

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

[Signature]
29/1/18

CENTRAL ADMINISTRATIVE TRIBUNAL

DA No. 135/95
MP No. (DA)
RA No. (DA)
CP No. (DA)

Sri. B. B. Nabhis

APPLICANT(S)

VERSUS

U. O. I 8000

RESPONDENT(S)

Mr. B. K. Sharma

Advocate for the applicant.

" S. Sharma

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

Advocate for the Respondents.

Office Notes

Court's Orders

30.7.96

This application is in
form and time
C.F. of Rs 50/-

deposited vide
IPO/BD No 346594

Dated 28/2/96

28/7
DA 28/7

2-8-96

Notice issued to
the respondents vide

No. 2312 dt
21.7.96

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.
Sarma. Prayer allowed and the
O.A. is taken up today for admi-
ssion.

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 ~~28.11.94~~ 7.3.94
as per reference No. 1703/2/94-I
IFS-II dated 28.11.94 (Annexure-3)
His promotion was however, with-
held subject to grant of inte-
grity certificate by the State
Government in terms of the afore-
said order dated 28.11.94. The
integrity certificate was appar-
ently granted vide No. FRE.125/
91/249 dated 8.11.95 by the Govt.
of Assam, Forest Department
(Annexure-7) and the Govt. of

~~20x7x96xofxAssamxForestxDepartment~~

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 C.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/relief/prayer. As narrated above the appointment of the applicant to the IFS was recommended by the Govt. of Assam on 8.12.95 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.

Member

27.8.96

pg

Memo of appearance
filed by Mr. A.K. Chaudhury
Addl. 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 b/o Respd.
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.

Member

Service Reports are still
awaited.

Respondents No. 2, 3 &
4 still waited for
written statement. 5/9/96
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 xxxxxx.

Member

No written statement has been filed
by the Respondents No. 2, 3 & 4.
Service Reports are still
awaited.

pg

117

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.

Member

pg

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.

Member

trd

11/12

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.

Member

Vice-Chairman

nkm

19/5

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.

Member

Vice-Chairman

nkm

11/12

1) Service Reports are still
awaited.

2) No. w/statement has been
fwd. by Respondents no. 2, 3 & 4.

5/12

List when Division
Bench is available.

6/12/96

11-3-97

is Adm on 6/12

No. 3

1) Service Reports are still
awaited.

2) w/s has been fwd. 18/3

3) No. w/s has been fwd.
by R. No. 2 & 4.

w/s has been fwd. on Respondents
no. 1 & 3.

4/12

(6) 01/13/96

W/S has been filed.

3.9.98 There is no session
Bench. AD and 15.25.9.98.

W/S has been filed.

25-9-98

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

Member

W/S has been filed.

pg

ms
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
Agartala during this period.
Hence proceed for orders.

pg

By Order

1-1-99

Case is ready for hearing.
List for hearing on 7-1-99 for
hearing.

Vice-Chairman

6-1-99

Written statement has
been filed on R. Nas
1-4.

1m

ms
7/1/99

8/1/99

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

9/2/99

Copies of the Judgment
have been sent to the
D/Sec for issuing the
same to the parties.
Thru Regd. with AD.
trd

trd

Issued vide despatch
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,

Dr. G.A. Assam.

BY ORDER

6.11.97

Adjourned to 8.1.98.

9

By order.

W/S has been h'w'd on R. No. 1 & 3.

No W/S has been h'w'd on R. Nos. 2 & 4. 8.1.98

10

Let the case be listed for hearing on 31.3.98.


Member


Vice-Chairman

W/S has been h'w'd on R. No. 1 & 3

pg

No W/S has been h'w'd on R. Nos. 2 & 4.

19/11

31-3-98

Case is ready for hearing.

List for hearing on 2-7-98.


Member


Vice-Chairman

W/S has been h'w'd on R. No. 1 & 3.

1m

No W/S has been h'w'd on R. Nos. 2 & 4.

2/3
2/4

2.7.98

Adjourned to 13.8.98.

12

By order

W/S has been h'w'd on R. Nos. 1 & 3. No W/S on R. No 2 & 4.

13.8.98

On the prayer of Mr B.K. Sharma, learned counsel for the applicant, this case is adjourned till 3.9.98.


Member


Vice-Chairman

2k case is ready for hearing as regards Service to W/S. W/S has been h'w'd on R. Nos. 1 & 3. 12/8

nkm

2/3
12/8

16

9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 135 of 1996

7
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

802

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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,
Paryavaran 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 :

Rz

Contd....

