

Proceedings of the Principal Chief Conservator of Forests
Present: T.M.Manoharan IFS

Sub:- Revised seniority list of Range Forest Officers as on 01-01-1992-
publishing of -reg.

Ref:-G.O.(Rt) No. 113/10/F&WLD dated 16-03-2010

Order No. E1-6549/08 dated 20-07-2011

1. Determination of inter-se seniority among Forest Range Officers appointed by various methods of recruitment as prescribed in Kerala Forest Subordinate Services Rules has been engaging the attention of the Department for long. The seniority list of Forest Range Officers as on 01.01.1984 had been finalized in accordance with the rules prescribed in Kerala State and Subordinate Services Rules and in Kerala Forest Subordinate Services Rules. Thereafter, a seniority list for the period from 01.01.1984 to 01.01.1992 was prepared based on the above rules as per order No.E1-42632/93 dated 15.01.1996. This was challenged in O.P.No.12034 of 1994 by S/Shri.S.Karthikeyan, R.Mohanan Nair and V.Jayakrishna, who were Range Officers at that time. In the judgement dated 01.09.1994 in the above O.P, the Hon'ble High Court directed the respondents to dispose of the representations of the petitioners in accordance with law with due regard to the principles laid down in the decisions reported in Appukuttan Nair Vs State of Kerala, 1990 (2) KLT 808 and Somarajan Vs State of Kerala, 1992 (1) KLT 690. Thereupon the Chief Conservator of Forests issued order No.E1-42632/93 dated 04.03.1997 publishing final gradation list of Forest Range Officers as on 01.01.1992 considering the date of acquiring obligatory departmental test qualification as the crucial date for determining seniority in the case of Forest Range Officers appointed after 01-01-1984. It was stated therein that the seniority list finalized and settled as on 01-01-1984 was not revised. Shri.S.Karthikeyan and Shri.V.Jayakrishna filed O.P.No.11341/97 praying for unsettling seniority list as on 01.01.1984 and for determination of seniority of Forest Range Officers appointed prior to 01.01.1984 also based on date of acquiring departmental test qualification. This O.P was dismissed by the Hon'ble High Court in its judgment dated 05.10.1998 and declared that the seniority list as on 01.01.1984 has become final. There were several representations from Forest Range Officers requesting for rectification of the anomalies which crept into the seniority list as on 01.01.1992 finalised as per order No.E1-42632/93 dated 04.03.1997 of the Chief Conservator of Forests. Various officers had filed Original Petitions challenging the validity of the said seniority list. Shri.S.Karthikeyan and J.Haridas had also filed Writ Appeals Nos. 2614/1998 and 31/1999 respectively on the issue of determination of seniority list of Forest Range Officers.
2. The Writ Appeal No. 31/1999 was filed to determine the question of assigning seniority of Forest Range Officers with respect to the passing of obligatory departmental test. The inter-se seniority among the Range Officers recruited through various methods of recruitment as prescribed in the Kerala Forest Subordinate Services Rules (KFSSR) was also the subject matter of the following Original Petitions and Writ Appeal before the Honourable Court.

Sl.No.	Petitioners	No. of Cases
1.	Shri. J. Haridas, Range Officer and others	WA No. 31/99
2.	Shri. P.B. Omanakuttan, Range Officer	O.P. No. 4823/2000
3.	Shri. T.C. Thyagarajan, Range Officer	O.P. No. 6259/2000
4.	Shri. K.R. Sabu, Range Officer and Others	O.P. No. 22582/2000
5.	Shri. Karithikeyan, Range Officer	W.A No. 2614/1998

3. The reliefs sought for in the above cases were similar and were based on same set of rules namely Kerala State and Subordinate Service Rules (KS & SSR) and Kerala Forest Subordinate Service Rules (KFSSR).
4. The petitioners in the above cases had challenged the seniority list of Rangers as on 01-01-1992 finalized as per Order No. E1-42632/93 dated 15-01-1996 of the Chief Conservator of Forests. The said seniority list was prepared in view of the directions of the Honourable Court in the Judgement in O.P. No. 12034/94 filed by Shri. S.Karthikeyan. Range Officer and others. In the said seniority list, the seniority positions of Range Officers appointed on or after 27-07-1984 were re-fixed based on the date of acquisition of departmental test qualification. In the judgement passed at the time of admission of O.P. No. 12034/94, this Honourable Court had directed **'to consider and dispose of Ext. P5 representation in accordance with the law having due regard to the principles laid down in the decision reported in Appukuttan Nair Vs State of Kerala 1990 (2) KLT 806 and Somarajan Vs State of Kerala 1992 (1) KLT 690 as early as possible at any rate within a period of 3 months from the date of receipt of a copy of this judgement'**. Hence as per the above judgement the seniority of the Range Officers should have been fixed,
 - (i). In accordance with prevailing rules.
 - (ii). Having due regard to the principles laid down in 1990 (2), KLT 806 & 1992 (1), KLT 690.
5. While re-fixing the seniority as per order No. E1-42632/93 dated 15-01-1996 the relevant rules in KS & SSR and KFSSR were not seen given due importance. Further the seniority of Range Officers appointed on or after 27-10-1984 only was re-fixed on the ground that the seniority list prior to that had become final. This had resulted in certain anomalies such as:
 - i. Seniority of the Range Officers who were appointed prior to 27-10-1984 and did not pass prescribed departmental tests in time, remain unaffected whereas the seniority of Range Officers who had been appointed after 27-10-1984 and did not pass prescribed departmental tests in time has been affected adversely.

