

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

DA No. 191/96
MP No. (DA)
PA No. (DA)
CP No. (DA)

Shri P. K. Das APPLICANT(S)
VERSUS

Union of India RESPONDENT(S)

Mr. G.K. Bhattacharya Advocate for the applicant.
G.N. Das

Mr. A.K. Choudhury Advocate for the Respondents.
Dr. Y.K. Phukan, Sr. Govt. Adv. Assam, Mrs. M. Das, Govt. Adv. Assam & Govt. Adv. K. Naghalya

Office Notes ST Court's Orders

This application is in form of I within time. C. F. of Rs. 50/- deposited vide IPO No. 346/25 Dated 24.8.96.

P.W. - 5/8/96
Dy. Registrar

6.8.96 Mr G.K. Bhattacharya for the applicants. Mr A.K. Choudhury, Addl. C.G.S.C for respondents No.1(a), (b) and 6. Dr Y.K. Phukan, Sr. Govt. Adv. Assam for respondents No.2, 4 and 7.

Mr Bhattacharya moves this application and prays for granting permission to the applicants to join in this single application. Prayer allowed in terms of Rule 4(5) (a) of the C.A.T (Procedure) Rules 1987.

Heard Mr Bhattacharya for admission. Application is admitted. Issue notice on the respondents by registered post. Written statement within 6 weeks.

List on 17.9.96 for written statement and further orders.

No index sheet maintained.

14-8-96

Notice issued to the respdts on 9.8.96.

Bw

29.8.96

Notice duly served on 1, 2, 3, 4, 5.

pg

m
6/8

60
Member

Bow

✓

17.9.96

Learned Addl. C.G.S.C., Mr A.K. Choudhury seeks for four weeks time to file written statement.

List for written statement and further orders on 17.10.96.

[Signature]
Member

nkm

m
18/9

17.10.96

Mr G.N.Das for the applicant. Mr A.K.Choudhury, Addl.C.G.S.C for the respondents seeks further time to file written statement.

List for written statement and further orders on 2.12.96.

[Signature]
Member

pg

m
17/10

2.12.96

Mr B. Chakraborty for Mr G.K. Bhattacharyya, learned counsel for the applicant. Leave note of Mr A.K. Choudhuri, learned Addl. C.G.S.C. Learned counsel Dr Y.K. Phukan for respondent Nos.4 and 7. Written statement has not been submitted.

List for written statement and further orders on 2.1.1997.

[Signature]
Member

nkm

2-1-97

None present. List for further order on 27-1-96.

[Signature]
Member

2/ statement - has not been filed

16/10

1) Notice duly served on Resps no. 1-5.

2) 2/ statement - has not been filed

17/11

1) statement - has not been filed

1/97

22-1-97

*1) Notice duly served on Respt. No - 1, 2, 3, 4 & 5.
2) written statement has not been filed.*

*24
22.1*

m
2/1

27.1.97

Mr G.K.Bhattacharya for the applicant is present. Mrs M.Das appearing on behalf of respondents No.2 & 4 prays for further extension of time. From the order sheet it appears that several adjournments have been taken by the respondents No.2 & 4 for filing written statement. This is a very sad state of affair. This cannot be encouraged. For the ends of justice as last chance we allow 7 days time to file written statement. If no written statement is filed, list the case for hearing.

List on 3.2.1997 for filing of written statement and for further orders.

[Signature]
Vice-Chairman

[Signature]
Member

31.1.97

*1) Notices duly served
2) Respts. No. 1 to 5.
3) Notices for Resps. no.
6 or 7 forwarded.*

pg
M
27/1

*1) W.S. has not been
filed by the Respondent.* 3.2.97

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

List on 10.2.97 for written statement and further orders.

[Signature]
Member

[Signature]
Vice-Chairman

6-2-97
*Memo of appearance
not filed.*

*M
6/2*

pg
M
4/2

10.2.97

Though the case was adjourned for filing of written statement on 3.2.97 for one week but due to abnormal situation like Bandh he could not obtain instruction from the authorities therefore Govt. Advocate, Assam prays for time to file the written statement as an exceptional case. For the ends of justice two weeks time is granted to file written statement.

List on 21.2.97 for written statement and further orders.

Member

Vice-Chairman

trd

17-2-97

W/S filed on 17.2.97

21.2.97

R. no. 2 & 4.

Dr Y.K.Phukan, learned Sr. Govt. Advocate submits that the State Government had filed written statement. Union of India has not filed any written statement. We do not want to grant any further adjournment to the Union of India.

List on 2.4.97 for hearing.

20.2.97

1) W/S has been filed on R. 2 and 4.

Union of India.

2) Notice duly served on R. 1 to 5.

Member

Vice-Chairman

3) Service notice for R. 6 and 7 are still awaited.

4) Memo of appearance has not been filed.

22.2.97.

Heard counsel of the parties. Judgement delivered in the open court. The application is disposed of. No order as to costs. Order contain in separate sheets.

20/2

No w/s submitted. As per order by U.O. 9.

Member

Vice-Chairman

trd

1/4

27.1.97

Mr G.K.Bhattacharya for the applicant is present. Mrs M.Das appearing & on behalf of respondents No.2 & 4 prays for further extension of time. From the order sheet it appears that several adjournments have been taken by the respondents No.2 & 4 for filing written statement. This is a very sad state of affair. This cannot be encouraged. For the ends of justice as last chance we allow 7 days time to file written statement. If no written statement is filed, list the case for hearing.

List on 3.2.1997 for filing of written statement and for further orders

31.1.97

- 1) N.D.s duly served on Respondents No. 1 to 5.
- 2) S.N.D.s for Resps. no. 6 or 7 are waited.
- 3) W.S. has not been filed by the Respondents.

Vice-Chairman

Member

pg

cel

3.2.97

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

List on 10.2.97 for written statement and further orders.

6-2-97

Memo to appealant not filed.

M
6/2

Member

Vice-Chairman

pg


O.A. No. 141 of 1996

10.2.97

Though the case was adjourned for filing of written statement on 3.2.97 for one week but due to abnormal situation like Bandh he could not obtain instruction from the authorities therefore Govt. Advocate, Assam prays for time to file the written statement as an exceptional case. For the ends of justice two weeks time is granted to file written statement.

List on 21.2.97 for written statement and further orders.


Member


Vice-Chairman

17.2.97

W/S filed on 17/2 ^{trd}

R. no. 2 & 4.

21.2.97

Dr Y.K.Phukan, learned Sr. Govt. Advocate submits that the State Government had filed written statement. Union of India has not filed any written statement. We do not want to grant any further adjournment to the Union of India.