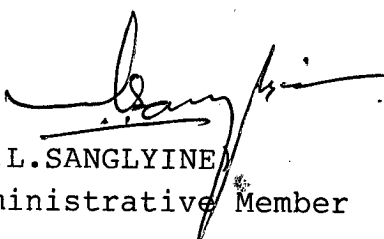
2. The applicant was a member of State Forest Service in the State of Assam. In the year 1991, he came within the zone of consideration for selection to the Indian Forest Service (for short IFS.). On assessment he was selected in the year 1991. He, however could not be appointed as departmental proceeding 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 30.7.96

Bor
Court Master

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI REGION

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

Date of filing. 30.7.96

Registration No OA 135/96

Registrar CAT/Ghy

Recd Sanjay
Copy No 145
CAT
30/7/96

Filed by
Secretary
30.7.96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH.

O.A. No. 135/96

Shri Binod Biharee Nobis
Divisional 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
Paryeavarana 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 Secretary to
the Govt of Meghalaya.
Dept of Forests,
Shillong.

Respondents.

DETAILS 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 grievance 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 Dehradun 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. Conservator 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 important Divisions encadared 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) the 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. pursuant 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 selection 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 pursuant 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 select 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 pursuant 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 if his name/^{is}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 Officer, became active to thwart such promotion of the applicant. They tried best to malign 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 some how 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 turn 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 these circumstances the applicant has 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 mitted 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 on 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 irreparable loss and injury.

4.17 That the applicant state that after the clearance by the respondent No.1 in which the authority has opined 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. GROUND 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 Constituion of India.

5.7 For that the respondent No.1 even having opined that suspension is no bar in 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 ^{any} ~~other court~~ 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 ~~his inclusion in the select list of~~ 1994 after hearing the parties and on perusal of records be pleased to direct the respondents to promote the applicant

to IFS pursuant 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 in any manner prejudice and /or put any bar to the promotion of the applicant to IFS pursuant to the inclusion of his name in the select list of 1994.

10.

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. No.	: 8 09 3465-94
(ii) Date	: 26.7.96
(iii) Payable at	: Gauhati

12. LIST OF ENCLOSURES:-

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

.....

No. *6) *1) 7. (1) IFS-II 17013/02/90-IFS-II

Date : 11th September 1991.
20th

The Secretary
Forest Deptt.,
Estd. Branch
Govt. of Assam,
DISPUR

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

I am directed to refer to your letter No. 84/85/178 dated 22nd December 1990 and F.16/85/51-6 dated 23rd April 1991 on the subject mentioned above, addressed to the UPSE and say that the commission have, vide their letter No. F.10/2(1)/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 6 (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. R. Das	09.04.1950
6.	Sh. N. K. Sarma	01.05.1947
7.	Sh. M. K. Salkia	01.02.1947
8.	Sh. A. 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...F/15

Attorney General
C. W. Smith
James
A. Smith

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 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 Assam
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.

...

Handwritten signature

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI-5.

O.A. No. 6/92

Shri S. Dutta & Ors. ... Applicant

- Vers-

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.

*Adm
Dm*

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.

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*Attn
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sam*

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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
	S/Shri	
01.	S.C. Phatowali (STP)	01.07.1941
02.	T.K. Das	09.04.1950
03.	S.N. Buragochain	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.	Nagen 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....

At Home
As per

(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 (Oyed Khalid Rizvi & Others Vs. UOI others), unapproved dilapidations are not to be counted for the purposes of determination of seniority.

Yours faithfully,
Ed/-Illegible.
(A. Sahaswala.)

Under Secretary to the Govt. of India.

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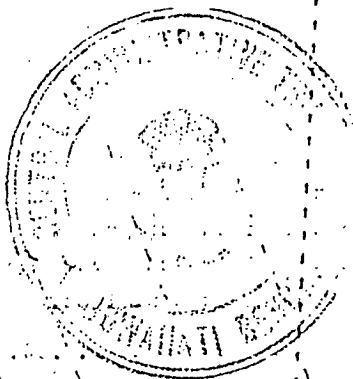
O.A.106/93

Sri Binod Biharee Noble ... 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 Respon-
dents 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. ^{appointment on the}
^{basis of 1994 select list he 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
applicants to agitate the question
of fixation of year of his allotment
in the cadre in the event of his
^{appointment on the basis of 1994 selection}
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)

[Handwritten signature] 14/12/94

21/12/94

[Handwritten signature]
21/12/94

- 21 -

ANNEXURE-335

GOVERNMENT OF ASSAM
FOREST DEPARTMENT :::: DISPUR

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 29th March/95.