- ii. In the case of the Range Officers who were appointed after 27.10.1984, and whose probation had not actually been declared, seniority had been assigned basing on the date of acquisition of test qualification.
 - iii. Though it was stated in the impugned seniority list that the Government have powers to extend period of probation if they are convinced of its necessity vide G.O. (P) No. 62/92/P & ARD dated 16.12.1992, the said option of the Government was not exhausted before lowering the seniority position on the ground of non declaration of probation.
 - iv. No notice was issued to the affected Range Officers before lowering their seniority.
6. The seniority of Rangers has to be regulated by rules 2,9 & rule 10 of Kerala Forest Subordinate Service Rules (KFSSR) read with the general rule 2 and rule 27 of Kerala State and Subordinate Service Rules (KS&SSR). General rule 2 of Kerala State and Subordinate Service Rules states that the provisions of special rules relating to a service shall prevail over the provisions of General Rules.
 7. The sub rule (a) of the rule 27 of Kerala State and Subordinate Service rules stipulates that seniority of a person shall be determined by the date of order of his first appointment to service. The proviso under the said Sub Rule prescribes procedure to fix seniority of officers appointed by various methods of recruitment such as promotion, transfer and direct recruitment. Sub Rule 27 (c) stipulates that the seniority of persons appointed on the advice of Public Service Commission shall be determined by the date of first effective advice.
 8. Rule 2 of Kerala Forest Subordinate Service Rules provides for different methods of recruitment and quota for each method of recruitment. The order of preference among the Rangers recruited on same date is to be decided in accordance with the provisions contained in Rule 9 and Rule 10 of Kerala Forest Subordinate Service Rules.
 9. The scheme of rules in Kerala Forest Subordinate Service Rules and Kerala State and Subordinate Service Rules clearly shows that:
 - (i). As per Rule 2 of Kerala Forest Subordinate Service Rules there are four categories of Rangers depending on the methods of recruitment, namely,
 - a. Direct Recruitment of Forestry Graduates who after one year's training are appointed Probationary Ranger (Here in after referred to as Direct Recruit, in short DR).
 - b. Direct Recruitment of Science Graduates as Forest Apprentices who on successful completion of the Rangers' Course and one year departmental training are appointed Probationary Ranger. (Here in after referred to as Forest Apprentice, in short FA).
 - c. Recruitment of Departmental candidates (Deputy Rangers/ Foresters) who on successful completion of Ranger's Course are appointed

Probationary Ranger (Here in after referred to as Forester Trained as Ranger, in short FTR).

- d. Promotion of eligible officers from feeder category of Deputy Rangers (Here in after referred to as Foresters not trained as Ranger, in short FNTR).
- (ii). Categories (a), (b) and (c) referred to above are recruited through Kerala Public Service Commission as per Note 2 under Rule 2 of Kerala Forest Subordinate Service Rules.
 - (iii). The number of posts to be filled in from each category is 25% of the cadre strength as provided in Note 1 under Rule 2 of Kerala Forest Subordinate Service rules.
 - (iv). If Forestry Graduates are not available for direct recruitment, the vacancies can be filled up by Forest Apprentices as per proviso under note 1 under Rule 2.
 - (v). If FTRs are not available such vacancies can be temporarily filled up by FNTR under Rule 31 (a) (i) of Kerala State and Subordinate Service Rules as provided in Note 3 under Rule 2 of Kerala Forest Subordinate Service Rules.
 - (vi). The inter-se seniority of Forest Range Officers recruited directly from Forestry Graduates and appointed Probationary Rangers after one year training shall be determined with respect to the date of their appointment as Probationary Rangers and in the order in which their names are arranged in the advice list of the Public Service Commission as provided in Sub Rule 9 (b) of Kerala Forest Subordinate Service Rules.
 - (vii). The inter-se seniority of Forest Range Officers appointed from the Forest Apprentices as Probationary Rangers after Rangers Course and one year training shall be fixed with respect to the date of their appointment as Probationary Ranger and in the order of their rank on the results of the final examination in Ranger's Course as provided in Sub Rule 9 (f) of Kerala Forest Subordinate Service Rules.
 - (viii). The inter-se seniority of Forest Range Officers appointed from FTRs as Probationary Rangers after Rangers Course shall be determined with respect to the date of their appointment as Probationary Ranger and in the order of their rank obtained in the Ranger's Course as provided in Sub Rule 10 (1) of Kerala Forest Subordinate Service Rules.
 - (ix). The seniority of Rangers appointed from FNTR shall be determined with respect to the date of their appointment on promotion and their relative seniority position in the feeder category of Deputy Rangers on the date of promotion as provided in Sub Rule 27 (a) of Kerala State and Subordinate Service Rules and the explanation there under.
10. Another aspect which has to be considered is the applicability of the principles laid down in 1990 (2) KLT 806 and 1992 (1) KLT 690 in fixing seniority of

