

**THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM &  
ARUNACHAL PRADESH)**

**W.P.(C) 361 (AP)/2018**

Shri Doge Basar (ACF),  
C/o. DFO, Nampong Forest Division,  
District Changlang, PO & PS Jairampur,  
Arunachal Pradesh.

... Petitioner

-Versus-

1. The State of Arunachal Pradesh represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.
2. The Principal Chief Conservator of Forests, Department of Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.
3. The Chairman, The Departmental Promotion Committee held on 16.11.2012 and 29.09.2015.
4. Shri T. Rime, C/o. Principal Chief Conservator of Forests, Department of Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.
5. Shri A. Jerang, Principal Chief Conservator of Forests, Department of Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.
6. Shri T. Mibang, C/o. Principal Chief Conservator of Forests, Department of Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.
7. Shri Arun Kr. Chowdhury, C/o. Principal Chief Conservator of Forests, Department of Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.
8. Shri Dobin Doke, C/o. Principal Chief Conservator of Forests, Department of

Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.

9. Shri Sange Tsering, C/o. Principal Chief Conservator of Forests, Department of Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.

10. Shri Krishna Kanta Gohain, C/o. Principal Chief Conservator of Forests, Department of Environment and Forests, Itanagar, Govt. of Arunachal Pradesh, District Papumpare, Arunachal Pradesh.

... Respondents

**BEFORE**  
**HON'BLE MR. JUSTICE KALYAN RAI SURANA**

For the petitioner : Mr. T.T. Tara, learned counsel.  
For respondents No.1 to 3 : Ms. T. Wangmo, Jr. Govt. Advocate.  
Date of hearing : 24.09.2019.  
Date of judgment : 27.09.2019.

**JUDGMENT AND ORDER (CAV)**

Heard Mr. T.T. Tara, learned counsel for the petitioner. Also heard Ms. T. Wangmo, learned junior Govt. Advocate appearing for the respondents No.1, 2 and 3. None appears on call for the respondents No.4 to 10 although respondents No.4, 5 and 6 have filed their joint affidavit-in-opposition.

2. In this writ petition filed under Article 226 of the Constitution of India, the petitioner is alleging that he was deprived from his due right of being considered for promotion to the post of Assistant Conservator of Forest (ACF for short) with effect from 28.06.2013.

3. The learned counsel for the petitioner has submitted that the petitioner was initially appointed as Range Forest Officer (Group-B Gazetted) (RFO for short) on 11.05.1988. At that point of time, the Recruitment Rules, 1999 was in force and

accordingly, the petitioner had the requisite minimum educational qualification as he had passed Class-XII (Science) in the year 1986. As per the gradation list of Range Forest Officers as on 01.10.2010, the name of the petitioner was reflected at Sl. No.50. It is submitted that the name of the petitioner appears just below the respondent No.10 herein, whose name appears at Sl. No.49 of the said gradation list. It is submitted that in or about the year 2012, 15 (fifteen) vacancies arose in the post of ACF, out of which 8 (eight) posts were required to be filled up by direct recruitment through the Arunachal Pradesh Public Service Commission (APPSC for short) and 7 (seven) posts were earmarked for being filled up by promotion through the Departmental Promotion Committee (DPC for short). It is submitted that although DPC was held on 16.11.2012, the cases of officers appearing up to Sl. No.7 of the list i.e. the immediate senior to the petitioner was considered but the candidature of the petitioner was not considered although he had reached the zone of consideration. Thereafter, orders of promotion of the departmental candidates were issued on 30.01.2013. Thereafter, the gradation list of ACF published on 31.01.2013. It is submitted that while selecting the candidates for promotion, their authorities were required to maintain the ratio of 2:1, but as the said requirement was not adhered to, the petitioner was deprived from his name being considered by the DPC. In this regard, the learned counsel for the petitioner has referred to paragraph 18 of the affidavit-in-opposition filed by respondents No.1 and 2 to show that the said respondents had admitted that the zone of consideration in DPC is 3 (three) times of the post lying vacant. It is submitted that in the said paragraph 18 of the affidavit-in-opposition, it has been further stated that the contention of the petitioner was that his case not placed before the DPC dated 16.11.2012 was false as his case was also placed before the DPC on 16.11.2012 for consideration and in this regard by referring to the DPC recommendation as reflected in the minutes is referred to and it is submitted that there is no reflection in the minutes of the DPC meeting held on 16.11.2012 that the name of the petitioner was considered by the DPC.

4. The learned counsel for the petitioner submits that the aggrieved petitioner had submitted a representation on 01.02.2013 for holding a review DPC with a prayer for considering his promotion, and it is submitted that no orders were passed thereon. On 24.05.2013, the petitioner had submitted a representation to the effect that there were 50 (fifty) Arunachal Pradesh Forest Service (APFS for short) Officers against 64 (sixty four) sanctioned strength in different feeder

grades of APFS Officers and that there were 9 (nine) vacant posts of ACF out of which 8 (eight) posts were reserved for direct recruitment and, as such, one post was clearly vacant against promotional quota. The learned counsel for the petitioner has also submitted that one Assistant Deputy Conservator of Forest (ADCF for short) had proceeded on deputation outside the State for 4 (four) years which had paved way for the said vacant post to be filled up by the senior most ACF on promotion. It is also submitted that one G.C. Doley, ACF was due to superannuate on 30.06.2013. Therefore, the petitioner is stated to have become eligible for promotion from the post of RFO to the next higher post of ACF (Entry Grade). It is submitted that on 06.06.2013, 20.01.2014 and 10.06.2015, the petitioner had represented for considering him for promotion. Thereafter, the DPC was meeting was held on 29.09.2015 and on the recommendation, the petitioner was promoted to the post of ACF (Entry Grade) (Group-A Gazetted) with effect from 29.09.2015 by order dated 20.10.2015.