List on 2.4.97 for hearing.


Member


Vice-Chairman

20.2.97

1) Written statement has been filed on R. 2 & 4.

2) Notice duly served on R. 1 to 5.

3) Service notices for pg R. 6 and 7 are awaited. 2.4.97.

4) Memo of appearance has not been filed.

mv
20/2

or
21/2

Heard counsel of the parties. Judgement delivered in the open court. The application is disposed of. No order as to costs. Order contain in separate sheets.


Member


Vice-Chairman

no w/statement has been filed
u.o.f.

trd

5/6/97

Copy of the judgment has been sent to the d/sec. for issuing the same to the parties through Regd. A/D.
D.N. 2008 to 2016 d. 6.97 kh 96

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 141 of 1996
T.A. NO.

DATE OF DECISION 2.4.1997

Shri Prantosh Roy & Ors.

(PETITIONER(S))

Mr. G.K.Bhattacharyya.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)


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

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI 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 Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?


Judgment delivered by Hon'ble Vice-Chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 141 of 1996

Date of decision : This the 2nd day of April, 1997.

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

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

1. Shri Prantosh Roy, I.F.S.,
Son of Shri Brajendra Nath Roy
At present posted as Assistant
Conservator of Forests,
Sonitpur East Division
Biswanath Chariali.
2. Shri Raj Pal Singh, I.F.S.
Son of Shri Shyam Lal
At present posted as Assistant
Conservator of Forests, Sonitpur
West Division, Tezpur.
3. Shri K.S.P.V. Pavan Kumar, I.F.S.
Son of Shri K.V.N. Nagendra Sai,
At present serving as Assistant Conservator
of Forests, Manas National Park,
Barpeta Road, Barpeta. Applicants.

By Advocate Mr. G.K.Bhattacharyya.

-versus-

1. Union of India (Represented by -
 - (A) Secretary to the Govt. of India,
Ministry of Personnel, Public Grievances,
and Pensions, Department of Personnel
and Training, New Delhi.
 - (B) Secretary to the Govt. of India,
Ministry of Environment and Forests,
Department of Forests and Wildlife,
Prayavaran Bhawan, C.G.O. Complex,
Lodhi Road, New Delhi.
2. State of Assam (Represented by the
Commissioner and Secretary to the Govt.
of Assam, Forest Department, Dispur,
Guwahati).
3. State of Meghalaya (Represented by the
Secretary to the Govt. of Meghalaya, Forest
Department, Shillong).
4. Chief Secretary to the Govt. of Assam,
Dispur, Guwahati.

5. Chief

5. Chief Secretary to the Govt. of Meghalaya, Shillong.
6. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi. (Represented by Secretary, UPSC).
7. Principal Chief Conservator of Forests, Admn., Assam. Rehabari, Guwahati.

Respondents

By Advocate Mr. A.K.Choudhury, Learned Addl. C.G.S.C.

O R D E R

BARUAH J. (V.C.).

These three applicants have filed this application praying inter alia for a direction to the respondents to treat the applicants that they had been promoted to the Senior Scale from the date of their selection i.e. with effect from 1.4.95 in respect of applicants No. 1 and 2 and with effect from 1.4.96 in respect of applicant No.3. The facts for the purpose of disposal of this application are :

the applicants were appointed in the Indian Forests Service : the applicant No. 1 was appointed in September 1991; applicant Nos. 2 and 3 in the year 1992 and since then they have been serving as Assistant Conservator of Forests in various places. The contention of the applicants is that on completion of 4 years of service as per Rule 3 (1) of Indian Forests Service (Pay) Rules, Annexure 1 guidelines have been issued by the Government of India, Ministry of

Environment

Environment & Forests, New Delhi. Under the said rule and the guidelines the applicants are entitled to be promoted to the senior scale. However, they were not so promoted under the said rules and the guidelines.

2. Being aggrieved by and dissatisfied with the inaction of the Respondents the applicants separately submitted representations Annexure 2 series by the applicant No. 1 and Annexure 3 by the applicant No.3. In paragraph 10 of the application, the applicants have stated that the representations had not been disposed of till filing of this application. Even now, to the knowledge of the applicants those representations have not yet been disposed of. The present applicant has been filed for the failure of the Respondents to promote the applicants as per Rules and guidelines.

3. Respondents have entered appearance and have filed written statement disputing the claim of the applicants. In paragraph 3 of the written statement the respondents have stated inter alia that the applicants had not been promoted to the post of senior scale in view of the fact that they failed to pass departmental examination.

4. We have heard Mr. G.K.Bhattacharyya, learned counsel appearing on behalf of the applicants and Ms. M.Das, Govt. Advocate, Assam appearing on behalf of the Respondent Nos. 2 and 4. Mr. A.K.Choudhury, Addl. C.G.S.C. on behalf of the respondent No. 1 (A) and (B). The contention of Mr. Bhattacharyya is that passing of the departmental examination was not condition precedent for promotion to the post of Senior Scale
.....post

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post. Therefore, the action of the respondents in denying the right of the applicants was arbitrary, unreasonable & unfair and contrary to the provisions of law. Mr. Bhattacharyya has also drawn our attention to the Judgement and Order dated 19.7.1991 passed by this Tribunal in O.A. No. 198 of 1990. Mr. Bhattacharyya has specifically drawn our attention to paragraph 5,6 and 7 of the said judgement passed. By pointing out to those paragraphs he has tried to show that the passing of departmental examination was not a condition precedent for getting promotion. He has also submitted that during that time and even before also other officer of the Govt. of Assam belonging to All India Service were given promotion without requiring them to pass departmental examination. It is admitted by the parties that the provision contained in all India Services Act are applicable to the members of Indian Forests service. By referring to that Mr. Bhattacharyya submits that passing of departmental examination was not required for getting promotion to the senior scale. Mr. A.K.Choudhury does not dispute the legal position. He also submits that passing of the departmental examination was not a condition to get senior scale. Ms. Das has not been able to show the contrary. In the case of A.M.Singh and Ors. VS. Union of India & Ors. in Original Application No. 198 of 1990 similar question came for consideration before this Tribunal. In the said decision this Tribunal held thus :

"Although the State Government in their counter have pointed out the all four applicants have not cleared one or more subjects in the departmental examination, at no stage till the filing of this application, the applicants were told by the Government of Assam

....that


that as a matter of deliberate decision the State Government have decided to withhold the promotion of direct recruited IFS officers from junior time scale to senior time scale"

5. We find that the judgement of the above case squarely covers the present case and accordingly we dispose of this application with a direction to the respondents that if there are vacancies in the senior time scale, the applicants shall be deemed to be promoted to the senior time scale with effect from their respective due date. The applicants shall be entitled to receive all the consequential benefits.

