

30/10/00  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

*Stalin*  
29/1/18

CENTRAL ADMINISTRATIVE TRIBUNAL

DA No. 135/95

MD No. (DA)

RA No. (DA)

CP No. (DA)

Sri. B. B. Nabis

APPLICANT(S)

VERSUS

410.18 O.R.S

RESPONDENT(S)

Mr. B. K. Sharma, Advocate for the applicant.

Mr. G. Sharma

Mr. G. Sharma, Addl. C.G.S.C Advocate for the Respondents.

Office Notes

Court's Orders

30.7.96

Learned counsel Mr. B.K.

Sharma has requested to take up this O.A. unlisted today on the ground of urgency. Heard him and the learned Addl. C.G.S.C. Mr. G. Sharma. Prayer allowed and the O.A. is taken up today for admission.

The applicant has been included in the select list for promotion to the Indian Forest Service, Assam Cadre in the year 1994 prepared by the selection committee at its meeting held at Shillong on ~~xxxxxx~~ 7.3.94 as per reference No. 1703/2/94-I IFS-II dated 28.11.94 (Annexure-3). His promotion was however, withheld subject to grant of integrity certificate by the State Government in terms of the aforesaid order dated 28.11.94. The integrity certificate was apparently granted vide No. FRE.125/91/249 dated 8.11.95 by the Govt. of Assam, Forest Department (Annexure-7) and the Govt. of

2.8.96

Notice issued to  
the respondent vide

2. No. 2322 28

21.7.76

Rev

20x7x96x86xAssamxxFarakxtxDepartment

30.7.96 (Annexure-7) and the Govt. of India Ministry of Environment & Forest, New Delhi was requested therein by the Govt. of Assam to issue necessary orders of the Ministry promoting the applicant to the IFS. Till date (however, no) final notification appointing him to the IFS has been issued, and the grievance of the applicant in this O.A. is against the ground that this delay on/it will cause irreparable loss/ and injury to him.

Heard Mr. B.K.Sharma for admission. Application admitted. Issue notice on the respondents by registered post. Written statement within six weeks.

List for written statement and further orders on 5.9.96.

Mr. B.K.Sharma, learned counsel for the applicant prays for interim relief order. Mr. G. Sarma, learned Addl. C.G.S.C. opposes. Heard counsel of the parties on the interim/prayer. As narrated above the appointment of the applicant to the IFS was recommended by the Govt. of Assam on 8.11.95 but no appointment order has since been issued. Pendency of this application shall not be a bar for the respondents to finalise the issuance of the notification appointing the applicant to the IFS according to the rules.

Contd.

30.7.96

Steps within tomorrow.

Copy of the order may be furnished to counsel of all parties.

6  
Member27.8.96

pg

Memo of appearance  
filed by Mr. A.K. Choudhury  
A.C.G.S.C.

5-9-96

Learned Addl.C.G.S.C. Mr.G.Sarma  
for the respondents.  
Written statement has been sub-  
mitted by respondent No.1. None

Reply on the Report.

No. 1 filed at pg 27-35.

5-9-96

Learned Addl.C.G.S.C. Mr.G.Sarma  
for the respondents. Written statement  
has been submitted by respondent No.1.  
No written statement have been sub-  
mitted by the other respondents.

List for written statement and by  
other respondents and for further order  
on 1-10-96.

6  
Member

Respondents No. 2, 3 &  
4. Service awaited for  
written statement. M  
5/9/96

M  
30/9/96

1.10.96

Mr S.Sarma for the applicant. Mr A.  
K.Choudhury, Addl.C.G.S.C for respon-  
dent No.1. None for the other respon-  
dents. No written statements have been  
submitted by respondents No.2, 3 and 4.

List for written statement by res-  
pondents No.2, 3 and 4 and further order  
XXXX on 15.11.96. for hearing.

6  
Memberpg  
M/17

15.11.96

Mr A.K.Choudhury, Addl.C.G.S.C

for the respondents. None for the applicant and other respondents.

Respondents No.2, 3 and 4 have not been submitted written statement.

List for written statement and further orders on 6.12.96.

6  
Memberpg  
or  
15/11

6.12.96

Leave note of Mr. A.K.Choudhury, Addl.

C.G.S.C. for the respondent Nos. 1 and 2.

None for the other respondents.

The other respondents have also not submitted written statement. To be placed for hearing before the next available Division Bench.

6  
Membertrd  
6/12

13.5.97

The learned counsel for the parties submit that the case is otherwise ready for hearing. List it for hearing on 15.7.97.

6  
Member

Vice-Chairman

nkm

6/15

15.7.97

On the prayer of Mr B.K. Sharma, learned counsel for the applicant, let this case be listed on 14.8.97 for hearing.

6  
Member

Vice-Chairman

(6) OA 135/96

3.9.98 There is no division Bench. Ad'ian to 25.9.98.

25-9-98

Division Bench is not available. List on 17-11-98, for hearing.

Member

pg

25  
25/9

17.11.98

Division Bench is not available. List on 17.12.98 for hearing.

22.12.98

There was a C/Bench at  
Agarwal during this period.  
Hence placed for hearing. pg

By Order

1-1-99

Case is ready for hearing.

List for hearing on 7-1-99 for hearing.

Vice-Chairman

lm

1/1/99

7.1.99

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

issued rule re-petition  
No. 458 to 460 dt. 10.9.99

(5) C.A 135/96

23-7-97

14-8-97 Division Bench is not sitting.  
8. Let this case be listed for hearing  
on 6-11-97.

Memo of Appearance

Filed by Mrs. M. Das,  
JF- Gr. A. Assam.

BY ORDER

W/S has been (W) on  
R. No. 1 & 3.

6-11-97 Adjourned to 8-1-98.  
9 by arr.

2) No W/S has been (W)  
on R. Nos. 2 & 4. 8.1.98 Let the case be listed for hearing  
10 on 31.3.98.

13/8

6  
Member

  
Vice-Chairman

3) W/S has been (W)  
on R. No. 1 & 3 pg

11  
19/11

4) No W/S has been (W)  
on R. Nos. 2 & 4. 31-3-98 Case is ready for hearing.

11

7 List for hearing on 2-7-98.

6  
Member

  
Vice-Chairman

5) W/S has been (W) on  
R. No. 1 & 3.

1m

6) No W/S has been (W)  
on R. Nos. 2 & 4. 2/3  
2/9

1m

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 135 of 1996

Date of decision 7.1.99

Shri Binod Biharee Nobis,

PETITIONER(S)

Mr. B.K. Sharma.

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. B.S. Basumatary, Addl.C.G.S.C.

ADVOCATE FOR THE

Dr. Y.K. Phukan, Sr. Govt. Advocate, Assam.