5. It is submitted by the learned counsel for the petitioner that the aggrieved petitioner had filed WP(C) 128(AP)/2017 for quashing the previous DPC dated 16.11.2012 and for a direction to recognize his service as ACF from the date when the vacancy arose in the year 2012 and/ or from 01.07.2013 and this Court by order dated 07.11.2017 issued a direction to the authorities to consider the representation dated 10.06.2015 as well as a fresh representation that may be submitted by the petitioner within 1 (one) month from the date of receipt of certified copy. It is submitted that only after the petitioner had submitted a notice dated 05.03.2018 that by not disposing the representations, the authorities had committed wilful disobedience of the aforesaid order dated 07.11.2017, the Conservator of Forest (HQR) had hurriedly disposed of the representations submitted by the petitioner by the impugned order dated 14.03.2018. The learned counsel for the petitioner has submitted that the order dated 14.03.2018 does not reflect true and correct picture because the vacancy that has been created after the superannuation of Shri G.C. Doley on 30.06.2013 is still lying vacant although by the DPC held on 29.09.2015, 2 (two) non APST RFOs have been promoted against fresh vacancies of June, 2015 while vacancy which existed in 2012 and in June, 2013 is still lying vacant. It is submitted that even as on date 3 (three) vacant posts are available to accommodate the petitioner in one of such vacancy by considering his promotion either from the year 2012 or 2013, but not from 2015 as was done vide DPC dated 29.09.2015. In support of his submissions, the

learned counsel for the petitioner has submitted that the notifications and policies adopted by the Govt. of India, Department of Personal and Training were all applicable and adopted by the State of Arunachal Pradesh and in this connection, it is submitted that in a case where the Recruitment Rules provided 50% of the vacancies of a particular grade to be filled up by promotion and the remaining 50% by direct recruitment, the seniority position of the promotes and direct recruits would be governed in terms of elastration provided in O.M. No.22011/7/86-Estt.(D) dated 03.07.1986 and 11.11.2010 as available in the Swamy's Manual on Establishment and Administration, and accordingly, it is submitted that if the said pattern was followed, the petitioner would not have been deprived of his due promotions either with effect from 2012 or with effect from 2013. The learned counsel has also relied on the case of *Union of India Vs. Hemraj Singh Chauhan*, (2010) 4 SCC 290, and *State of Karnataka Vs. C. Lalitha*, (2006) SCC 747.

6. Per contra, the learned Govt. Advocate has submitted that the categorical stand of the State was that Shri G.C. Doley, ACF was holding an unreserved post of ACF and that 32 (thirty two) RFOs belonging to "unreserved category" were senior to the petitioner on the date when the vacancy arose on 01.07.2013 on the superannuation of Shri G.C. Doley and, as such, the case of the petitioner could not have been considered for promotion to the post of ACF [APFS (Entry Grade)] with retrospective effect from 01.07.2013 as there was no vacant post of ACF under "reserved category" at that time.

7. On a perusal of the gradation list of RFO's as on 01.01.2010, it appears that the name of Shri G.C. Doley appears at Sl. No.3 and the name of the petitioner appears at Sl. No.50. While there is a clear cut statement in the impugned order dated 14.03.2018 that there were 32 (thirty two) RFOs belonging to "unreserved category" who were senior to the petitioner, but the petitioner has not made any effort to negate the said stand of the State respondents. Moreover, if under the roster system followed for promotion, the post of ACF in which the said Shri G.C. Doley was holding charge was for "unreserved category", notwithstanding that the said post for "unreserved category" became vacant w.e.f. 01.07.2013, the petitioner who is stated to belong to "reserved (APST) category" could not have been considered to promoted to the post that was earmarked for the "reserved category".

8. The DPC Minutes dated 16.11.2012 only reflects the names of the officers whose names were recommended. By the disclosure, it cannot be presumed that the name of the petitioner was not sent by the authorities before the DPC.

9. The learned counsel for the petitioner had referred to the case of *Hemraj Singh Chauhan (supra)* to impress upon this Court that an employee is entitled to be given a fair chance of promotion and also of being fairly considered for promotion as and when such promotion become due. The case of *C. Lalitha (supra)* was pressed to impress upon this Court that justice demands that a person should not be allowed to derive any undue advantage over other employees and that the concept of justice is that one should get what is due to him or her in law. In this regard we find that the ratio propounded and the said two citations is an accepted principle of service jurisprudence. However, on facts, the present case in hand is totally distinguishable from the facts on which the said two cases were decided by the Supreme Court of India. The distinguishable facts of the present case have been elaborately dealt with hereinbefore.

10. In view of the discussions above, the Court is constrained to hold that no case is made out for interference with the DPC held on 16.11.2012 and 29.09.2015 and consequently, the impugned order dated 14.03.2018 also merits no interference. Moreover, as the petitioner has already received his promotion on the basis of DPC dated 29.09.2015, the Court finds that the allegation that the petitioner was deprived of his promotion at due time is not sustainable, as such, there is no necessity for directing a fresh DPC. Accordingly, the petitioner is not found entitled to any relief and, as such, this writ petition stands dismissed. However, without any order is to cost.

**JUDGE**

Champak