6. This shall be done within a period of two months from the date of receipt of the copy of this order. We also give liberty to the respondents to revert the applicants to the juniortime scale if they fail to clear all the parts of the departmental examination for confirmation within one year of this order. For that purpose 2nd respondent shall arrange to hold the examination within a period of one year, but not earlier than six months from the date of this order.

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


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman

Filed by:
 Geopimaths Das
 Advocate
 5/8/96

407
Central Administrative Tribunal
5 AUG 1996
Guwahati Bench
SITP, Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH:
GUWAHATI.

O.A. NO. 141 /96.

Shri Prantosh Roy and others.

... Applicants.

-Versus-

Union of India and others .

... Opposite parties.

1: PARTICULARS OF THE APPLICANT :

- 1) Shri Prantosh Roy , I.F.S.
Son of Shri Brajendra Nath Roy .
At present posted as Asstt. Conservator
of Forests, Sonitpur East Division,
Biswanath Chariali .
- 2) Shri Raj Pal Singh, I.F.S.
Son of Shri Shyam Lal ,
At present posted as Asstt. Conservator
of Forests, Sonitpur West Division , Tezpur .
- 3) Shri K.S.P.V. Pavan Kumar , I.F.S.
Son of Shri K.V.N. Nagendra Sai ,
At present serving as Asstt. Conservator
of Forests , Manas National Park, Barpeta Road,
Barpeta .

A copy has been
served on Shri
A.R. Choudhury,
C.G.Sc.

Bill
Advocate

Shri
Received copy.
Y.K.P.L.K.
6.8.96

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2: PARTICULARS OF THE RESPONDENTS :

1) Union of India (Represented by -

(A) Secretary to the Govt. of India ,
Ministry of Personnel , ^{Public Grievances} and Pensions,
Department of Personnel and Training ,
New Delhi .

(B) Secretary to the Govt. of India ,
Ministry of Environment and Forests,
Department of Forests and Wildlife, Prayavaran
Bhawan, C.G.O. Complex , Lodhi Road,
New Delhi .

2) State of Assam (Represented by the Commissioner
and Secretary to the Govt. of Assam , Forest
Department , Dispur, Guwahati) .

3) State of Meghalaya (Represented by the Secretary
to the Govt. of Meghalaya, Forest Department,
Shillong)

4) Chief Secretary to the Govt. of Assam,
Dispur, Guwahati .

5) Chief Secretary to the Govt. of Meghalaya ,
Shillong .

6) Union Public Service Commission ,

Dholpur House, Shahjahan Road, New Delhi .

(represented by Secretary, UPSC)
7) Principal Chief Conservator of Forests, Admn.,
Assam , ^{Rabari} Guwahati.

Contd..

Signature

3: THE APPLICATION IS AGAINST THE FOLLOWING ORDER:-

Action of the authorities in not promoting the applicants to the Senior Scale of the I.F.S. inspite of the fact that they are eligible and due to be so promoted and there are vacancies to accommodate them .

4 : The applicants declare that the subject matter of the orders is within the jurisdiction of this Tribunal.

5: The applicants further declare that the application is within the limitation prescribed U/s 21 of the Administrative Tribunals' Act, 1985.

6 : FACTS OF THE CASE:

1) That the three applicants have a common grievance for not being promoted to the senior scale of the I.F.S. and as such they are approaching this Hon'ble Tribunal jointly and pray before this Hon'ble Tribunal to grant them permission to move this application under the CAT (Procedure) Rules , 1987.

2) That the appellant No. 1 appeared in the competitive examination for selection to the I.F.S. held in 1990 and on being selected, he was appointed to the I.F.S. in September , 1991 and allotted to the joint cadre of Assam and Meghalaya and the applicant No.1 was allocated to Assam . Similarly , the applicant No.2 , on being

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selected, was appointed to the I.F.S. in 1991 and also allotted to the joint cadre of Assam and Meghalaya. Both the applicants No.1 and 2 have completed all the examinations, exercises, qualifying test prescribed under the I.F.S. (Probationer's Final Examination) Regulations, 1968. Both the applicants have appeared in the Department Examinations held in December, 1995 and the results of the examination have not yet been announced but the same does not have much relevance for the issue involved. The applicant No.1 and 2 have completed 4 years' of service and as per existing rules and instructions of the Govt. of India, both the applicants became eligible for promotion to the senior scale of I.F.S. on 1.4.95.

3) That the applicant No.3 also appeared in the competitive examination held in 1991 and on being selected, he was appointed to the I.F.S. (Joint Assam - Meghalaya Cadre) and allocated to the State of Assam in 1992. The applicant No.3 has applied for appearing in the departmental examinations to be held during 1996 but, as stated above, this has no relevance to the issue involved. The applicant No.3 was due to be promoted to the senior scale of I.F.S. w.e.f. 1.4.96.

4) That the applicants beg to state that under the I.F.S. (Pay) Rules, 1968, Rule 3(1) provides that a member of the service shall be appointed to the senior scale on his completing 4 years' of service subject to the provisions of Sub- Rule(2) of Rule 6(A) of the I.F.S.

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Handwritten signature

(Recruitment) Rules, 1966 .

Rule 6 (A) of the I.F.S (Recruitment) Rules, 1966 lays down that an officer shall not be appointed to the senior time scale of pay if he was under suspension or disciplinary proceedings were instituted against him.

Rule 6 (A) (3) of the Rules also empowers the state Govt. to withhold promotion to the senior scale till an officer is confirmed in service or till he passes the prescribed departmental examinations . The applicants state that the State Govt. has not taken till date, to the best of the applicants' knowledge, any decision to withhold promotion to the senior scale on the ground of not clearing the departmental examinations or for any other reasons, even after the observations made by this Hon'ble Tribunal in O.A. 198/90 decided on 19.7.91 (A.M. Singh and others - Versus - Union of India and others) .

5) That, apart from the provisions of the I.F.S (Pay) Rules, 1968 and the I.F.S. (Recruitment) Rules, 1966 regulating promotion to the senior scale, the Govt. of India, Ministry of Environment and Forests, by letter Nb.20014-22/87/I.F.S.-II dated 27.4.87, clarified the position regarding appointment of I.F.S. officers to the senior time scale and others. By the said instructions , it has been clarified that the first day of April of the

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relevant year would be reckoned for the purpose of computing the requisite number of years of service for promotion to the senior scale.

