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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00701/2016

Thursday this the 20th day of December, 2018

CORAM:

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

S.Janardanan,
Retired Deputy Conservator of Forest,
Divisional Forest Office, Ranni Forest Division,
Ranni PO, Pathanamthitta Dt.
Presently Residing at T.C.21/259(2), 'Aswathy',
Judge Road, Karamana P.O., Thiruvananthapuram – 695 002.Applicant

(By Advocate Mr.S.Sujin)

v e r s u s

1. State of Kerala,
represented by the Chief Secretary to
to Government, Government Secretariat,
Thiruvananthapuram.
2. The Chief Secretary to Government of Keral,
General Administration (Special C) Department,
Government Secretariat, Thiruvananthapuram -695 001.
3. The Principal Chief Conservator of Forests,
Forest Headquarters, Vazhuthacaud,
Thiruvananthapuram – 695 014.
4. The Union of India,
represented by the Secretary,
Ministry of Environment & Forest,
Indira Paryavaran Bhavan, Jorbagh Road,
New Delhi – 110 003. ...Respondents

**(By Advocates Mr.M.Rajeev, GP [R 1-3]
and Mr.Thomas Mathew Nellimottill [R-4])**

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This application having been heard on 14th December 2018, the Tribunal on 20th December, 2018 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.No.180/701/2016 is filed by Shri.S.Janardanan, retired Deputy Conservator of Forests (DCF). The applicant was an officer of the Indian Forest Service (IFS) who retired as DCF, Ranni Forest Division, Pathanamthitta District. He had been promoted to the IFS (Kerala Cadre) from the State Forest Service (SFS) under the Indian Forest Service (Appointment by Promotion) Regulations, 1966. In the O.A the applicant states that during the year 2008 he had been eligible for consideration for appointment by promotion to the IFS. Despite the presence of other vacancies, due to the lethargic attitude of the respondents in convening the Selection Committee Meeting the selection procedure was not completed and thereby he was denied opportunity. The applicant retired from the State Civil Service on 31.3.2011. He had represented to the Chief Secretary to Government of Kerala, to convene the Selection Commission Meeting before his retirement.

2. Since there was no favourable response from the respondents, the applicant was constrained to approach this Tribunal by filing O.A.No.626/2010 for a direction to the respondents to expedite the process of convening the Selection Committee Meeting and this Tribunal by order dated 21.7.2010 was pleased to direct the Union Public Service Commission

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(UPSC) to convene the Selection Committee Meeting at the earliest, at any rate, within a period of 60 days from the date of receipt of a copy of the order and also directed the Chief Secretary to the Government of Kerala to forward all papers required to the 4th respondent which is the Union Public Service Commission within 30 days from the date of order ie. 21.7.2010. Despite this direction, citing one reason or the other, the respondents did not proceed with the convening of the Selection Committee.

3. The applicant was once again constrained to approach this Tribunal and he did so by filing O.A.No.220/2011. The O.A was disposed of by this Tribunal by order dated 27.4.2011 directing the respondents to consider the applicant along with other eligible candidates from the State Forest Service for the years 2008 and 2009 for promotion to the IFS. Finally the applicant was promoted into the IFS by notification dated 8.10.2012. The period of compulsory waiting for promotion was thereafter regularized from 11.10.2012 as per Government of Kerala Order G.O(Rt) No.3246/2014/GAD dated 26.4.2014.

4. Certain other officers of the IFS who were similarly placed approached this Tribunal for regularizing the intervening period from the date of their retirement from the State Forest Service and joining the Indian Forest Service on duty and sought grant of arrears of pay and allowances. This Tribunal was pleased to pass an order in favour of such officers granting reliefs as prayed

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for. The State Government filed a Writ Petition No.31299/2009 challenging the above order before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala after hearing the matter passed an order holding that the intervening period from the relief from State Service and induction to the Indian Forest Service will be regularized notionally and all benefits including monetary benefits reckoning such period shall be granted to them. A copy of the order of the Hon'ble High Court of Kerala dated 18.3.2014 is at Annexure A-1. In pursuance with the said order, the Government of Kerala was pleased to regularize the intervening period in respect of all those applicants who are petitioner in Annexure A-1 order. The G.O(Rt) No.2165/2015/GAD issued by the 2nd respondent, namely, The Chief Secretary to Government of Kerala dated 25.3.2015 is at Annexure A-2.

5. The applicant being a similarly placed person expected that the respondents would adopt the same view in his case as well. Since no action was forthcoming from the Government the applicant filed a representation before the Government on 14.3.2016 narrating all the facts. However, this was turned down by order dated 21.4.2016 issued by the Government of Kerala at Annexure A-4.