NO.FRE. 125/91/239 : The following Notification issued by the Govt. of India, Ministry of Environment & 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
& 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:-

<u>S.No.</u>	<u>Name of officer</u>	<u>Date of birth.</u>
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.

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

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

Copy forwarded to :-

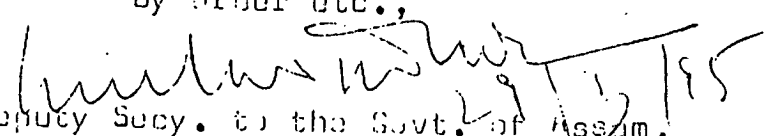
- 1) The Accountant General (A&E), Assam, Shillong/
Shanggarh, Guwahati-5.
- 2) The Under Secretary to the Govt. of India, Ministry
of Environment & Forests, Paryavaran Bhawan, C.G.O.
Complex, Lodi Road, New-Delhi - 110003.

Contd... 2/-

Attn
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- 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 Warengi Road, Guwahati-24.
- 8) The Director, Indira Gandhi National Forest Academy, P.O. New Forests, Dehradun - 248006.
- 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, Bakukhat.
- 13) The Principal, North East Forest Rangers' College, Jalukbari, Guwahati-14.
- ✓ 14) Shri J.C. Dey, Divisional Forest Officer, Shribari S.F. Division, Jorhat.
- 15) The Deputy Director, Assam Govt. Press, Damanimaidan, 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.,


Deputy Secy. to the Govt. of Assam,
Forest Deptt., Dispur.

16.6
20/3/95

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::::: DISPUR

ORDERS BY THE GOVERNOR

NO. FRE.115/94/(A)/285 Dated Dispur, the 5th June, 1993.

READ : The departmental proceedings against Shri B. B. Nobis, Deputy Conservator of Forests were drawn up vide notice No. FRE.115/94/258 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 dtd. 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

Memo No. FRE.115/94/(A)/285-A Dtd., Dispur, the 5th June, 1993.
Copy forwarded to :-

1. The Accountant General (AG), Assam, Bhangagarh, Guwahati-52
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
3. Shri B.B.Nobis, Divisional Forest Officer, Nagaon South Division, Majuli.
4. Personal file of the officer.

By order etc.,

[Signature] 5/6/93
Deputy Secretary to the Govt. of Assam,
Forest Department, Dispur

8/c
H/c
A/c

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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P R O M O R M A - I

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Sl. No.	Name of Officer.	Date of birth	The date from which the officer is continuously 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 non-cadre posts declared equivalent to cadre posts showing the designation of each post and period indicating dates for which the post was held by the officer.	Date of declaration of equivalent in the cases of each non-cadre post shown in column (6)	Details of continuous officiating in the cadre posts included in item I of the cadre strength showing the designation of each post and the period indicating dates for which the post was held by the officer on or after 21.5.66.	Ministry Home Affairs reference communicate their approval to the arrangements in col. 5 & 8.
1	2	3	4	5	6	7	8	9
1.	Shri Binod Bahari Nobis.	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.	Does not arise.	As in Column (5)	

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(251)

PROFORMA - II

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 Behari Nobis	22.2.82 27.2.75	27.2.87	2 (two) years	1993.

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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.

hnanom 8/11/55
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.

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

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Filed by
A. K. Chandra
26.8.96
Addl. Central Govt.
Standing Counsel

20
SD
27 AUG 1996
Guwahati Bench
গুৱাহাটী বেঞ্চ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No.135/96

Shri B.B. Nobis

.....Applicant

Vs.

Union of India & 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 referenceto para 1, the position regarding non-appointment ofthe 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.

Sanehwal

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.

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 :

xxx

xxx

xxx

(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.

xxxxx

xxxxx -

xxxxxxx

(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 :-

- CS Amended*
- 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 -

- CS Committee*
- (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.

Amend
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

Amend

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.

Examine

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.

Clearance 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

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

CS Anand

For Respondent No.1

VERIFICATION

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

Verified at New Delhi on this the 20th day of August, 1996.

CS Anand

For Respondent No.1

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STATE : ASSAM

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AW brij
Harish Sonowal

Manjula Devi, J. & L. Adv. VAT 11/34

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 Res-
pondent No. 3 is as follows -

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

1. That I am the Commissioner and
Secretary to the Government of Assam, Depart-
ment of Forest. A copy of the application was

Contd... 2..

to
Harish Sonawaf

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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.

Contd....3..

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