A copy of the said instructions dated 27.4.87 is annexed herewith and marked as Annexure-I.

6) That, from what is stated above, it will be apparent that under the Rules and instructions from the Govt. of India, an I.F.S. officer on the first day of April of the year he completes 4 years' of service becomes eligible to be promoted to the senior scale subject to the condition that he is not under suspension and no disciplinary proceedings have been instituted against him.

7) That the applicants beg to state that, though the applicants No.1 and 2 became eligible and due to be promoted to the senior scale after 1.4.95 and the applicant No.3 after 1.4.96, the State Govt. did not take any steps to promote them to the senior scale. On the otherhand, inspite of the fact that on 1.4.95 atleast two direct recruit I.F.S. officers were eligible for being promoted to the senior scale, the State Govt., for reasons best known to them, have allowed State Forest Service Officers who are not even on the select list to hold charge against atleast 9 cadre posts and even till date, though the applicant No.3 has also become eligible, State Forest Service Officers are holding the cadre posts against which the applicants ought to have been promoted.

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8) That the applicants beg to state that Shri Anup Kumar Srivastava who was appointed alongwith applicants No. 1 and 2 in 1991 and was allocated to Meghalaya, has since been promoted to the senior scale in due time and this fact will show the injustice done to the applicants.

9) That the applicants beg to state that the State Govt. has, all along, given a step-motherly attitude to the direct recruit I.F.S. officers in the matter of their promotion to the senior scale and it appears that most of the officers of earlier batches were promoted to the senior scale with retrospective effect only after they approached this Hon'ble Tribunal and after directions were passed by this Hon'ble Court.

Shri Akhtar Hussain Khan, direct recruit officer of 1983 batch and Shri Chandra Mohan and three others of the 1984 batch had also filed applications before this Hon'ble Tribunal for promotion to the senior time scale and the aforesaid applications were numbered as O.A. 128 and 164/88 and this Hon'ble Tribunal, by a common judgement dated 25.7.89, directed that the five petitioners be deemed to be promoted to the senior scale w.e.f. their respective due dates.

Similarly, three other officers of 1985 batch, namely, S/Shri D. Bankhawal, N.K. Basu and S.K. Srivastava who had completed 4 years' of service in 1989 and were not

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given the senior scale, approached this Hon'ble Tribunal and the same was numbered as O.A. 160 (G) 89. This Hon'ble Tribunal, by judgement dated 13.9.90, after considering the entire matter and relying on the decisions of earlier two cases, directed that all the three applicants be deemed to be promoted to the senior scale w.e.f. 1.4.89.

Similarly 4 other officers of 1986 batch, namely, Shri A.M. Singh, Smti Ranjana Gupta, A.K. Johari and Shri J.M. Kouli who became eligible to be promoted to the senior time scale on 1.4.90 and were not given promotion due, approached this Hon'ble Tribunal and this Hon'ble Tribunal, in O.A. 198/90, by judgement dated 19.7.91, also directed that the applicants would be deemed to have been promoted w.e.f. 1.4.90. (The applicants crave leave of this Hon'ble Tribunal to rely on the judgements of the aforesaid cases at the time of hearing)

10) That the applicants, seeing the plight of the seniors and anticipating that similar treatment would be meted out to them, submitted representations to the authorities well in advance of the due date of promotion to the senior scale but there has been no response from the authorities and the applicants have not yet been promoted to the senior scale though, as stated earlier, they were eligible and due w.e.f. 1.4.95 and 1.4.96 respectively. It will be relevant to mention here that the present applicants, at no point of time, were placed under suspension

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and no departmental proceedings had been initiated against them and as such there can be no justification whatsoever in denying them promotion to the senior scale; more so in view of the earlier judgments of this Hon'ble Tribunal.

Copies of some representations filed by the applicant No.1 and 3 are annexed herewith and marked as Annexure -II and III (series) . (The applicant no.2 had also submitted similar representation and the applicant craves leave of this Hon'ble Court to produce and rely on it at the time of hearing).

7: DETAILS OF REMEDY EXHAUSTED:

The applicants had submitted representation to the authorities for promotion but till date there has been no response.

8 : The applicants further declare that they have not previously filed any application, writ application or suit regarding the matter in respect of which this application has been made before any Court of Law or any other Bench of this Tribunal and no such application /writ application or suit is pending.

9 : RELIEF SOUGHT AND GROUND :

I) For that the action of the authority in not promoting the applicants to the senior scale of the I.F.S. has resulted in violation of the Rules, instructions

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By

of Govt. of India and also Article 14 and 16 of the Constitution of India and as such the action is bad in law and this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief.

II) For that under the provisions of the I.F.S. (Pay) Rules and I.F.S. (Recruitment) Rules read with Govt. of India's circular dated 27.4.87, the applicants, on completion of 4 years, are entitled to be promoted to the senior scale and since they are not under suspension and no disciplinary proceedings have been initiated against them, there can be no justification whatsoever in depriving them promotion due to them and as such the action of the authority is bad in law and liable to be set aside.

III) For that the action of the authority in denying promotion due to them under the Rules amounts to withholding of promotion which is a penalty and as the procedure laid down for imposing penalty has been followed, the impugned action is bad in law and liable to be set aside.

IV) For that, though the applicants were eligible and available to be promoted to the senior scale, the authority illegally have allowed S.F.S. Officers to hold cadre posts in violation of the Rules and as such the action of the authority is bad in law and liable to be set aside.

Boy

V) For that ,inspite of several judgments passed by this Hon'ble Tribunal in respect of the same matter, the authority is flouting the orders and the officers are being made to approach this Hon'ble Tribunal for promotion which is otherwise due to them and as such t'is is a fit case when this Hon'ble Tribunal will exercise jurisdiction and grant relief.

9: RELIEF SOUGHT AND PRAYER :

It is, therefore, prayed that your Lordships would be pleased to consider what is stated above, admit this application, ask the opposite parties to show cause as to why the applicants should not be deemed to have been promoted to the senior scale w.e.f. the date it ~~was~~ due and after perusing the causes shown, if any, and hearing the parties, direct that the applicants No.1 and 2 be deemed to have been promoted to the senior time scale of I.F.S. w.e.f. 1.4.95 and the applicant No.3 from 1.4.96 and/or pass any other order/orders as your Lordships may deem fit and proper so as to grant relief to the applicants.