RESPONDENT(S)

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

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

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

Judgement delivered by Hon'ble Vice-Chairman

80

9

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 135 of 1996.

Date of decision : This the 7th day of January, 1999.

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

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

Shri Binod Biharee Nobis,  
Divisional Forest Officer,  
Nagaon South Division

....Applicant

By Advocate Mr. B.K. Sharma.

-versus-

1. Union of India,  
represented by the Secretary to the  
Government of India,  
Ministry of Environment and Forest,  
Parivarjan Bhawan,  
New Delhi
2. Union of India,  
represented by the Secretary to  
the Government of India,  
Department of Personnel  
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 Government of Meghalaya  
Department of Forests,  
Shillong. .... Respondents

By Advocates Mr. B.S. Basumatary, Addl. C.G.S.C.,  
Dr. Y.K. Phukan, Sr. Govt. Advocate, Assam.

O R D E R

BARUAH J (V.C.)

This application has been filed seeking promotion to the  
Indian Forest Service. The facts are :

*Dz*

Contd....

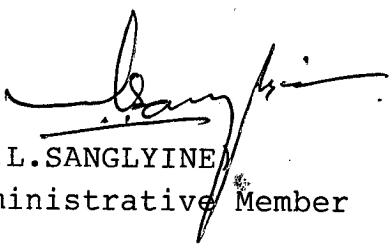
2. The applicant was a member of State Forest Service in the State of Assam. In the year 1991, he came within the zone of consideration for selection to the Indian Forest Service (for short IFS.). On assessment he was selected in the year 1991. He, however could not be appointed as departmental proceeding was pending against him. The said disciplinary proceeding was dropped and immediately thereafter the applicant was promoted. His appointment was with effect from 24.3.95 but not on the basis of the selection for the year 1991. In spite of several requests, nothing was done in that regard. Hence the present application.

3. We have heard Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant, Mr. B.S. Basumatary, learned Addl. C.G.S.C. and Dr. Y.K.Phukan, Sr. Govt. Advocate, Assam.

4. Mr. Sarma submits that the applicant was appointed to the Indian Forest Service with effect from 24.3.1995 by a Notification dated 15/16.10.98 issued by the Commissioner & Secretary to the Government of Assam, Forest Department, Dispur. Mr. Sharma further submits that as per the order dated 9.9.94 passed by this Tribunal in O.A. No. 106/93, he should be deemed to be appointed on the basis of 1991 Select List. By the said order of this Tribunal liberty was given to the applicant to make representation to that effect.

5. Considering the facts and circumstances of the case, we dispose of this application with direction to the respondent No.1 to consider the representation, if filed, within one month from today and dispose of the same by a reasoned order.

6. 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

trd

Filed in Court  
on 20.7.96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GAUHATI BENCH.

B670  
Court Master An application under section 19 of the Administrative  
Tribunal Act, 1985 )

Title of the Case

:- O.A. No. 135/94.

Shri Binod Biharee Nobis :- Applicant.

- Versus -

Union of India & ors. :- Respondents.

#### I N D E X

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For use in Tribunal's Office

Date	30.7.96
Date of filing.	30.7.96
Registration No	OA 135/96

Registrar CAT/Ghy

Ranjan Sengupta  
Gopal Roy (MS)  
CAT  
30/7/96  
30/7/96

File No. 3057.26  
20/01/96

BEFORE THE CENTRAL ADMINISTRATIVE RTIBUNAL : GAUHATI BENCH.

135  
O.A. No. .... /96

Shri Binod Biharee Nobis  
Diviosional Forest Officer  
Naogaon South Division,  
Hojai.

Applicant.

**VERSUS**

1. Union of India,  
represented by the Secretary to  
the Govt of India,  
Ministry of Environment and Forest  
Parayeeavarun Bhawan  
New Delhi.
2. Union of India,  
represented by the Secretary to  
the Govt of India,  
Dept. of Personnel .  
New Delhi.
3. The State of Assam,  
represented by the Secretary to  
the Govt of Assam  
Dept. of Forests.  
Dispur Gauhati- 6.
4. The State of Meghalaya.  
represented by the Secratary to  
the Govt of Meghalaya.  
Dept of Forests,  
Shillong.

**Respondents.**

**DETAILES OF THE APPLICATION**

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

The application is not directed against any particular order but has been filed making a greavence against non-appointment of the applicant to I.F.S. on promotion even after his selection for such appointment.

JURISDICTION OF THE TRIBUNAL.

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

3. LIMITATION.

The applicant further declares that the application is filed within the limitation period prescribed by the Section 21 of the Act.

4. FACTS.

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

4.2. That the applicant joined the Assam Forest Service, Class I in the year 1975 (27.2.75 , 1975 batch).

Being selected by the Assam Public Service Commission he joined the Indian Forest College at Dehradoon on 1.3.73 and underwent two years training there. After successful completion of the training and getting diploma in Forestry and allied subject -"Associate of Indian College" joined the Assam State Forest Service as aforesaid on 27.2.75 as the Asstt. Conservetor of Forests (ACF).

4.3 That on 6.10.80 was promoted to the rank of D.C.F. as the Divisional Forest Officer and he has been continuing as such till date. Eversince his appointment as such , he has been working as incharge of importent Divisions encadered in the I.F.S. number of times such as

North Kamrup Division, Karimgange Division, Social Forestry Division etc. While serving as D.F.O. North Kamrup Division, the applicant was also holding the charge of another two Divisions viz Social Forestry Division Nalbari and D.C.F. Division of Social Forestry.

4.4. That in March 1981, the applicant having completed 8 years of service become eligible for promotion and appointed to I.F.S. It will be pertinent to mention here that the applicant has rendered unblemish service to the satisfaction of all concerned.

4.5. That in the year 1979, the applicant went to Sweden and Norway on Swedish Development Authority Fellowship for a period of six months after having been selected by the Govt. In 1985, he went to far east (Singapore, Malaysia etc) on international Labour Organisation under a programme sponsored by the Productivity Council to the Govt. of India.

4.6. That thus having rendered meritorious, sincere and unblemish service career, the applicant was selected for being appointed I.F.S. in 1991 in terms of the provisions of the I.F.S. (appointment by promotion) Regulation in 1966. In the select list prepared, his position was third and the said select list was duly approved by the U.P.S.C.

In this connection, the applicant annexes herewith letter No. 17013/02/90-IFS-II Dated 11/20 Sept. 1991 issued by the Respondent No.1 to the Govt. of Assam

and the same is annexed as Annexure-I.

