IFS - Request for pensionary benefits in the PCCF grade - The Order of the Hon'ble Central Administrative Tribunal, Ernakulam Bench in OA 180/00735/2015 filed by Shri.C.K.Karunakaran IFS (Rtd.) - Compiled with - Orders issued.

GENERAL ADMINISTRATION (SPECIAL-C) DEPARTMENT
G.O(Rt.) No. 7794/2017/GAD Dated, Thiruvananthapuram, 10.12.2017
Read:- 1. Letter No.22012/08/2010 IFS-II dated 05/01/2012 from Government of India, Ministry of Environment Forests and Climate Changes.
2. G.O. (Rt.) No.1645/2012/GAD Dated 29/02/2012.
4. Representation dated 11.09.2017 from Shri. C.K.Karunakaran IFS (Rtd.)

ORDER
Shri.C.K. Karunakaran IFS (Rtd.) has filed an OA No.180/00735/2015 before the Hon'ble CAT, Ernakulam seeking a relief to the effect that he may be granted pensionary benefits due to Principal Chief Conservator of Forests (PCCF) as granted vide Government Order read as 2nd paper above to similarly situated Chief Conservator of Forests (CCFs) who had retired prior to his retirement. The OA was disposed of by the Hon'ble CAT, Ernakulam vide order read as 3rd paper above with a direction to the 3rd respondent i.e., Chief Secretary that the case be examined in detail especially in view of the contention that the persons who retired after 1986 and who are similarly placed have been granted the same benefits. The applicant was directed to file a Comprehensive representation before the 3rd respondent. Accordingly Shri.C.K. Karunakaran submitted a representation read as 4th paper above with a request to hear him before final decision is taken in the matter.

2. The applicant was heard by the undersigned on 18/11/2017. In the course of the hearing, Shri.C.K. Karunakaran IPS (Rtd.) reiterated his contentions raised in his representation which are briefed as given under.

(i) Shri.C.K. Karunakaran, entered service in the State Forest Department as Ranger on 01/01/1956. He was conferred IFS on 01-10-1966. His year of allotment was fixed as 1964 1/2. He was promoted to the grade of CCF vide G.O. (Ms.) No.56/87/GAD Dated 04/02/1987 and posted as Managing Director, Travancore Plywood Industries Ltd. While serving as Additional Chief Conservator of Forests (Wildlife), he retired from service on Superannuation on 31/12/1991. He pointed out that all his senior officers viz, (i) Shri. Arakkal Hassankutty (ii) Dr.P. Narayanan Nair (iii) Shri. Karunakaran Nair, (iv) Shri.N. Madhavan Pillai and (v) his junior Shri.Chand Bash had retired as Chief Conservator of Forests (CCF) and they were extended the benefits due for a Principal Chief Conservator Forests (PCCF), cadre officer and granted pensionary benefits in the scale of pay of the post of Principal Chief Conservator Forests.

ii) Dr. P. Narayanan Nair was granted pensionary benefits of pre-1986 CCF retirees in the higher scale though he had retired on 31/12/1986. The applicant argued about the eligibility of Dr.P. Narayanan Nair's elevation to PCCF. He explained that Shri.M.Sivarajan was promoted to the post of PCCF vide G.O (MS) No.56/87/GAD dated 4/2/1987 and based on which he asked a hypothetical question that Dr.P.Narayanan Nair, who was junior to Shri.M. Sivarajan, and retired on 31/12/1986, could not have received the post of PCCFs in the normal course if he continued as CCF in service.
iii) His senior Shri. N. Madhavan Pillai and junior Shri. S. Chand Basha were able to retire as PCCF either in the normal course of promotion or by officiating in leave vacancy during the last month of retirement.

iv) Though he retired as CCF grade officer, the Government have resorted to false statement in the Hon'ble CAT, Ernakulam that he had retired as ACCF (Wildlife) which led to the denial of benefits extended to similarly situated CCF prior to his retirement vide Government Order read as 2nd paper above. The status and scale of pay of both the posts were identical.

v) He is in the notion that he is denied the fundamental rights of a person i.e., equality before law and equal protection of law as guaranteed by the Constitution.

vi) He pointed out that he had authored more than 20 books on Forestry and allied subjects through various publishers and made much contribution to the Forest Department.