10. INTERIM ORDER :

It is further prayed that, pending disposal of this application, your Lordships would be pleased to direct ^{the} Respondents particularly the State Govt.

contd...

12.

respondents not to promote any S.F.S. Officer to the vacant post of senior time scale for the ends of justice.

And for this act of kindness, the petitioners, as in duty bound, shall ever pray.

11. Does not arise .

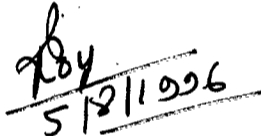
12. Postal order No. 09 34.61.25 dated 24.5.96 issued by the Post Office at Guwahati.

contd...

200

VERIFICATION

I, Shri Prantosh Roy , I.F.S., son of Shri Brajendra Nath Roy, aged about 32 years, presently working as the Asstt. Conservator of Forests, Sonitour East Division, Biswanath Chariali do, hereby, state that I am one of the applicants in this application and I verify that the contents of paragraphs 1, 2, 3, 6, 7, 8, 10 are true to my personal knowledge and those made in paragraphs 4, 5, 9, are believed to be true on legal advice and I have not suppressed any material fact.


5/12/1926
(Prantosh Roy).
Signature.



No.20014-22/87/IFS-II

Govt. of India

Ministry of Environment & Forests,

Deptt. of Environment, Forest & Wildlife.

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi 110003.

Dtd. 27th April 1987.

To,

The Chief Secretaries to
All the State Govts.

Sub : IFS (Pay) Rules, 1968 - appointment to the senior time scale, junior administrative grade- Manner of computation for eligibility for appointment.

Ref : IFS (Pay) Rules as amended in this Deptt's notification No. 11030/17/87-AIS(II) dtd.13th March 1987.

Sir,

In continuation of the Ministry of Personal Public Grievances and Pensions (Deptt. of Personnel & Training) letter No. 11030/22/87-AIS (II) Dtd.31.3.87. the position regarding appointment of Indian Forest Service Officers to the senior time scale, junior Administrative Grade and Selection Grade is clarified below :

2. According to the proviso to sub-rule (1) of rule 3 of the IFS (Pay) rules, 1986 as amended in this Deptt's notification dtd. 13th March '87, a member of the service shall be appointed to the senior time scale on completing 4 years of service subject to the provisions of sub-rule (2) of rule 6A of the IFS (Rectt.) Rules, 1966 Similarly, he shall be appointed to the Junior Administrative Grade on completing 9 years of service. Further, under the proviso to sub-rule (3) of Rule, 3, no member of the service shall be eligible for appointment to the selection grade unless he has entered the 14th year of service. For the purpose of these appointments, completion of 4 years, 9 years of service are to be calculated from the year of allotment.

3. A question has been raised with regard to the method of computation of years of service, under those rules. It been noted that the probationary training of direct

Att. to
Bill
Ad.

Annex. D contd.

recruits commences in the month of April/May and therefore, they will be completing 4 years, 9 years or 13 years of service, as the case may be in the month of April/May. However, some of the officers might join later, creating a situation where the seniors become eligible for promotion latter than their juniors in service. In order to remove such anomalies, it has been decided that the 1st day of April of the relevant year shall be reckoned for the purpose of computing the requisite number of years of service under the those rules.

4. The position in so far as direct recruits are concerned is clarified as under :

(a) Appointment to Senior Time Scale :

An officer shall be eligible for appointment to the Senior Time Scale at any time after 1st April of the year in which ~~xx~~ he completes 4 years of service depending on the ~~xxxx~~ availability of a vacancy in that year subject to the provisions of the IFS (Rectt) Rules, 1966. For, example, an officer whose year of appointment is 1983 may be appointed the senior time scale on or before 1.4.87.

(b) Appointment to the Junior Administrative Grade

An officer shall be allowed the Junior Administrative Grade on 1st April of the year in which he completes 9 years of service. This grade is non-functional and shall be admissible without any screening, to all the officers in the senior time scale who have completed 9 years of service on the said date. For example, an officer whose year of appointment is 1987 shall be allowed the Junior Administrative grade on 1.4.87.

(c) Appointment to the Selection Grade.

An officer shall be eligible for appointment to the Selection Grade at any time after 1st April of the year in which he completes 13 years of service subject to the provisions of the Indian Forest Service (Pay) Rules 1968. and subject to the

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Contd.....

availability of a vacancy in the selection Grade. For example, an officer whose year of allotment is 1974 shall be eligible for appointment to the Selection Grade on or after 1.4.87.

5. With regard to the officers appointed to the service by promotion/selection, the date of computing their eligibility to the Junior Administrative Grade and the selection grade, on completion of 9 years and 13 years of service respectively, shall be the first day of the month following the month in which the officer has completed the prescribed number of years of service.

6. These instructions will not adversely affect those officers who have been promoted to the Senior time scale or Selection Grade prior to 13th March 1987, the date on which the pay rules have been amended.

Yours faithfully,

Sd/-

(M. KRISHNAIAH)

DEPARTMENTARY SECRETARY TO THE GOVT. OF INDIA

Copy to

All Ministries/Depts. in the Govt. of India.

M. K. Chidambaram
1/1/87

Attended
S.M.
A.S.

To,

The Principal Chief Conservator
of Forests (Administration),
Assam, Rehbari, Guwahati.

Sub :- "Promotion to the rank of D.C.F.

Sir,

With due respect I like to inform you that I joined in Indian Forest Service in 1991 at junior time scale. Now it is fourth year running. I have passed *** all the exercises, qualifying tests prescribed under I.F.S. Regulations 1968. Senior time scale is due in 1995. It is given effect in general from 1st April i.e. start of a new financial year. I am requesting you to take necessary action in this regard.

All this for favour of your kind information and necessary action.

Thanking you,

Yours faithfully,

Prantosh Roy

(PRANTOSH ROY) I.F.S.
Asstt. Conservator of Forests,
Cachar Division, Silchar.

Dated, Silchar

The 7th Feb/1995.

Enclosures - (1) One certificate from I.A.M.F.A., Doharkein

Yours Faithfully

Prantosh Roy, I.F.S.,
A.C.F., Cachar Division
Silchar.

Attested

Sill
A.S.

Personal Copy

roy
25/4/95 78
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To.

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

Sub:- Promotion to the Rank of D.C.F. from A.C.F. in the
Assam Cade of an I.F.S. (AIS) Officer.

