

In Forest, only jungle rules apply

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PATNA: This is not an isolated story of one Bihar Government department. But this one adds to the long list of stories of 'rule of the jungle' and machinations within the four walls of each department.

Take this example: Direct recruits

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Supreme Court is 'a nullity, inexecutable and unenforceable in law'.

The case in short relates to the illegal appointments of 19 persons appointed over two years against a dead panel of 1985, for which examination was conducted by the Bihar Public Service Commission.

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Against 40 advertised posts the state government went ahead and appointed 39 ACFs in 1987, 11 in 1988 and 8 in 1989. On the advice of the state's law department, the then a minister for Forests in the RJD government recommended dismissal of "officers illegally appointed in 1988 and 1989, since after the first recruitments, the BPS panel had lapsed". The department actually, recommended in 2002 to dismiss them wholesale. The decision notwithstanding, these officers continue to serve the department as ACFs without the issuance of a government notification till date.

After, back and forth with the files, a decision was taken by the authorities on October 3, 2005 to regularize them. The department subsequently informed the Assembly Secretary on July 15, 2006 that the government had regularized the illegal appointment of the 19 officers and that the matter had been put to rest.

An anomaly occurred yet again. The Forest Department while regularizing their services failed to decide upon their seniority. It is settled law that temporary or fortuitous appointments are not appointments in accordance with the rules, that temporary services cannot decide the issue of seniority. Seniority, as per the law of the land, can be reckoned from the date of regularization.

Strangely, the illegal officers were elevated to the posts of DFOs. The Forest department was compelled to seek the opinion of the Law department earlier for the inter-se seniority of regular appointees of March 30,

AN ANOMALY OCCURRED YET AGAIN AND THE FOREST DEPARTMENT WHILE REGULARIZING THEIR SERVICES FAILED TO DECIDE UPON THEIR SENIORITY

1990 ACFs and the illegally appointed officers, to which the state's Advocate General in a written reply dated August 5, 2005 submitted that 'the appointees of 1988 and 1989 whose appointments were regularized in the year 2005 could not be made senior to the regular appointees of 1990-batch ACFs'.

On 31 May 2004 the SC while disposing a plea of Sanjay K Sinha and others versus the State of Bihar (6565/99) related to the Bihar Forest Service quashed the gradation list dated July 24, 1989 and ordered for the publication of a fresh gradation list keeping the seniority of the officers as a principle decided by the SC. Till date, no such list has emerged.

A three member bench of the Supreme Court dated February 1, 2010 observed: ...that any appointment made beyond the number of vacancies advertised is without jurisdiction, being violative of Articles 14 and 16 (1) of the Constitution of India, thus a nullity, inexecutable and unenforceable in law.

But then, who cares? Bihar departments pick, choose and regularize such, whom, it has no power to regularize. Any better example of rule of the jungle?

