relevant time (vide No. F.R.E. 125/91/51 dated 16.1.93).

6. That in regard to the statements made in para 4.12 of the application, it is stated that the allegations made therein are denied. In case, there had been persistent negligence and laches as alleged, the aggrieved officers should have agitated their grievance at the appropriate time in the right forum.

7. That in regard to the statements made in para 4.14, 4.15 and 4.16 of the application, it is stated that the Selection Committee meeting was held on 7.8.96 at New Delhi and a select list was prepared. The Union Public Service Commission and the Government of India have approved the select list and the Government of India has already been moved for appointment of officers to I.F.S. from the select list.

8. That in regard to the statement made in para 4.17 of the application, the answering Respondents state that they do not admit the allegations.

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9. That in regard to the statement made in para 4.18 of the application, it is stated that the officers who had suffered should have taken appropriate action at the relevant time.

10. That in regard to the statements made in para 4.19 of the application, it is stated that the averments are not correct. As for instance, the State Government has not yet promoted three I.F.S. Officers, namely Sri Rajpal Singh, Sri P. Roy and Sri K.S.P.V. Pawan Kumar even after their completion of 4 years in junior scale due to non-fulfilment of requisites under rule 6(A) (3) of the said rules.

11. That in regard to the statement made in para 4.20 of the application, the answering Respondents state that the apprehension is not correct. The Section Committee meeting was held on 7.8.96.

12. That in regard to the statements made in the Grounds (paragraph 5) of the application, it is stated that none of the grounds is a valid ground of law. The answering Respondents respectfully submit that the application has no merit and it is liable to be set aside.

Contd.... 5...

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VERIFICATION

I, Shri Harish Sonowal, I.A.S.
at present Commissioner and Secretary to
the Government of Assam, Department of
Forest, do hereby state that the state-
ments made in this written statement are
correct to my knowledge, belief and info-
rmation based on records and I have not
made any suppression of facts.

I have signed this verification
on this Fourth day of February, 1997 at
Guwahati.

Harish Sonowal
I.A.S.
Signature

SIGNATURE.