Sir,

With due respect I like to inform you that I joined
in Indian Forest Service in 1991 at Mussarie. I have passed
all the exercises, qualifying tests prescribed under I.F.S.
regulations 1968. I came to know that a No. of senior scale
I.F.S. "Code Posts" are lying vacant. As per with I.F.S.
regulation senior scale is due from 1st April 1995. I will
be highly obliged if timely action are taken so that I may
get the senior scale and the rank of D.C.F. as early as
possible. All these for favour of your kind information and
necessary action.

Thanking You.

Yours faithfully,

Prantosh Roy

(PRANTOSH ROY, I.F.S.)
ASSISTANT CONSERVATOR OF FORESTS
SONITPUR EAST DIVISION,
O/O D.F.O., SONITPUR EAST DIVN.
P.O.:-BISWANATH CHARIALI,
DIST:-SONITPUR, ASSAM,
DATED:-B/CHARIALI, 25/4/1995

Copy to Commissioner and Secretary to the Govt. of
Assam, Forest Deptt., Dispur for favour of his kind informa-
tion and necessary action.

Thanking You.

Yours faithfully,

Prantosh Roy

(PRANTOSH ROY, I.F.S.)
ASSISTANT CONSERVATOR OF FORESTS,
SONITPUR EAST DIVISION,
O/O D.F.O., SONITPUR EAST DIVN.
P.O.:-BISWANATH CHARIALI,
DIST:- SONITPUR, ASSAM.
DATED:-B/CHARIALI 25/4/1995.

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ADs

personal copy

Roy

23/8/1995

19

To,

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

Through the Principal Chief Conservator of
Forests, Assam, Rehabari, Guwahati-8.

Sub :- Promotion to senior time scale of IFS(AIS).

Sir,

With due respect I like to inform you that
I joined in I.F.S. in 1991. I have passed all the exercises,
qualifying tests prescribed under I.F.S. regulations 1968.
My promotion is due since 1st April, 1995 under Rule 6(A) of
the I.F.S. (Recruitment) Rules, 1966 read with administrative
instruction issued from Govt. of India to States on 24.9.73,
13.3.1987 and 24.4.1987.

I came to know that a No. of senior scale I.F.S.
"Cadre" posts are lying vacant, I will be highly obliged if
I am promoted to senior time scale with effect from 1st
April, 1995.

Thanking you.

Dated Guwahati the
21.8.95.

Attested

Sill
AD

Yours faithfully,

Prantosh Roy, I.F.S.

(Prantosh Roy, IFS),
Assistant Conservator of Forests,
Sonitpur East Division,
Biswanath Charali.

RECORDED

TO.

20-
32

The Secretary, Forest Department,
Dispur.

Through the Divisional Forest Officer, Sonitpur East
Division, Biswanath Chariali.

Subj:- Promotion to "Senior time Scale."

Sir,

With due respect I would like to inform you that I am an I.F.S. Officer joined in 1991. I am eligible for Promotion to Senior time scale since 1st April, 1995 under Rule 6(A) of the I.F.S. (recruitment) Rules 1966 and Rule 3(I) of the I.F.S. (Pay) Rules, 1968. At least six Posts were lying vacant at that point of time. It is already six months delay and I have not received any single letter from the Govt. instead of my repeated writings and telegram. My friends in other two All India Services (I.A.S. & I.P.S.) were promoted to senior time scale long back. It has created in me tremendous amount of mental agony and depression. I am requesting you to do the needful so that I am promoted to senior time scale as early as possible with effect from 1st April, 1995 and be entitled to all consequential benefits.

All these for favour of your kind information and necessary action.

Yours faithfully,

Prantosh Roy, I.F.S.
(PRANTOSH ROY, I.F.S.)

ASSISTANT CONSERVATOR OF FORESTS;
SONITPUR EAST DIVISION;
BISWANATH CHARIALI

Dated, Chariali

21/9/95

ADDRESS

(PRANTOSH ROY, I.F.S.)

ASSISTANT CONSERVATOR OF FORESTS;
SONITPUR EAST DIVISION;
O/O : D.F.O. (TERRITORIAL)
P.O : BISWANATH CHARIALI
DIST: SONITPUR (ASSAM)
PIN : 784176

*Attested
Bill
ASR*

To.

The Commissioner and Secretary, Forest Department,
Dispur, Guwahati.

Through proper channel.

Sub:- Promotion to "Senior time scale".

Ref:- My earlier letters dated 25/4/1995, 23/8/1995 and
21/9/1995 addressed to you or a copy given to you.

Sir,

With due respect I like to submit before you the following few lines for your kind consideration and sympathetic action. Sir, I am an I.F.S. Officer of Assam Cadre from 1991 batch. My promotion to "Senior time scale" is due since 1st April 1995 under Rule 6(A) of the I.F.S. (Recruitment) Rules 1966 and Rule 3(I) of the I.F.S. (Pay) Rules, 1968. So it is already nine months since my promotion was due and it has incurred a big amount of financial loss for me. I will be highly obliged if you do the needful for my promotion as early as possible with effect from 1st April 1995.

Thanking you.

Yours faithfully,

Prantosh Roy I.F.S.

(PRANTOSH ROY, I.F.S.)

ASSISTANT CONSERVATOR OF FORESTS:
SONITPUR EAST DIVISION:
BISWANATH CHARIALI.

Dated, Chariali
8/12/1995.

Enclosures

- 1) My earlier letter dated 25/4/95
- 2) My earlier letter dated 23/8/95.
- 3) My earlier letter dated 21/9/95.

(I) Advance copy to the Commissioner and Secretary to the Govt. of Assam, Forest Department, Dispur for favour of kind consideration and necessary action.

(II) Advance copy to the Principal Chief Conservator of Forests Assam, Rehabari, Guwahati-8 for favour of kind information and necessary action.

Yours faithfully,

Prantosh Roy I.F.S.

(PRANTOSH ROY, I.F.S.)

ASSISTANT CONSERVATOR OF FORESTS:
SONITPUR EAST DIVISION:
BISWANATH CHARIALI.

Dated, Chariali
8/12/95.

*Attested
S.M.
A.S.*

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To, The Commissioner and Secretary, Govt. of Assam, Forst Dept., Dispur, Guwahati through Proper Channel.

Sub. - Promotion to "Senior time scale" due since 1st April, 1995.

Ref. - All my earlier letters/memorandums regarding promotion dated ① 25/4/95 ② 23/9/95 ③ 21/9/95 ④ 8/12/95

Sir, With due respect I would like to inform you that I am an I.F.S. officer of 1991 batch, working till today on "Junior Time Scale". My promotion to "Senior Time Scale" was due on 1st April, 1995 under Rule 3(F) of the I.F.S. (Pay) Rules, 1962. So it is nearly one year since my promotion was due. In spite of my repeated letters no timely action was taken. It results in a big amount of loss financially every month.

