

**Central Administrative Tribunal
Madras Bench**

OA/310/00191/2014

Dated the 11th October Two Thousand Eighteen

P R E S E N T

Hon'ble Mr.P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

G.S.Rawat, IFS,
Principal Chief Conservator of Forests & Chairman,
Arasu Rubber Corporation Limited,
9D, Panagal Maaligai,
Saidapet, Chennai 600 015. .. Applicant
By Advocate **Mr.M.Ravi**

Vs.

1. The Union of India, rep by
The Secretary to Government,
M/o Environment & Forest,
New Delhi.
2. The State of Tamil Nadu, rep by
The Chief Secretary to Government,
Secretariat, Chennai 600 009.
3. The Additional Chief Secretary to Government &
Principal Secretary to Government,
Environment & Forest Department,
Secretariat, Chennai 600 009. .. Respondents

By Advocte **Mr.V.Kathirvel**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The applicant has filed this OA seeking the following relief:-

“to call for the records on the file of the 3rd respondent in Govt. letters No.25190/FR.Spl.A/2013-3 dated 19.2.2014 and quash the same and to issue appropriate direction to the respondents herein to forthwith promote the applicant herein as Principal Chief Conservator of Forests(Head of Forest Force) with the Apex Scale of Rs.80000/- (fixed) with effect from 01.2.2014 F.N. and to grant him all consequential benefits and to pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of this case.”

2. The applicant is an IFS Officer selected in 1978 batch and he was allotted to the Tamil Nadu cadre. He was initially appointed as Assistant Conservator of Forest and thereafter promoted as District Forests Officer(DFO), then to the post of Conservator of Forests and thereafter posted as Additional Principal Chief Conservator of Forests during the year 2008. In 08.11.2012 he was promoted to the post of Principal Chief Conservator of Forests and he was deputed as Chairman, Arasu Rubber Corporation Ltd., Chennai. From 01.5.2013 he is the senior most IFS Officer of Tamil Nadu cadre. His immediate senior was appointed as Principal Chief Conservator of Forests (Head of Forest Force) Tamil Nadu in the apex scale of Rs.80000/- w.e.f. 01.7.2012. Shri Gautam Dey retired from service on 31.1.2014. Then the applicant became the senior most IFS Officer and became eligible to be appointed as Principal Chief Conservator (Head of Forest Force) in the apex scale

w.e.f. 01.2.2014. Since his retirement was approaching on 28.2.2014, he gave a representation to the 3rd respondent on 10.10.2013 itself to promptly appoint him to the post of Principal Chief Conservator (Head of Forest Force) Tamil Nadu. But the 3rd respondent without considering his claim, had appointed his junior Thiru Vinod Kumar to hold the additional charge of the apex post w.e.f. 31.1.2014. The applicant immediately gave representation showing his grievance, and even sought for atleast granting him the apex scale w.e.f. 01.2.2014. His representation were not properly considered by the 3rd respondent and passed a casual order without giving valid reason eventhough the Tribunal had directed the respondents in OA 108/2012 to pass a proper order and hence seeks the above mentioned relief.

3. The 3rd respondent, the contesting respondent appeared and filed reply denying the allegations. The 3rd respondent has no dispute regarding the service and to the fact that he was the senior most IFS Officer in the state cadre. As per the Indian Forest Service (Pay) Rules 2007, each state can have only one officer in the Apex scale of Rs.80,000/-. At the time when the applicant submitted his representation, Mr.Gautam Dey was working as Principal Chief Conservator in the apex scale and since he has not retired, his representation could not be considered. A special Screening Committee was constituted for selection purpose. Since the applicant was retiring on 28.2.2014 on superannuation, Vinod Kumar, IFS was given additional charge of the Principal Chief Conservator of Forests (Head of the Forest Force),

Tamil Nadu. Even before junior officers were appointed as Chief Conservator of Forests (Head of the Forest Force) there was no reason to raise this dispute. The representation dated 03.2.2014 also could not be considered, as the selection process was going on and his application could not be considered in violation. The applicant has no right, much less a legal right, to insist that he should be promoted to the post of PCCF(Apex scale). Even the Selection Committee recommendations can be agreed or disagreed by the government. The Committee was appointed as per rules for selection in December 2013 and meeting was convened on 19.12.2013. The recommendation of the Committee is not binding on the Government and the Government is bound to take a decision within 3 months.

4. The applicant has produced the order dated 30.7.2014 appointing Vinod Kumar, IFS as Principal Chief Conservator of Forests and Head of the Forest Force by 3rd respondent as Annexure A13.

5. The applicant had filed MA 463/2018 for early hearing and the matter was heard by this Bench.

6. The counsel for the applicant would content that there were occasions earlier when officers having lesser service than the applicant were appointed and the action of the respondent is arbitrary and discriminatory. The counsel for the respondent would contend that 3rd respondent had appointed Vinod Kumar since the applicant herein had only one month to retire and it will not be in the interest of the Forest

Department to appoint the applicant as Principal Chief Conservator of Forests (Apex scale) and 3rd respondent had acted only as per guidelines issued by 1st respondent in this regard.

7. We have gone through the arguments and pleadings made by both sides in this case. It is now not disputed that the applicant had superannuated on 28.2.2014. The counsel for the applicant mainly relies on the order passed by the Division Bench of CAT, Bangalore in a similar case in OA 483/2017 dated 19.6.2018. It is not in dispute that applicant in this case was also meritorious and eligible for promotion to the apex post and the period of service left over was taken as a ground for denying the post to him. It had come out from the pleadings that people having shorter tenure were also appointed to the apex post earlier. So denying the apex scale to the applicant has to be considered arbitrary and not justified. The applicant could have been granted apex scale. Hence, it is only proper to hold that the applicant is entitled to be appointed to the apex scale right from the date when his junior was appointed i.e. w.e.f. 01.2.2014 onwards. Since the applicant has already retired on superannuation, his appointment to the apex scale post i.e. Principal Chief Conservator of Forests (Head of the Forest Force) can only be on notional basis.

8. In the result, it is ordered that the applicant is entitled to get the monetary benefits of apex scale right from the date when his junior was appointed to the post i.e. 01.2.2014 with consequential pensionary benefits he is entitled to. 3rd respondent

will pass necessary orders giving the notional appointment within a period of 3 months from the date of receipt of a copy of this order.

9. With the above direction, OA is disposed of. No costs.

(T.Jacob)
Member(A)

11.10.2018

(P.Madhavan)
Member(J)

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