4.7 That when the applicant was awaiting promotion and appointment to I.F.S. persuant to the aforesaid letter, two application under section 19 of the Administrative Tribunal Act, 1985 were moved before this Hon'ble Tribunal the said applications were numbered as OA 6/91 & 10/91. The said OA No. 6/91 & 10/91 were filed assailing the aforesaid letter dated 11/20.9.91 (Annexure-I). In the said two applications the present applicant was arrayed as one of the respondents. The Hon'ble Tribunal while admitting the aforesaid two OA was pleased to stay the operation and implementation of the aforesaid letter for appointment by promotion in respect of applicant amongst others, to the I.F.S. by its order dt. 28.1.92.

A copy of the said order dated 28.1.92 is annexed herewith and marked as Annexure-2.

4.8 That because of the aforesaid order and pendency of the cases the applicant could not be promoted to I.F.S. However, the applicant was expecting and early disposal of the matter and aspiring for his promotion and appointment to I.F.S.

4.9 That when the aforesaid matters were pending disposal before this Hon'ble Tribunal and when section 19(4) of the Administrative Tribunal Act, puts a bar for taking cognisance of the Subjudice matter departmentally, the respondents without any leave of this Hon'ble Tribunal constituted a slection committee and the said committee in his meeting held on 30.3.93 considered SFS Officers

upto 1973 batch excluding the applicants who belong to 1975 batch. As per the provisions of the relevant rules and regulations holding the filed, warrant the select list prepared subsequent to the earlier list must considered the persons whose name appeared in the earlier select list. This being aggrieved for nonconsideration of his case in the selection committee held on 30.3.93 the applicant approached this Hon'ble Tribunal by way of filing OA No. 106/93. The Hon'ble Tribunal having found a prima facie case was pleased to pass an interim order of stay. while admitting the case. on 16.6.96 persuant to which the minutes of the selection committee held on 30.3.93 could not be given effect to.

4.10 That the applicant in the aforesaid OA 106/93 had inter-alia prayed to implement earlier select list framing subject matter of OA 6/91 and 10/91. During the pendency of the case a slect list was prepared in which the name of the applicant appeared at serial No.4. In the said select list altogether 7 persons have been included for being promoted to I.E.S. The name of the applicant was included subject to grant of integrity certificate by the State Govt.

A copy of the letter dated 28.11.94 communicating the ~~same~~ said select list to the Govt. of Assam is annexed herewith and marked as Annexure-3.

4.11 That persuant to such inclusion of the applicant in the year 1994 select list, his aforesaid OA 106/93 was

disposed of by an order dated 9.9.94 holding the same to be infructuous keeping open the question of fixation of year of allotment of the appointment of the applicant on the basis of inclusion of his name/in the earlier select list. Liberty was granted to the applicant to agitate the same in the event of his appointment to I.F.S. on the basis on 1994 select list.

A copy of said order dated 9.9.94 is annexed herewith and marked as Annexure 4.

4.12 That after the aforesaid development it was legitimate and reasonable expectation of the applicant that he would be appointed to I.F.S. more particularly in view of the fact that person below him in the select list namely Shri J.C. Dey was already appointed to I.F.S. Similarly, other ~~these~~ incumbents in the select list namely Shri S.C. Phatowali, Shri T.K. Das and Shri S.N. Buragohain have also been appointed to IFS. All these officers were appointed to IFS w.e.f. 24.3.95 and their year of allotment have also been fixed vide order dt. 19.12.95 as forwarded under letter dated 1.1.96.

A copy of the notification dated 29/3/95 is annexed herewith and marked as Annexure 5.

4.13 That the promotion of the applicant was withheld by the Govt. of India in view of pendency of Departmental proceedings and also non issuance of integrity certificate by the Govt. of Assam. However,

the departmental proceeding has already come to an end vide order issued by the Governor of Assam under letter No. FRE.115/94/(A)/285 dt.5.6.95 by which the charges against the applicant has been held to be not tenable according to the accordingly the applicant has been exonerated from the charges and the departmental proceeding has been dropped. Similarly, vide letter No. FRE.125/91/249 dated 8.11.95 all the requirement and formalities towards appointment of the applicant to IFS have been carried out including the issuance of integrity certificate as well as certificate to the effect that there has been no deterioration in the works of the applicant so as to render him unsuitable for appointment to IFS.

Copies of letter dated 5.6.95 and letter dt. 8.11.95 are annexed herewith and marked as Annexure 6 & 7 respectively.

4.14 That after the said aforesaid clearance there remains nothing on his way to be promoted to IFS. However, a pressure group with vested interest who do not like to see the applicant as an IFS Officers, became active to thwart such promotion of the applicant. They tried best to maline the applicant as a consequence of which the departmental proceeding was drawn up and integrity certificate was withheld. Having failed in that respect they became more active somehow to delay the promotion of the applicant till such time a new select list was prepared on which event the earlier select list became inoperative as in the earlier case.

4.15 That to the best of knowledge of the applicant the relevant file pertaining to promotion of applicant to IFS was put up to the Joint Secretary to the Ministry under Respondent No.1 who in term had sent the file to Deputy Secretary. The Deputy Secretary has cleared the file and the same has been sent to the Personnel Department for the purpose of entering the name of the applicant in the Civil list. After such inclusion of his name in the Civil list the file is required to be returned to the respondent No.1 by the Department of Personnel. Thereafter a notification of the appointment of IFS is issued to the best of knowledge of the applicant the respondent No.1 has already prepared the notification both in Hindi and English version and the same has been sent to the Personnel Department for the aforesaid purpose of the entry in the Civil list. The moment the file is returned to the respondent No.1 a notification will be issued. However, at this junction the same pressure group with the vested interest has been once again active to hold back the file so that the same is not received by the respondent No.1 and the final notification is not issued. By delaying the matters it is their wish and desire that the new select list be prepared invalidating the earlier select list. In such an eventuality the applicant will suffer irreparable loss and injury. As explained above earlier also he had to suffer in the same manner. It is under this circumstances the applicant have come under the protective hands of this Hon'ble Tribunal.

4.16 That the applicant states that he has come to

know that a proposal has been mutted for holding selection committee meeting for preparation of a fresh select list . The said meeting is proposed to be held on 30.7.96 at Shillong. If the propose meeting is held on 30.7.96 and the fresh select list is prepared the applicant will loose yet another chance of being promoted to IFS when there cannot be any objection of holding a fresh selection but at the same time vested right of the applicant cannot be taken away depriving the promotion of the applicant to IFS. As indicated above, after issuance of the integrity certificate vide Annexure-7 letter dated 8.11.95 there remain nothing against the promotion of the applicant and by now more than 8 months had passed away. Had prompt action being taken away the applicant would have been promoted to IFS by now. However, due to apathy shown by the respondents and inaction of their part, the applicant is now at the verge of deprivation of his promotion to IFS. Unless the interest of the applicant is protected by passing an interim order as has been prayed for, the applicant is will suffer irreperable loss and injury.