I will be obliged if ^{action is} taken immediately for my promotion to "Senior Time Scale" and assumed as promoted to "Senior Time Scale" since 1st April 1995 with entitlement for all consequential benefits.

Dated, Chariali
30/11/1996

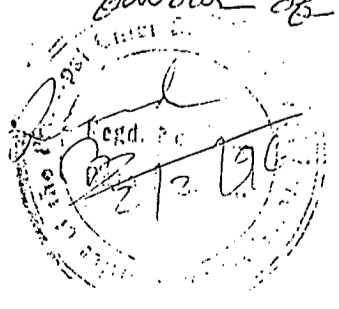
Yours Faithfully

Prantish Roy, I.F.S., A.C.F.,
S.E. Division, B. Chariali

Roy
30/11/96

Advance Copy to:

- ① Commissioner and Secretary to the Govt. of Assam, Forst Dept. Dispur for favour of his immediate action.
- ② P.C.C.F., Assam, Rehbari, Guwahati - 2 for favour of his information and n/a. (~~no receipt taken~~)
- ③ C.C.F.(T), Assam, Rajgarh Road, Guwahati, for favour of his information and n/a (no receipt taken)



Attested
Sd/-
Add
Received
33/12/96
C.A. Commissioner
Chariali

GOVERNMENT OF ASSAM
OFFICE OF THE DIVISIONAL FOREST OFFICER: K.E.DIVN.GUWAHATI:

Memo No. A/ENR/DAW/516

Dt. 27/3/96

To,

The Conservator of Forests ,
Central Assam Circle ,
Guwahati - 1

Sub:-


Prayer for the Promotion to the rank of
Deputy Conservator of Forests .

Sir,

With reference to the subject above, I have the honour to forward herewith an application dt. 15-3-96 received from Sri K.S.P.V. Pavan Kumar, A.C.F. addressed to the Commissioner and Secretary, Forest Department, Govt. of Assam praying for the Promotion to the rank of Deputy Conservator of Forests, which is self explanatory for favour of your needful action .

Encls:- As above .

Yours faithfully ,



DIVISIONAL FOREST OFFICER:
KAMRUP EAST DIVN. GUWAHATI

ob
Attended
Sill
A.S.

To
The Commissioner-Secretary,
Dept. of Forests,
Govt. of Assam.
Dispur.

Date: 15-3-1996.
Station: Guwahati.

Subject:- Prayer for the promotion to the rank of Deputy Conservator of Forests.

Sir,

I, K.S.P.V. Pavan Kumar, belong to the 1992 batch of the Indian Forest Service. I am currently serving as Asst. Conservator of Forests, attached to the P.C.C.F., Assam, and have been working at the Kamrup East Division, Kacherighat, Guwahati, as per the directive of the P.C.C.F., Assam, from February 1995 onwards.

I beg to state that I will be completing four years of service by April 1st, 1996, and thus will become eligible for the promotion to the rank of Deputy Conservator of Forests by that date. I may kindly be promoted to the rank of Deputy Conservator of Forests as per my eligibility, and allowed to be posted in one of the cadre posts anywhere in Assam, subject to the vacancies.

Thanking You Sir,
Yours Faithfully,

KSPV Pavan Kumar

[K.S.P.V. Pavan Kumar]
Asst. Conservator of Forests,
Kamrup East Division,
Kacherighat, Guwahati.

Copies to:

- *Commissioner-Secretary, Forest Dept., Govt. of Assam, Dispur.
- *P.C.C.F. (Assam), Rehabari, Guwahati.
- *C.C.F. (T&A), Rajgarh Road, Guwahati.

For information and necessary action.

KSPV Pavan Kumar

[K.S.P.V. Pavan Kumar]
Asst. Conservator of Forests,
Kamrup East Division,
Kacherighat, Guwahati.

*Attended
Bill
A.S.*

- 9. (33) 5/2

Name of the I.F.S. probationer	Date of Departmental Examination held	Date of announcement of the result vide APSC's notification No.	Subject passed	Subject appeared & Result not yet announced	Remarks
1	2	3	4	5	6

1. Shri P. Roy

3.11.95 to
6.11.95

Vide APSC's
No.94 APSC/
E-2/Con/HYDE/
95-96, dt.20.5.96

1. Assamese
2. Hindi

2. Shri Rajpal Singh

-do-

-do-

1. Forest Law
2. Accounts
3. Assamese

3. Shri K.S.P.V.Pawan Kumar

31.10.96 to
3.11.96

Not yet declared.

1. Accounts
2. Procedure
3. Forest Law
4. Assamese

Handwritten notes:
12/2/97
D.S. Gupta

Signature

ASSAM PUBLIC SERVICE COMMISSION
** ** *

NO. 94 APSC/E-2/CON/HYDE/95-96,

Dated Guwahati, the 20th May 1996

NOTIFICATION

In exercise of the powers conferred on the Assam Public Service Commission vide Government Notification NO. AAP/180/69/4 dated 27-8-69 the Commission is pleased to direct publication of the results of the Half Yearly Departmental Examination held from 3rd November, 1995 to 6th November, 1995 in respect of the Officers of the following services.

1. I.A.S.
2. A.C.S.
3. POLICE
4. FOREST
5. TAXATION
6. CO-OPERATIVE
7. EXCISE
8. LABOUR
9. SUB-REGISTRAR
10. AGRICULTURE

(T.P. DAS)
Chairman,

Assam Public Service Commission,
G. S. Road, Bhangagarh, Guwahati-6.

98/P4
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assam
MPC
(Mina Alu)
12/2/97

<u>SL. NO.</u>	<u>NAME</u>	<u>ROLL NO.</u>	<u>SUBJECT IN WHICH PASSED</u>
1.	Rajpal Singh, IFS, Asstt. Conservator of Forest, Sonitpur West Divn. Tezpur.	118	(i) Forest Law (Without Books) (ii) Accounts (Without Books) (iii) Assamese
2.	Prantosh Roy, ACF, Sonitpur East Forest Divn., Biswanath Chariali, Sonitpur.	118(A)	(i) Assamese (ii) Hindi
3.	Sabyasachi Sinha, By.C.F. Silchar.	182 (A)	(i) Forest Law (Without Books)
4.	Anup Kumar Srivastava, Asstt. Conservator of Forest, Shillong, Meghalaya.	226	(i) Assamese (ii) Bengali (iii) Hindi
5.	Prafulla Ch. Sarma, Asstt. Conservator of Forest, N.E.F. Rangers' College, Jalukbari, Kamrup.	352	(i) Land Revenue (Without Books) (ii) Hindi
6.	Raghunath Boro, ACF, Haltugaon Divn., Kokrajhar.	352 (A)	(i) Accounts (Without Books) (ii) Assamese (iii) Bengali (iv) Hindi

(T.P. DAS)

(J. C. G. A. - Act.)
12/12/97

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28

GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS: ASSAM:
GUWAHATI-8.

