IFS – Protecting the pay corresponding to the last drawn SFS pay in respect of Shri. A.K. Salim IFS (Rtd.), Shri. L. Krishna Prasad IFS (Rtd.), Shri. B.P. Varghese IFS (Rtd.) and Shri. M. Sreedharan Nair IFS (Rtd.) on promotion to IFS and re-fixing the pay in the revised Central Pay Scales of 2006 – The Order of the Hon’ble Central Administrative Tribunal, Ernakulam Bench – Complied with - Orders issued.

GENERAL ADMINISTRATION (AIS-C) DEPARTMENT


ORDER

Shri. A.K. Salim IFS (Rtd.) and Shri. L. Krishna Prasad IFS (Rtd.), filed OA No.180/00332/2016, Shri. B.P. Varghese IFS (Rtd.) filed OA No.180/00051/2017 and Shri. M. Sreedharan Nair IFS (Rtd.), filed OA No.180/00172/2017 before the Hon’ble Central Administrative Tribunal, Ernakulam Bench praying to protect the pay of the applicants corresponding to their last drawn State Forest Service pay on their promotion to the Indian Forest Service and to re-fix their pay in the revised Central Pay Scales of 2006 in PB-4 with grade pay of Selection Grade. In the subsequent rejoinders filed by the applicants in the above OAs it was also prayed that the decision of the Hon’ble Supreme Court of India in Civil Appeal No. 9041 of 2003 in Union of India Vs T.M. Somarajan & Ors. is to be applied in their case too for fixation of their pay in IFS.

2. The case of Shri T.M. Somarajan was that he was drawing the basic pay of Rs. 4650/- per month + a special pay of Rs. 100 when he was last serving in the State Police Service before his induction into the Indian Police Service on 09.12.1995. However, after his entry into Indian Police Service, his pay came to be refixed at Rs.4250 + special pay of Rs. 200 w.e.f 01.12.1996. His representation to the Accountant General (A&E) Kerala, Thiruvananthapuram to rectify the anomaly was
rejected stating that the fixation of pay was made placing reliance on clauses (iii) and (iv) of Schedule II of IPS (Pay) Rules, 1954. Consequently, he approached the Hon'ble Central Administrative Tribunal, Ernakulam Bench by way of Original Application No. 1552/1998 seeking to direct the respondents to (i) fix his basic pay in the post of Superintendent of Police (IPS cadre) at Rs. 4500/- + personal pay of Rs. 400/- with effect from 09.12.1995 and disburse the arrears of salary due to the applicant, (2) to declare that he is entitled to have his pay fixed in the IPS cadre on the basis of the pay drawn by him in the Non-IPS cadre is a confirmed Superintendent of Police applying the provisions contained in Section I of schedule II of the Indian Police Service (Pay) Rules without giving effect to the unreasonable definition of higher scale of pay contained in Clause III of Schedule II of the said Rules, (3) to declare that the definition of Higher Scale of Pay contained in the clause III of Schedule II of the Indian Police Service (Pay) Rules is unreasonable and unworkable and hence should not be enforced for fixation of the pay of the applicant in the Indian Police Service cadre with effect from 09.12.1995 and (4) to declare that the definition of higher scale of pay contained in clause III of Schedule II of Indian Police Service (Pay) Rules is unconstitutional and ab initio void. The Hon'ble Central Administrative Tribunal Ernakulam Bench disposed of the application in favour of the applicant. Subsequently the Union of India challenged the order by way of filing review application which was dismissed and the matter reached before the Hon'ble High Court in O.P No. 22783 of 2002 which was also dismissed. Finally Union of India filed SLP(C) Nos.14700-14701/2004 and SLP No.8967 of 2007 and the Supreme Court of India in their judgment dated 21/10/2009 in Civil Appeal No.9041 of 2003 in the SLPs upheld the orders of the Hon'ble Tribunal and dismissed the Special Leave Petitions.

3. The Hon'ble Central Administrative Tribunal, Ernakulam Bench pronounced common final order read as 1st paper above in original applications filed by Shri A.K. Salim IFS (Rtd.) and Shri L.Krishna Prasad IFS (Rtd.), by Shri B.P. Varghese IFS (Rtd.) and by Shri M. Sreetharan Nair IFS (Rtd.) and in their said final order it was observed that the principles laid down by the Tribunal in the case of Shri T.M. Somarajan IPS (Rtd) which was also followed in OA No. 514/2013 is equally applicable to all the officers of the State Forest Service promoted to the Indian Forest Service and directed the respondents to protect the pay of the applicants corresponding to their last drawn State Forest Service pay on their promotion to the Indian Forest Service and to refix their pay in the revised Central Pay Scales of 2006 in PB-4 with grade pay of Selection Grade and to release to them all consequential benefits including arrears flowing therefrom within a period of three months from the date of receipt of a copy of its order.

4. Government have examined the matter in detail on the basis of the order of the Hon'ble Tribunal read as 1st paper above and the dictum of the Hon'ble Tribunal in T.M.Somarajan's case and are pleased to order that the pay of Shri A.K. Salim IFS (Rtd.), Shri L.Krishna Prasad IFS (Rtd.), Shri B.P. Varghese IFS (Rtd.) and Shri M. Sreetharan Nair IFS (Rtd.) corresponding to their respective last drawn pay in State Forest Service is hereby protected on their promotion to the IFS and they are entitled to get
their pay re-fixed in the revised Central Pay Scales of 2006 in PB-4 with grade pay of Selection Grade and consequential benefits including arrears. The Accountant General (A&E), Thiruvananthapuram shall take steps to issue pay slip to the applicants, accordingly.

5. The Orders of the Hon'ble Central Administrative Tribunal Ernakulam Bench read as 1st paper above, is hereby complied with.

(By Order of the Governor),

Rajesh Kumar.M
Joint Secretary to Government.

To

1. The Advocate General, Kerala, Ernakulam Kochi-682 031.
4. Shri.B.P.Varghese IFS (Rtd.), Brahmakulam House, Gandhi Nagar, Main Street, P.O.Cheroor, Thrissur – 680008.
6. The Accountant General (G&SSA/A&E), Kerala, Thiruvananthapuram.
7. The Principal Chief Conservator of Forests & Head of Forest Force, Thiruvananthapuram.
8. The Secretary, Government of India, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhawan, 6th Floor, Prithvi Block, Jor Bagh Road, Ali Ganj, New Delhi – 110 003.
10. The General Administration (SC) Department.
11. The Web & New Media Division for uploading the Government Order in the website "www.gadsplais.kerala.gov.in".

Forwarded/By Order

Section Officer