4.17 That the applicant state that after the clearance by the respondent No.1 in which the authority has opine that even suspension of an incumbent is no bar for promotion to IFS and thus in view of Annexure- 6 & 7 clearance letter dated 5.6.95 and 8.11.95 make it imperative on the part of the respondent to issue the notification appointing the applicants to IFS.

5.  GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the impugne action/inaction is *prima facie* illegal and accordingly suitable direction is required to be issued in the instant case.

5.2 For that their being no impediment against the promotion of the applicant, there is no earthly reason as to why the applicant should not be promoted to IFS.

5.3 For that all Administrative action must be just and fair the respondents in discharging of their Administrative function, must act in a just and legal manner, but in the instant case by delaying the issuance of notification, the promotional prospect of the applicant has been sought to be megafied.

5.4 For that admittedly there being no hurdle in respect of promotion of the applicant, the respondent ought not to have delayed the matter at the behest of political pressure / pressure group.

5.5 For that all the required formalities having been observed, the respondents cannot withhold the issuance of notification.

5.6. For that the applicant has been treated differently and there is violation of constitutional right of equality before law. The impugned inaction of the respondent is violative of Article 14 and 16 of the Constitution of India.

5.7 For that the respondent No.1 even having opined that suspension is no bar ~~is~~ for promotion, there is no earthly reason as to why the applicant against whose promotion there is no impediment should not be promoted to IFS.

5.8 For that any event of delay works against the interest of the applicant in as much as if ~~the~~ in the meantime

a new select list is prepared vested right of the applicant will be infringed.

5.9 For that the prima facie inaction on the part of the respondents standing at the face of it seeking the to deprive the applicant.

5.10 For that in any view of the matter the impugned action cannot stand and judicial scrutiny is utmost necessary to direct the respondents to issue the notification at the earliest.

6. DETAILS OF REMEDIES EXHAUSTED :-

The applicant declares that he has exhausted all the departmental remedies available to him and there is no other alternative remedy available to him.

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

The applicant further declare that he has not previously filed any application, writ petition or suit regarding the grievances in respect of which this application is made before any court or/other court any Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT :-

Under the facts and circumstances stated above, the applicant most respectfully prays that the instant application be admitted and ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ 1994 after hearing the parties and on perusal of records be pleased to direct the respondents to promote the applicant

to IFS persuant to his inclusion in the select list of 1994 and / or be pleased to pass such further order/s as may be deemed fit and proper by this Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents to issue the promotional notification pending at the final stage and that the preparation of a fresh select list will not ainf any manner prejudice and /or put any bar to the promotion of the applicant to IFS persuant to the inclusion of his name in the select list of 1994.

10. .....

11. PARTCILARS OF THE I.P.O.

(i) I.P.O. No.	: 809 3465-94
(ii) Date	: 26.7.96
(iii) Payable at	: Gauhati

12. LIST OF ENGDOSURES:-

As stated in the Index

verification.....

VERIFICATION

I Shri Binode Bihari Nabis Son of M.N.Nabis working as D.F.O. Nowgong Sub-Division (South) aged about 45 years do hereby solemnly affirm and verify that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge, those made in paragraph 5 of the application are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 29th Day of July, 1996.

Applicant

Binod Biharee Nabis  
30-7-96

.....

GOVERNMENT OF INDIA  
LETTER FROM MINISTRY OF ENVIRONMENT & FORESTS, ETC.

No. 17013/02/90-IFS-II

Date : 11th  
20th September 1991.

To

The Secretary  
Forest Deptt.,  
Estt. Branch  
Govt. of Assam,  
Dispur

Subject : Indian Forest Service ASSAM. PART of joint cadre  
of Assam Meghalaya Promotions of communication  
of select list.

Sir,

I am directed to refer to your letter No. 84/85/178  
dated 22nd December 1990 and F/F/85/51-6 dated 23rd  
April 1991 on the subj. at mentioned above, addressed to  
the UPSC and say that the commission have, vide their  
letter No. F.10/281/90-ALS dated 5th September 1991  
approved a select list of officers of the State Forest  
Service of Assam for promotion to the Assam Part of  
joint cadre of Assam Meghalaya of the Indian Forest  
Service prepared by the Selection Committee at its  
meeting held at Shillong on 13th March, 1991 consisting  
of the following 8 (eight) names :

Sl. No.	Name of the officers	Date of birth
1.	Sh. N. Das	01.04.1943
2.	Sh. S.C. Phatowali	01.07.1941
3.	Sh. D.B. Nobis	01.01.1950
4.	Sh. C.K. Das	01.06.1942
5.	Sh. T.K. Das	09.04.1950
6.	Sh. N.K. Saikia	01.05.1947
7.	Sh. M.K. Saikia	01.02.1947
8.	Sh. K.C. Dutta	01.02.1948

The names of S.No. 3 & 4 have been included in the  
list subject to clearance of enquiries pending or  
decided to be institution against them by the State  
Government.

Om. 6...P/15

*After 10 P.M.  
from now*

2. If and when the State Government propose to appoint one or more of the above officers by promotion to the State cadre of the Indian Forest Service, the proposals in this behalf may kindly be sent to this Ministry alongwith the following document viz.

(i) Information in respect of the officers proposed for promotion in proforma I & II (Pages 2 41-43 of all India Service Manual Part I, fifth Edition) ;

(ii) a declaration as to single marital status ;

(iii) written consent for termination of lien in the State Forest Service, an information in the I.F.S.

(iv) a certificate that no deterioration in the work of the officer has taken place since inclusion of his name in the Select List.

(v) a certificate that there is no stay order of any Court prohibiting the ~~xxx~~ making of appointment by promotion in the State Cadre of the Indian Forest Service.

Proposals for fixation of seniority of the officers may also be sent simultaneously (in duplicate) in terms of letters No. 13014/4/76-AIS (N) dated 24-02-1976 from the Ministry of Affairs (Department of Personnel & A Reforms) New Delhi.

Yours faithfully,

Sd/- K. S. Achar

Under Secretary to the Govt.of ~~xxx~~  
India)

Copy to :

1. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi with reference to letter cited in para 1 of the letter.
2. The Secretary, Forest & Environment Department, Govt. of Meghalaya, Shillong.

( K. S. Achar )  
Under Secretary to the Govt. of India.

...

*Achar*  
Copy

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI-5.**

O.A. No. 6/92

Shri S. Dutta & Ors. ... Applicant  
- V/s -  
U.O.I. & Ors. .... Respondents.

**P R E S E N T**

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN  
For the applicants : Mr. M.Z. Ahmed, Mrs. B. Dutta  
For the Respondents: Mr. A.K. Choudhury, Addl. C.G.S.C.  
Mr. Y. K. Phukan, Sr. S.A.  
Mrs. M. Das, G.A.A.