No. FE.18/1/3/Depth. Exam, Dated, Guwahati, the 6th January/97.

To, The Commissioner and Secy. to the Govt. of Assam,
Forest Department, Dispur,
Guwahati-6.

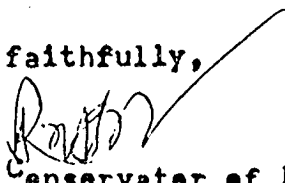
Sub:- Passing out of Departmental Examination by the
I.F.S probationers.

Sir,

As dismissed, I am furnishing herewith the statement showing the subjects passed as well appeared in the Departmental Examination in respect of the following I.F.S. probationers so for record available in this office.

1. Shri Prantesh Roy, I.F.S (1991)
2. Shri Rajpal Singh, I.F.S (1992)
3. Shri K.S.P.V. Pawan Kumar, I.F.S. (1992)

Yours faithfully,


Principal Chief Conservator of Forests,
Assam: Guwahati-8.

&&&

*Attended
To - GMA, Alvi
12/1/97*

194
197501097
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

O.A. 141/96

Sri P. Roy and others

.... Applicant

-Vs-

Union of India and others

.... Respondents.

The written statement on behalf of the State of Assam represented by the Commissioner & Secretary to the Government of Assam (Respondent No.2) and the Chief Secretary (Respondent No.4) is as follows :-

I, Smti. Reena Saikia at present working as Deputy Secretary to the Government of Assam, Department of Forest, Dispur, do hereby solemnly declare and state as follows :-

1. That the copies of the aforesaid application have been served on Respondents No.2 and 4. I perused the same and understood the contents thereof. I do not admit any of the averments not borne out by records. All allegations/averments which are not specifically admitted hereinafter are to be deemed as denied.

2. That I do not admit the averments made in the application which are not specifically admitted in this written statement.

3. That with regard to statements made in paragraph 2(2), it is stated that the I.F.S. officers are required to pass the Six(6) subjects in the Departmental Examination.

Contd...2..

42
Filed by:-

Reena Saikia

197501097
Smt. Reena Saikia
197501097
Smt. Reena Saikia

43
Reena Saitra

The Six subjects are as follows :-

- (i) Forest Law (without Books)
- (ii) Accounts (without Books)
- (iii) Land revenue (without Books)
- (iv) Procedure (with Books)
- (v) Assamese/Bengali
- (vi) Hindi.

The Half yearly Departmental Examination for Forest officers was held from 3rd Nov.'1995 to 6th Nov.'1995. The results of the said departmental Examination was published by the Assam Public Service Commission vide their notification No.94/APSC/E-2/CON/HYDE/95-96 dt.20-5-96. In the said departmental examination the applicant Nos. 1 and 2 passed only in the following subjects as follows :-

1. Sri Prantosh Roy, IFS - (i) Assamese
(Applicant No.1) (ii) Hindi
2. Sri Rajpal Singh, IFS - (i) Forest Law
(Applicant No.2) (without Book)
(ii) Accounts (without Book)
(iii) Assamese

As per provision of Rule 3(1) of IFS (Pay) Rules, 1968, a member of the service may be appointed to the Senior Scale on his completing 4 years of service subject to the provisions of sub-Rule(2) of Rule 6 A of the IFS (Recruitment) Rules, 1966. As per Rule 6 A(3), the State Government may withhold the appointment of an officer to a post in senior time scale of pay.

Contd...3..

- (i) till he is confirmed in the service or
(ii) till he passes the prescribed departmental examination or examinations.

In the instant case the applicants have not yet passed the prescribed departmental examination and they have not yet been confirmed. As such the applicants are not eligible for promotion to the senior scale of I.F.S.

A photo copy of results sheet of the aforesaid departmental examination, published by the Assam Public service Commission on 20.5.96 along with the statement dt. 6.1.97 are annexed hereto and marked as Annexure 'A' to the written statement.

4. That with regard to the statements made in paragraph 3(3), I say that the applicant No.3 appeared in the departmental examination held from 31.10.96 to 3.11.96 in the following subjects :-

- (i) Account
- (ii) Procedure
- (iii) Forest Law
- (iv) Assamese.

It is to be stated here that the result of above examination held from 31.10.96 to 3.11.96 is not yet declared. Moreover the applicants should be passed in all the required subjects. And as such at present the applicants are not eligible to be promoted to the senior scale of IFS.

Contd...4...

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Reena Saitra

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Queen Saktia

5. That with regard to the statements made in paragraph 3(4), I reiterate and reaffirm the statements made in paragraph 3 above, I further beg to state that as the all the applicants have not passed the prescribed departmental examination in all the required subjects, they have not been confirmed. The Governments have decided not to promote the applicants to the senior scale.

6. That with regard to the statements made in paragraph 5 of the application, I beg to state that I have no comment to make against it.

7. That with regard to the statements made in paragraph 3(6) and 3(7), I say that all 3 applicants have not passed the departmental examination in all required subjects which is the requisite qualification for being appointed to the senior scales.

Further beg to state that the State Government have not yet identified the cadre post of I.F.S. in the level of Deputy Conservator of Forests.

8. That with regard to the statements made in paragraph 3(8), I have no comment against it.

9. That with regard to the statements made in paragraph 3(9) of the application, I beg to state that the applicant are making all these allegations merely on assuming certain wrong notions. As mentioned earlier, the cases of the applicants for promotion to senior scale,

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could not be considered as they did not fulfil the requirements for being promoted to the senior scale.

10. That with regard to the statements made in paragraph 3(10) of the application, it is to be stated that the applicants could not be promoted to the senior scale as they could not pass the prescribed departmental examination and they are not confirmed.

11. That it is respectfully submitted that this is not at all a fit case in which this Hon'ble Tribunal should interfere.

VERIFICATION

I, Smti. Reena Saikia at present Deputy Secretary to the Government of Assam, Forest Department, do hereby state that the statements made above are true to my knowledge, belief and information and I have not suppressed any fact.

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

Reena Saikia

SIGNATURE