3. Government have examined the matter in detail and found as follows;

i) Government of India, as per letter read as 1st paper above, had directed all the State Governments to revise the pension of pre-1986 IFS retirees who retired against the post of CCFs as Head of Forest Force in the scale of the post of Principal Chief Conservator of Forests notified on 6/4/1988. This was in compliance of the orders dated 13/09/2010 and 20/07/2011 of the Hon'ble Supreme Court of India regarding revision of pension/Family pension. Accordingly, the State Government vide order read as 2nd paper above had issued orders to grant pension to pre-1986 IFS retirees viz. Shri. Arakkal Hassankutty, Dr. P. Narayanan Nair and Shri. K. Karunakaran Nair against the post of CCFs in the scale of the post of Principal Chief Conservator of Forests.

ii) Dr. P. Narayanan Nair who had retired from service on 31/12/1986 from the post of CCFs belonged to the category of 1986 instead of pre-1986. The above officer gained the retirement benefits in the scale of Higher post only on the strength of the judgment of the Hon'ble Apex Court as stated above.

iii) Another contention of the applicant was with regard to the retirement benefits granted to Shri. N. Madhavan Pillai equal to that of PCCF grade. Shri. N. Madhavan Pillai was holding the post of MD, KFDC that was an ex-cadre post equated with the status of Principal Chief Conservator of Forests. The above officer who retired on 30/06/1991 was senior to the applicant. There was no violation of rule in his appointment also. Shri. Chand Basha CCF, his junior, was able to retire as PCCF during the last month of his service. It is a normal administrative procedure to fill a vacancy, when it happens whether it is on promotion or due to leave of higher officer, by promoting an eligible person to that post to ensure smooth functioning of the department.

iv) It is a fact that he was promoted as CCFs vide G.O (MS) No. 56/87/GAD dated 4/2/1987 but was posted as ACCF(WL). His contention raised in his representation as well as in the hearing that the false statement with regard to his designation adversely affected him to win a favourable judgment from the Hon'ble CAT Ernakulam is purely a mirage. He was a post 1986 CCF retiree about whom no mention was made by the apex court in its judgment.

v) No justice or basic right of the applicant is denied to him as there was no opportunity to settle his claim existed during the time of his retirement. No undue promotion and retirement benefits in PCCF grade were given to his seniors who retired before 1986 or to juniors who served as CCF in subsequent years till his retirement except on the basis of court direction as contented by the applicant. As per Rule 3 (2) (ii) of IFS Pay Rules 2007 appointment of a member of the service in the scale of Selection grade and above shall be subject to the availability of vacancies in these grades.
vi) Regarding his achievements and contributions, Government is bound to act according to rules and provisions laid down in relevant acts related to service.

4. It is clear from the above facts that Shri C.K. Karunakaran, CCF (Rtd.) was not promoted to the post of PCCF in the absence of vacancies. No other criteria can be taken to consider his claim favourably. His arguments are not based on facts and merits. Hence the representation of the applicant Sri C.K Karunakaran IFS (Rtd.) read as 4th paper above is rejected accordingly.

5. The Order of the Hon’ble Central Administrative Tribunal, Ernakulam read as 3rd paper above, is hereby complied with.

(By Order of the Governor),

DR.K.M.ABRAHAM

Chief Secretary to Government.

To

Shri. C.K.Karunakaran IFS (Rtd.),164, Gandhi Nagar, Vazhuthacaud,
The Principal Accountant General (Audit/A&E) Kerala, Thiruvananthapuram.
The Principal Chief Conservator of Forests & Head of Forest Force,
Forest Head Quarters, Thiruvananthapuram.
The Secretary, Ministry of Environment, Forests & Climate Change,
Indira Paryavaran Bhawan, 6th Floor, Prithvi Block, Jor Bagh Road,
The General Administration (SC) Departments.
The Web & New media Division in I&PRD for uploading in the web site
(www.gadsplais.kerala.gov.in)

Stock File/Office Copy.

Copy to:- The Additional Secretary to Chief Secretary
The PA to Additional Secretary, General Administration
(Special A&C) Department.

Forwarded/ By Order

Section Officer