28.1.92

Heard learned counsel Mr. M.Z. Ahmed on behalf of the six applicants holding posts in the rank of Deputy Conservator of Forests. Perused the statements of grievances and the reliefs sought for in the application.

This application is admitted. Issue notices on the respondents (eight), under Registered Post. Learned Addl. C.G.S.C. Mr. A.K. Choudhury, has taken notice of this case on behalf of respondent Nos. 1, 2 and 8 and prays for six weeks time to file the counter. Time allowed as prayed for.

Learned Govt. Advocate, Assam Mrs. M. Das takes notice, on behalf of respondent No. 3 only and prays for six weeks time to file counter on behalf of State of Assam, Forests Department. Time allowed as prayed for.

Heard Mr. Ahmed as well as Mrs. Das on the interim prayers. Issue notice on the respondents to show cause as to why appointments by promotion to the I.F.S. of Shri N. Das, Shri B.B. Nobis and Shri C.K. Das in pursuant to the impugned select list under letter No. 17013/09/90-IFS-II dated 11th/20th September 1991 (Annexure-3) should not be stayed till disposal of this application. Notice is returnable within six weeks. Pending hearing of the show cause, the operation and implementation of the impugned select list under letter No. 17013/02/90-IFS-II dated 11th/20th September 1991 (Annexure-3) for appointments by promotion in respect of Shri N. Das, Shri B.B. Nobis and Shri C.K. Das to the Indian Forests Service are stayed.

Contd...F/17

*Alam  
Pan*

Communicate all concerned.

Call for the records mentioned in paragraph 8(vi) of the application. Learned Govt. Advocate, Assam Mrs. M. Das submits and undertakes to produce these records at the appropriate time after inspection of the records for preparing counter.

All steps by tomorrow.

List on 16.3.92 for counter/report show cause and return of service report and orders.

Sd/- S. Haque,  
Vice Chairman.

Alam  
Assam

## Ministry of Environment and Forests

ANNEXURE - 3

18

Paryavartan Bhawan,  
CGO Complex, Lodi Road,  
New Delhi - 110 003.

Ref. 1703/2/94-IFS-II Dated the 28th Nov., 1994.

To

The Secretary,  
Forest Department,  
Government of Assam,  
DISPUR(GUWAHATI)

Subject : Indian Forest Service : Assam Cadre  
Promotions to : Communication of Select List.

Sir,

I am directed to refer to the Union Public Service Commission's letter No.F.10/2/93-AIS dated 28-11-94 and to say that the Commission have approved a 'select list' of officers of the State Forest Service prepared by the Selection Committee at its meeting held at Shillong on 07.3.94 consisting of the following seven(07) names :

S.No.	Name of the Officer	Date of Birth
01.	S.C.Phatowali (STP)	01.07.1941
02.	T.K.Das	09.04.1950
03.	S.N.Buragohain	01.05.1950
04.	B.B.Nobis	01.05.1951
05.	J.C.Dey	01.09.1939
06.	C.K.Das (SC)	01.06.1942
07.	Magen Das	01.06.1943

The name of S.No.4 has been included in the select list subject to grant of integrity certificate by the State Govt., and the name at S.No.6 has been included subject to clearance....

Attn  
Selma

- (A) -

(2)

clearance in the departmental inquiries and grant of integrity certificate by the State Government. The name at S.NO. 7 has been included in the select list subject to clearance in the departmental inquiries and grant of integrity certificate by the State Government.

2. If and when the State Government propose to appoint one or more of the officers by promotion to the State cadre of the Indian Forest Service, the proposals in this behalf may kindly be sent to this Ministry alongwith the following documents, viz:

- i) information in respect of the officers proposed for promotion in proforma I & II (pages 41-43 of the All India Services Manual Part-I, Fifth Edition);
- ii) a declaration as to singular marital status;
- iii) written consent for termination of lien in the State Forest Service on confirmation in the IFS;
- iv) a certificate that no deterioration in the work of the officer has taken place since inclusion of his name in the Select List;
- v) A certificate that there is no stay order of any Court prohibiting the making of appointment by promotion in the State cadre of the Indian Forest Service;
- vi) detailed information in respect of promotion of all the eligible direct recruit IFS Officers to the senior scale as envisaged in this Ministry's circular No.17013/22/94-IFS-II dated 07.03.94 (copy enclosed);

3. Proposals for fixation of seniority of the officers should be forwarded in the prescribed format and while forwarding the proposals it may also kindly be noted that in terms of judgement dated 29.11.92 of the Supreme Court in Civil Appeal No.823 of 1989 (Syed Khalid Rizvi & Others vs. UOI others), unapproved officiations are not be counted for the purposes of determination of seniority.

Yours faithfully,  
[illegible]  
( R. Sahdevala )

Under Secretary to the Govt. of India.

*A. A. A.*

O.A.106/93

Sri Binod Biharee Nabi ... Applicant  
-VS-  
Union of India & Ors. ... Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE CHAIRMAN,  
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Applicant ... Mr. B.K. Sharma,  
Mr. A.K. Roy,  
Mr. M.K. Choudhury.

For the Respondents ... Mr. S. Ali, Sr.C.G.S.C.  
Dr. Y.K.Phukan, Sr.G.A. Assam.  
Mrs. M. Das, G.A. Assam.

19.9.94, Mr. B K Sharma for the applicant  
Mr. A.S. Bhattacharjee, Addl. Advocate  
for State of Assam.  
Mr. S Ali, Sr. C.G.S.C. for Respondents nos. 1 and 2.  
The Learned Addl. Advocate General  
states that the application has  
become infructuous since the name  
of the applicant has been recommended  
to be included in the select list  
for the year 1994. Mr. B K Sharma,  
the Learned Counsel for the applicant  
also says that being the position  
the application has become infructuous.  
However he submits that the right of  
the applicant to agitate the question of  
the fixation of the allotment year  
of the applicant in the event of his  
selection in 1994. <sup>the</sup> appointment on the  
basis of 1994 select list be left open.  
In view of the above position, the  
application is disposed of as having  
become infructuous without prejudice,  
however, to the right of the  
applicant to agitate the question  
of fixation of year of his allotment  
in the cadre in the event of his  
selection in 1994.

Sd/- M.G.CHAUDHARI  
VICE CHAIRMAN

Sd/- G.L.SANGLYINE  
MEMBER (ADMN)

Memo No. : 5066

Date : 15/12/94

Copy for information & necessary action to :

- (1) Mr. M.K. Choudhury, Advocate, Gauhati High Court, Guwahati.
- (2) Mr. S. Ali, Sr.C.G.S.C., C.A.T., Guwahati Bench, Guwahati.
- (3) Dr. Y.K. Phukan, Sr.G.A. Assam, C.A.T., Guwahati Bench, Guwahati.
- (4) Smt. B. Dutta, G.A. Meghalaya, Gauhati High Court, Guwahati.