6. As grounds, the applicant seeks parity with those officers who were the beneficiaries of the order at Annexure A-1. It would be incorrect and discriminatory to treat persons belonging to the same class of

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officers differently. In the impugned order the Government has not adduced any reason for the delay in holding the Selection Committee Meeting. It was entirely due to the lethargic attitude of the respondents. The fact that he came to be promoted to a vacancy of 2008 in the year 2012 is due to the inordinate delay for which the respondents are solely responsible.

7. A reply statement has been filed on behalf of Respondent Nos.1, 2 & 3 wherein it has been argued that delay in convening the Selection Committee Meeting for consideration of officers for promotion to the IFS for the vacancies of 2007, 2008 and 2009 was unavoidable in view of certain instructions of the UPSC. As the vacancies of three years were being considered, several details had to be submitted to the UPSC and this took time. It is admitted that the officer had retired from service at the end of March, 2011 and he was finally allotted to the vacancies for the year 2008. He had re-joined the Government on being notified as IFS Officer in 2012 on 10.10.2012. A copy of the letter from the Ministry of Environment and Forests dated 9.11.2006 is available at Annexure R-3 in which it is stated that it would not be appropriate to allow officers salary and other benefits for the intervening period between the date of retirement from SFS and the date of joining in the IFS cadre.

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8. Heard Shri.S.Sujin, learned counsel for the applicant and Shri.Rajeev.M, learned GP for Respondent Nos.1-3 and Shri.Thomas Mathew Nellimoottil, learned counsel for Respondent No.4. It is not denied that the officer had been granted promotion to the IFS for the vacancy year 2008. As per the extant directions of the UPSC/Government of India, the eligible candidates are to be considered for vacancies of a particular year during the next year itself. Thus, in the normal course, officers for 2008 vacancies ought to have been considered and notified for promotion in the year 2009. There are no convincing arguments raised on behalf of the respondents to explain the very long delay of nearly four years in having issued orders promoting eligible candidates of 2008 batch. As a result of this delay, the officer retired from State Civil Service in 2011 and had to resume his duty as an IFS Officer next year ie. in 2012.

9. It is seen that the same problems had arisen in the case of other officers also and the Hon'ble High Court of Kerala had, as per orders at Annexure A-1, considered the issue of regularizing the service during the intervening period and allowed them the benefits. Accordingly, 1st respondent had issued orders as per Annexure A-2. We are of the view that the applicant in this case also is entitled to the same benefits as has been granted to the officers as per order at Annexure A-2. Perhaps the solution to the problem, at least, in future would be to take timely action in order to select eligible candidates for promotion to the IFS promptly rather than waiting for several years citing

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one reason or the other. In several cases coming up before this Tribunal even now, we have seen this lethargic attitude being taken by the Respondent No.1, the State Government, in forwarding the details of those who are in the zone of consideration thereby delaying the Selection Committee Meeting at the level of the UPSC. Original Applications are pending from officers who claim promotion to the IFS for 2016 and 2017 vacancies and it is a matter of regret that Selection Committee Meeting is yet to take place even in December, 2018. This is an issue which requires urgent redressal. In so far as the merit of this case is concerned, we are of the view that the O.A has merit on its side. We allow the reliefs sought for except in the matter of interest for delayed payment.

10. The O.A stand disposed of as above. No costs.

(Dated this the 20th day of December 2018)

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00701/2016

1. **Annexure A1** – True copy of the Judgment dated 18.03.2014 of the Hon'ble High Court of Kerala in WP(C) No.5791/2009 and connected cases.
2. **Annexure A2** – True copy of the order issued by the Government of Kerala G.O.(Rt) No.2165/2015/GAD dated 25.03.2015.
3. **Annexure A3** – True copy of the representation dated 14.03.2016 submitted by the applicant before the 2nd respondent.
4. **Annexure A4** – True copy of the order of the reply issued by the 1st respondent to the applicant vide letter No.e-522113/Spl.C1/2016/GAD dated 21.04.2016.
5. **Annexure R1** –Office Memorandum No.22012/99/2009-AIS(1) DATED 25.08.2010
6. **Annexure R2** – Letter No.14362/Spl.C1/2009/GAD dated 26.02.2011.
7. **Annexure R3** – Letter No.18014/02/2005 IFS II dated 09.11.2006 from Ministry of Environment & Forest.
8. **Annexure R4** – Copy of Declaration of Shri Janardhanan.
