

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00389/2019

DATED THIS THE 29<sup>TH</sup> DAY OF AUGUST, 2019

**HON'BLE DR.K.B.SURESH, MEMBER (J)**

**HON'BLE SHRI C.V. SANKAR, MEMBER (A)**

Sampath S,  
S/o Sundaramurthy,  
Aged 52 years, working as  
Senior Technical Assistant,  
Forest Survey of India, South Zone,  
8<sup>th</sup> Floor, Kendriya Sadan,  
Koramangala, Bengaluru 560 034  
Residing at No. 27/2B, 2<sup>nd</sup> Cross,  
1<sup>st</sup> Main, Sarakki Garden,  
J.P. Nagar 6<sup>th</sup> Phase,  
Bengaluru 560 078  
(By Advocate Shri A.R. Holla)

..... Applicant

Vs.

1. Union of India  
By Secretary,  
Ministry of Environment,  
Forest and Climate Change,  
Prithvi Block, 1<sup>st</sup> Floor,  
Indira Paryavaran Bhavan,  
Jor Bagh Road, Aliganj,  
New Delhi 110 003

2. The Director General,  
Forest Survey of India,

Kaulagarh Road, P.O: IPE,  
Dehra Dun 248 195

3. The Joint Director (P&A),  
Forest Survey of India,  
Kaulagarh Road, P.O: IPE  
Dehradun 248 195

4. The Secretary,  
Union Public Service Commission,  
Dolpur House, Shahjahan Road,  
New Delhi 110 069

5. Sri Devi Singh,  
Senior Technical Assistant,  
Forest Survey of India,  
Kaulagarh Road, Dehradun 248 195

6. Smt. Neela Sunil Goswami,  
Senior Technical Assistant,  
Forest Survey of India,  
Kaulagarh Road, Dehradun 248 195

....Respondents

(By Shri H.R. Sreedhara, Counsel for the Respondent No. 1 to 3, 5 & 6 and  
Shri M. Rajakumar, Counsel for Respondent No. 4)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. Respondent No. 1 to 3 files reply. Respondent No. 4 adopts their reply. The matter is in a very small compass. Applicant was working in the department of Forest Survey of India, South Zone as on 20.10.1989 as Junior Technical Assistant. On 25.03.2010 he was promoted as Senior Technical Assistant. On completion of 7 years of service as Senior Technical Assistant, apparently, he became eligible to be considered for promotion to the post of Assistant Director as per the germane and relevant Recruitment Rules which were of the year 1994.

2. He would say that apparently a proposal was sent to the Respondent No. 1 for his promotion as Assistant Director. But then vide Annexure-A5 No. 6-2/2016-FE, Government of India, Ministry of Environment, Forest & Climate Change dated 13/20.12.2017, which we quote, it is rejected on the ground that he did not complete 7 years of service.

**“No. 6-2/2016-FE  
Government of India  
Ministry of Environment, Forest & Climate Change  
Indira Paryavaran Bhawan,  
6<sup>th</sup> Floor ‘Jal Block’, Jor Bagh Road,  
New Delhi 110 003  
13/20<sup>th</sup> December, 2017**

To,  
Director General  
Forest Survey of India  
P.O. IPE, Kaulagarh Road,  
Dehradun 248 194

**Subject: Filling up of five posts of Assistant Director, Group-A, in the Pay Band-3 – Rs. 15600-39100/- plus Grade Pay of Rs. 5400/- by promotion through Departmental Promotional Committee in FSI.**

Sir,

*I am directed to refer to your letter No. 3-6/2015-Admin./988 dated 23<sup>rd</sup> October, 2017 and letter No. 3-6/2015-Admin./1135 dated 30<sup>th</sup> November, 2017 on the subject mentioned above and to state that the proposal has been examined in the Ministry, it is observed that none of the official is eligible for promotion to the post of Assistant Director for the vacancy year 2011-12, 2013-14 and 2014-15 as per the eligibility list of Senior Technical Assistant (STA) furnished by FSI.*

2. *As per the existing Recruitment Rules STA in FSI including National Forest Data management Centre with at least seven years regular service in the grade are eligible for promotion to the post of Assistant Director. None of the officials completed seven years' regular service in the grade as on 1<sup>st</sup> April of the vacancy year as per the eligibility list of Senior Technical Assistant (STA) furnished by FSI.*

2. *FSI is requested to look into the matter and the proposal may be submitted as per the guidelines of UPSC. Proposal is returned in original along with the copies of ACRs.*

*Encl: As above.*

*Yours faithfully,  
Sd/-*

*(J.P. Meena)*

*Under Secretary to the Government of India  
Tel. No. 24695322.”*

3. But then if the applicant had become a Senior Technical Assistant on 25.03.2010, on 20.12.2017 he had definitely completed 7 years of service. This is pure computation or arithmetic nothing more to it.

4. Apparently thereafter vide a gazette notification published on 23.02.2018 a new set of Recruitment Rules came into being and now the respondents says that because the new set of rules had come into being applicant is not eligible for the post but both sides agree that the vacancy arose even earlier and the proposal for his promotion to the post of Assistant Director had also been sent much earlier. Even if an amendment to the Recruitment Rules was in contemplation, that cannot mar or defeat the right which was already accrued to him. Applicant is therefore eligible to be considered under the extant and available Recruitment Rules at that point of time the vacancy arose. There cannot be retrospective operation of a statute unless specifically brought in with very significant reason. Therefore, it will be hereby declared that applicant is eligible to be considered under the old Recruitment Rules of 1994 as the vacancy and his qualification has arisen during the interregnum of it being in force. The OA is allowed with a mandate to the respondents to promote the applicant to the post of Assistant Director

if no other impediment like character and antecedents verification or anything is held to be against him.

5. The OA is allowed. No order as to costs.

(C.V. SANKAR)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

**Annexures referred to by the applicant in OA No. 170/00389/2019**

Annexure A1: Copy of the notification dated 23.11.1994

Annexure A2: Copy of the seniority list of Technical Assistants as on  
01.01.2017

Annexure A3: Copy of the letter dated 23.10.2017

Annexure A4: Copy of the letter dated 30.11.2017

Annexure A5: Copy of the letter dated 20.12.2017

Annexure A6: Copy of the notification dated 23.02.2018

Annexure A7: Copy of the letter dated 20.07.2018

Annexure A8: Copy of the order dated 16.08.2018

Annexure A9: Copy of the representation dated 18.09.2018

**Annexures referred in reply statement**

Annexure R1: Copy of the extract from the gazette dated 17.08.1985

Annexure R2: Copy of the letter dated 23.02.2016

Annexure R3: Copy of the letter dated 22.05.2017

Annexure R4: Copy of the OM dated 28.01.2015

Annexure R5: Copy of the letter dated 20.07.2018

Annexure R6: Copy of the OM dated 12.04.2017

Annexure R7: Copy of the letter dated 16.08.2018

\* \* \* \* \*