SECTION OFFICER (J)

21/12/94

Attn  
AM

21  
GOVERNMENT OF ASSAM  
FOREST DEPARTMENT :::: DISPUR

## ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 29th March/95.

NO.FIRE. 125/91/239 : The following Notification issued by the Govt. of India, Ministry of Environment &amp; Forests, New Delhi is re-published for general information.

F.NO. 17013/02/94-IFS-II dtd. 24.3.95

Govt. of India, Ministry of Environment &amp; Forests, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New-Delhi -110003.

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Indian Forest Service (Appointment by promotion) Regulations, 1966, the President is pleased to appoint with immediate effect the under mentioned FOUR officers of the State Forest Service of Assam to the Indian Forest Service against existing vacancies, and allocate them, to the Joint Cadre of Assam - Meghalaya of the Indian Forest Service under sub-rule (1) of rule 5 of the Indian Forest Service (Cadre) Rules, 1966:-

S.No.	Name of officer	Date of birth.
01.	Shri S.C. Phatowali	01.07.1941.
02.	Shri Tapas Kr. Das	09.04.1950.
03.	Shri S.N. Buragohain	01.05.1950.
04.	Shri J.C. Dey	01.09.1939.

Sd/- R. Sanehwal  
Under Secy. to the Govt. of India.

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

Memo No.FIRE. 125/91/239-A, Dated Dispur, the 29th March/95.

Copy forwarded to :-

- 1) The Accountant General (A&E), Assam, Shillong/Bhangergarh, Guwahati-5.
- 2) The Under Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New-Delhi - 110003.

Contd... 2/-

*Arthur*  
X  
*Am*

- 3) The Chief Secretary to the Govt. of Meghalaya, Environment & Forests, Shillong.
- 4) The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
- 5) The Principal Chief Conservator of Forests, Meghalaya, Shillong.
- 6) The Principal Chief Conservator of Forests, Wildlife, Assam, R.G. Baruah Road, Guwahati-24.
- 7) The Principal Chief Conservator of Forests, Social Forestry, Assam, Zoo Narenji Road, Guwahati-24.
- 8) The Director, Indira Gandhi National Forest Academy, P.D. New Forests, Dehradun - 248005.
- 9) The Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie.
- 10) The Conservator of Forests .....
- 11) The Field Director, Project Tiger, Barpeta Road.
- 12) The Director, Kaziranga National Park, Bakakhat.
- 13) The Principal, North East Forest Rangers' College, Jalukbari, Guwahati-14.
- 14) Shri J.C. Dey, Divisional Forest Officer, Dibrugarh S.F. Division, Jorhat.
- 15) The Deputy Director, Assam Govt. Press, Dhemanimukh, Guwahati-21 for publication of this Notification.
- 16) The Officer-On-Special-Duty to the Chief Minister, Assam, Dispur for favour of information of Chief Minister.
- 17) The P.S. to the Minister of State for Wildlife and Social Forestry, Assam, Dispur for favour of information of Minister.
- 18) Personal File of officers.

By order etc.,

*Subhas Chandra Mitra* 1/3/95  
Deputy Secy. to the Govt. of Assam,  
Forest Deptt., Dispur.

166  
20/3/95

22

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT ::::: DISPUR

ORDERS BY THE GOVERNOR

No. F.R.E. 115/94/(A)/283 Dated, Dispur, the 5th June, 1995.

READ : The departmental proceedings against Shri B. B. Nobis, Deputy Conservator of Forests were drawn up with notice No. F.R.E. 115/94/268 dated 24-10-94.

Also : Read the written statement furnished by Shri B. B. Nobis, Deputy Conservator of Forests in his letter No. B/SF/E-19/1605 dttd. 21-11-94.

Order : After careful consideration of all aspects of the proceedings and reconsideration of the charges framed against him, the charges are found not tenable. The Governor of Assam, is therefore, pleased to exonerate Shri B.B.Nobis of the charges. The Departmental proceedings against Shri B.B.Nobis, are hereby dropped.

By order in the name of  
the Governor of Assam.

Sd/- H. Sonowal,  
Commissioner & Secy. to the Govt. of Assam,  
Forest Department, Dispur

Reco No. F.R.E. 115/94/(A)/283-A Dtd., Dispur, the 5th June, 1995.  
Copy forwarded to :-

1. The Accountant General (A&S), Assam, Bhangagarh, Guwahati-5
2. The Principal Chief Conservator of Forests, Assam, Rabbari, Guwahati-8.
3. Shri B.B.Nobis, Divisional Forest Officer, Nagaon South Division, Nagaon.
4. Personal files of the officer.

By order etc.,

*Surjinder Singh*  
Deputy Secretary to the Govt. of Assam,  
Forest Department, Dispur

Int: 5/6

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A/C

W.M.

~~CONFIDENTIAL~~

BY SPEED POST

ANNEXURE-7

FOREST

GOVERNMENT OF ASSAM  
DEPARTMENT : : : : : DISPUR

No.FRE.125/91/249, Dated Dispur, the 8th November '95.

From :

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

To

The Under Secretary to the Govt. of India,  
Ministry of Environment and Forests,  
Paryavaran Bhawan, C.G.O. Complex,  
Lodi Road, New Delhi-110003.

Sub :

Indian Forest Service - Assam Cadre -  
Promotion Communication of Select list.

Ref :

No.17013/2/94-IFS-II dtd. 28.11.94.

Sir,

I am directed to refer the Ministry's letter quoted above, and in continuation of this Deptt. letter No.FRE.125/91/213 dtd. 21.1.95, and to forward herewith the integrity certificate in respect of Shri B.B. Nobis, whose name was included in the select list and approved by the Ministry against Sl.No.4 of the letter dtd. 28.11.94, subject to grant of integrity certificate.

The departmental proceeding drawn up against Shri B.B.Nobis has been dropped by order No. FRE.115/94/(A)/285 dtd. 5.6.95 (copy enclosed) and accordingly the integrity of the officer has been certified by this State Government.

The necessary particulars in respect of Shri B.B.Nobis have been furnished herewith in the enclosed proforma-I and II alongwith the declaration certificate submitted by Shri B.B.Nobis.

You are therefore, requested kindly to issue necessary orders of the Ministry promoting Shri B.B.Nobis to I.F.S.

Yours faithfully,

*H. Sonowal*

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

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PRO FORMA - I

(250)

Sl. No.	Name of Officer.	Date of birth	6 The date from which the officer is continu- ously in the select list.	Details of continuous officiation in the cadre posts included in terms of cadre strength or cadre posts declared equivalent thereto prior to 21.5.86.			Details of continuous officiating in the cadre posts included in item I of the cadre strength show- ing the design- nation of each post and the period indica- ting dates for which the post was held by the officer.	Ministry Home Affairs reference communicate their app- val to the arrange- ment in col. 5 & 8.
				Details of cadre posts showing the designation of each post and period in- dicating dates for which the post was held by the officer.	Details of non-cadre posts declared equiva- lent to cadre posts showing the designation of each post the period indicating dates for which the post was held by the officer.	Date of declaration of equiva- lent in the cases of each non- cadre post shown in column (6)		
1	2	3	4	5	6	7	8	9

1. Shri Binod Behari Hobis. 1.1.1951 1991, 1993 (1) D.F.O., North Kamrup Division from January/81 to July/83.  
 (2) D.F.O., Kamrup West Division from November/86 to November/87.  
 (3) D.F.O., Nagaon Karimganj Division from April/88 to January/92.  
 (4) D.F.O., Nagaon South Division from May/95 to till date.

(1) D.F.O., Publicity from October/80 to January/81 and from July/83 to November/86.  
 (2) D.F.O., Sibsagar S.F. Division from August/92 to May/95.

As in Column  
(5)

25

PRO FORMA - II

(25)

Sl. No.	Name of officer	Date of entry in the S.F. Service.	Date of completion of 12 years in the S.F.S.	Weightage to be given for every completed three years of service beyond the period of 12 years.	Year of allotment proposed.
1	2	3	4	5	6

1. Shri Binod Bahari  
Nobis 22x2x22  
27.2.75 27.2.87 2 (two)years 1993.

(252)

7

26

C E R T I F I C A T E

Certified that subsequent to the inclusion of the name of Shri Binod Behari Nobis in the select list, there has been no deterioration in his works as to render him unsuitable for appointment to the Indian Forest Service nor has any lapse in his conduct or performance of duties in his part come to the notice.

*J. N. N. D.* 8/11/95

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

(253)

C E R T I F I C A T E

Certified that there is no stay order of any Court prohibiting the making of appointment by promotion to Shri B. B. Nobis in the State Cadre of the Indian Forest Service.

*J. N. N. D.*

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

*After  
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27 AUG 1996

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Guwahati Bench  
গুৱাহাটী বিধুৰ বৰ্ষা

Shri B.B. Nobis

O.A. No.135/96

.....Applicant

Vs.

Union of India &amp; Ors.

.....Respondents

Reply on behalf of Respondent No.1

I, R. Sanehwal, aged about 42 years, Under Secretary in the Ministry of Environment and Forests, Government of India, Paryavaran Bhavan, New Delhi, do hereby solemnly affirm and say as follows.

2. That I am Under Secretary in the Ministry of Environment and Forests, Government of India, New Delhi. I am acquainted with the facts and circumstances of the case. I have gone through the Writ Petition and understood the contents thereof. Save and except whatever is specifically admitted in this reply, nothing is admitted.

3. With reference to para 1, the position regarding non-appointment of the applicant to the Indian Forest Service (IFS) will be explained in the succeeding paragraphs.

4. With reference to para 2, the answering respondents do not dispute the jurisdiction of this Hon'ble Tribunal.

5. With reference to para 3, the answering respondents have no comments to offer.

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File of by Shri  
A. K. Chauhan 6.8.96  
Addl. Central Govt.  
Standing Counsel

6. With reference to para 4.1, it is submitted that the averments made therein are not denied.

7. With reference to paras 4.2 to 4.4, it is submitted that the averments made therein pertain to respondent No.3 and will be met by them.

8. With reference to para 4.5, it is submitted that the averments made therein are not relevant so far as promotion of the applicant to the IFS is concerned.

9. With reference to para 4.6, it is submitted that as the applicant has made a reference to the IFS (Appointment by Promotion) Regulations, 1966 (hereinafter referred to as the 'Promotion Regulations'), it is necessary to have a look on the relevant provisions of the said Regulations which are extracted below:-

5. Preparation of a list of suitable officers :-

(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 the State Forest Service to be included in the list shall be calculated as the number of substantive vacancies anticipated in the course of the period of 12 months, commencing from the date of preparation of the list, in the posts available for them under Rule 9 of the Recruitment Rules plus twenty percent of such number or two, whichever is greater.

*Chairman*

The Committee shall consider for inclusion in the said list, the cases of members of the State Forest Service in the order of seniority in that Service of a number which is equal to three times, the number referred to in sub-regulation (1) :

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 a case the Committee shall consider all the eligible officers :

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(3A) The Selection Committee shall classify the eligible officers as 'Outstanding', 'Very Good', 'Good', or 'Unfit', as the case may be on all relative assessment of their service records.

(4) The list shall be prepared by including the required number of names, first from amongst the officers finally classified as 'Outstanding' then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names inter-se within each category shall be in order of their seniority in the State Forest Service.

Provided that the name of an officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal, are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government.

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

6. Consultation with the Commission - The list prepared in accordance with regulation 5 shall then be forwarded to the Commission by the State Government alongwith :-

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- i) the records of all members of the State Forest Service included in the list;
- ii) the records of all members of the State Forest Service who are proposed to be superseded by the recommendations made in the list;
- iii) the observations of the State Government on the recommendations of the Committee.

6A. The State Government shall also forward a copy of list referred to in regulation 6 of the Central Government and the Central Government shall send their observations on the recommendations of the Committee to the Commission.

7. Select List : (1) The Commission shall consider the list prepared by the Committee alongwith -

- a) the documents received from the State Govt. under regulation 6;
- b) the observations of the Central Govt. and unless it considers any change necessary, approve the list.

(2) If the Commission consider it necessary to make any changes in the list received from the State Government, the Commission shall inform the State Government of the changes proposed and after taking into account the comments, if any, of the State Government, may approve the list finally with such modifications, if any, as may in its opinion be just and proper.

(3) The list as finally approved by the Commission shall form the Select List of the members of the State Forest Service.

Provided that if an officer whose name is included in the Select List is, after such inclusion, issued with a charge-sheet or a charge-sheet is filed against him in a Court of Law, his name in the Select List shall be deemed to be provisional.

(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 (1) or, as the case may be, finally approved under sub-regulation (2).

Provided that no appointment to the Service under regulation 9 shall be made after the meeting of fresh Committee to draw up a fresh list under regulation 5 is held.

9. Appointment to the Service from the Select List -

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(1) Appointments of members of the State Forest Service to the Service shall be made by the Central Government on the recommendation of the State Government in the order in which the names of the members of the State Forest Service appear in the Select List for the time being in force.

Provided that the appointment of an officer, whose name has been included in the Select List provisionally, under proviso to sub-regulation (4) of regulation 5 shall be made after his name is made unconditional by the Commission on the recommendations of the State Government during the period the Select List remains in force."

It is admitted that name of the applicant was included in a Select List prepared by the Selection Committee in March, 1991. However, as the name was included in the list on provisional basis subject to clearance of inquiries pending against him, he could not be appointed to the IFS on the basis of that Select List.

10. With reference to paras 4.7 to 4.9, the averments made therein pertaining to various Applications filed before this Hon'ble Tribunal and the orders passed therein are admitted to the extent substantiated by records.

11. With reference to para 4.10, it is admitted that the Selection Committee as per the provisions of Promotion regulations again met in March, 1994 and prepared a Select List containing names of such State Forest Service (SFS) officers as were suitable for promotion to the IFS. In this list too, the name of the applicant was included on provisional basis subject to grant of integrity certificate by the respondent No.2.

*Annual*

12 With reference to para 4.11, it is submitted that the averments made therein are matters of record. The Hon'ble Tribunal had disposed of OA No.106/93 being infructuous.

13. With reference to para 4.12, it is submitted that the applicant could not be appointed to the IFS alongwith other officers vide notification dated 24.3.95 because his name in the Select List was included on provisional basis subject to grant of integrity certificate by the State Government.

14. With reference to paras 4.13 & 4.14, it is admitted that the applicant could not be appointed to the IFS on the basis of Select List prepared in March, 1994 as his name was included on provisional basis subject to grant of integrity certificate by the respondent No.3. Further, in terms of proviso to regulation-9 of the Promotion Regulations quoted above, the appointment of an officer whose name has been included in the Select List provisionally, shall be made after his name is made unconditional by the Union Public Service Commission on the recommendations of the State Government during the period the Select List remains in force. Further, the position of vacancies in the promotion quota in the respective segments of the Joint cadre of Assam-Meghalaya was also to be decided by the Joint Cadre Authority. Besides, one Shri Nishitendu Dhar had filed a writ petition in the Hon'ble High Court at Guwahati against the applicant alleging his involvement in the illicit felling of trees. While all these issues were being

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thrash out, a fresh meeting of the Selection Committee was again held on 13th March, 1996. In terms of proviso to sub-regulation (4) of regulation 7, no appointment to the IFS under rule 9 shall be made after the meeting of the Fresh Committee to draw up a fresh list under regulation 5 is held. The Selection Committee again met on 7.8.96 and prepared a Select list of suitable members of SFS from Assam for promotion to the IFS.

15. It is relevant to mention here that the applicant has been placed under suspension by the respondent No.3 vide notification dated 7.6.1996 (this will be substantiated by respondent No.3). This fact has been concealed by the applicant in this application filed subsequent to his placing under suspension by the respondent No.3. It will be appreciated that an officer which is under cloud, cannot be promoted to an All India Service.

16. With reference to para 4.15, it is submitted that the averments made therein are without any basis. The answering respondents did not make any reference to the Department of Personnel and Training i.e. respondent No.2 regarding applicant's promotion to the IFS on the basis of Select List prepared in March, 1994. In view of the facts mentioned in the preceding paras, the applicant cannot be promoted to the IFS.

*Chennai*

17. With reference to para 4.16, it is submitted that in continuation of the Selection Committee meeting held on 13.3.96, another meeting was held on 7th August, 1996 to consider eligible SFS officers for promotion to the IFS. In view of this, and other facts mentioned above, the applicant cannot be promoted to the IFS.

18. With reference to para 4.17, it is reiterated that the applicant cannot be promoted to the IFS for the reasons indicated above.

19. With reference to para 5, it is submitted that the averments made therein and the allegations made by the applicant, are strongly denied. In view of the facts mentioned above, the applicant cannot be promoted to the IFS on the basis of the Select List prepared in March, 1994.

20. With reference to paras 6 & 7, it is submitted that the averments made therein do not require any comments from the answering respondents being of formal nature.

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21. With reference to paras 8 & 9, it is submitted that in view of the facts and circumstances of the case as explained in detail above, the applicant is

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not entitled to any relief as prayed for. It is, therefore, prayed that the present application may be dismissed by this Hon'ble Tribunal, being devoid of any merit, by awarding cost in favour of the answering respondents.

22. Paras 10 to 12 do not require any comments.

Dated : 20.8.96

New Delhi

Chamul

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 20th day of August, 1996.

Chamul

For Respondent No.1

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STATE : ASSAM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 135/96

Sri Binod Biharee Nobis

... Applicant

-Vs-

Union of India and others

3. The State of Assam.

In the matter of

The written statement on

behalf of the Respondent

No. 3 (The State of Assam)

in O.A. No. 135/96.

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

I, Shri Harish Sonowal, I.A.S.,  
Commissioner & Secretary to the Government  
of Assam, Forest Department, 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 application was

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served on the Department. I perused the same and understood the contents thereof. I do not admit any of the allegations/averments which is not borne out by 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, 4.7, 4.8, 4.11, 4.13, 4.15 the answering Respondent has no comment to make thereon. He, however, does not admit anything which is not borne out by records.

3. That in regard to the statements made in para 4.9 of the application, the answering Respondent states that the interim orders passed in O.A. No. 6/92 and O.A. No. 10/92, there was no prohibition for holding the next sitting of the Selection Committee. The Selection Committee was held on 30.3.93 and the applicant challenged the select list in this Hon'ble Tribunal.

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4. That in regard to the statements made in para 4.10 of the application, it is stated that the Union Public Service Commission decided to reconvene the meeting of the Selection Committee and accordingly the Selection Committee met on 7.3.94. The name of the applicant was in the select list of 7.3.94, subject to grant of integrity certificate by the State Government.

5. That in regard to the statements made in para 4.12 of the application, it is stated that the applicant was not promoted to I.F.S. alongwith the four S.F.S. officers as there was departmental proceedings pending against the applicant at that time.

6. That in regard to the statements made in para 4.14 of the application, it is stated that they are not correct and the same are hereby denied. The statements are based on imagination.

7. That in regard to the statements made in paras 4.16 and 4.17 of the application it is stated that the Selection Committee meeting for promotion of S.F.S.

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officers to I.F.S. was held on 7.8.96 at New Delhi.

Departmental proceeding is still pending against the applicant for which integrity certificate could not be issued in favour of the applicant.

8. That none of the grounds is a valid ground of law.

- VERIFICATION -

I, Shri Harish Sonowal, I.A.S., at present Commissioner and Secretary to the Government of Assam, Department of Forest, do hereby verify that the statements made in paras 1, 2, of this written statement are true to my knowledge; those made in paras 3, 4, 5, 6, 7 are true to my information based on records which I believe to be true and I have not suppressed any material fact.

I have signed this verification on this Sixth Day of March, 1997 at Dispur, Guwahati.

Harish Sonowal