Forest Range Officers. In Appukuttan Nair Vs State of Kerala 1990 (2) KLT 806, the Honourable High Court considered the question that arose under rule 21 of Kerala State and Subordinate Service Rules prior to amendment in 1992. In the above judgement the Honourable High Court had dealt with the subject of fixing the seniority among the Deputy Tahasildars who were appointed on promotion and who had to pass prescribed departmental tests within the probation period. Government by a general order had extended the period of probation of Deputy Tahasildars who did not pass the test within the probation period of 3 years, till the date of their acquisition of qualification. It was this order which was quashed by the Hon'ble High Court holding that the Government had no such power to pass such an order extending the period of probation of all officers till they acquired the test qualifications without applying its mind to the number of years taken by the officers for passing the test.

11. Similarly, in Somarajan Vs State of Kerala, the Honourable High Court had dealt with the seniority of Deputy Superintendents of Police in Kerala Police Service who had to pass Account Test for Executive Officers during the period of probation. In view of Rule 21 prior to amendment in 1992; the Honourable High Court had observed that 'a probationer who has not passed the test within the extended period of probation should be deemed to have been discharged on the expiry of the extended period' and that 'the fact that appointing authority did not pass an order discharging the probationer does not entitle him to claim that he had continued in the higher post and he would get seniority on the basis of the first appointment'. As per G.O (P) No. 62/92/P & ARD dated 16.12.1992 published as SRO 692/93 in Kerala Government Gazette No. 15 dated 13.04.1993, the Rule 21 of Kerala State and Subordinate Service Rules has been amended empowering Government to extend probation of any officer without time limit if found necessary. The ruling in Appukuttan Nair Vs State of Kerala, 1990 (2) KLT 806 and Somarajan Vs State of Kerala 1992 (1) KLT 690 were pronounced by the Honourable High Court considering the rules prior to the said amendment.
12. Hence it has to be specifically noted that the question of discharge of a probationer comes only when the Government do not extend the period of probation. Government have paramount power to extend the probation under Rule 19, 21 and 39 of Kerala State and Subordinate Service rules. It had been held by the Honourable Court in ILR 1962 (1) Ker 550 Namboothiri Vs State of Kerala that **'there is no prohibition in rules 19 to 21 against continuing a person as probationer beyond any particular period. The power conferred upon the Appointing Authority either to terminate probation or to extend it after the specified period can not be equated to a statutory probation or to extend it after the specified period cannot be equated to a statutory prohibition against retaining the employee as a probationer after that period'**. Further the Honourable High Court had also held in 1980 KLT 804 Ramachandran Nair Vs State of Kerala that **'Government is competent to extend the period of probation retrospectively even after the expiry of the probation'**. The Government as a general practice, do extend the probation with retrospective effect and declare the probation with effect from the date of passing of prescribed departmental tests, in the case of all employees who pass the prescribed departmental tests after the stipulated period of probation, provided

their work and conduct are satisfactory. The Honourable High Court has also held in *State of Kerala Vs Somarajan* 1984 KLT 293 that retrospective regularization or appointment will not violate the rules in Kerala State and Subordinate Service Rules. In the case of Forest Range Officers, Government have not exercised their discretionary power under Rule 19 or 21 with regard to discharge of the probationers. In fact the probationers who did not pass the prescribed departmental tests within the probation period were allowed to continue in service and to acquire the required test qualifications.

13. 'Discharge of a probationer as defined in clause (5) of Rule (2) of Kerala State and Subordinate Service Rules means, in case of the probationer or a full member or an approved probationer of any service, class or category, reverting him to such service, class or category and in any other case, dispensing with his services'. It has to be noted that, in the case of a promotee officer, discharge means, only reversion to the previous grade / cadre / category. But in the case of direct recruits (DR and FA in Forest Department) it is dispensing with their services. Dispensing with the service can be done only after the issuance of show cause notice and speaking order which are mandatory in view of the principles of natural justice and the Sub Rules 19 (a) 19 (b) & 20 (c) of Kerala State and Subordinate Service Rules. In the absence of any such procedures and in view of the amendment of Rule 21 during 1992, the principles laid down in the case laws reported in 1990 (2) KLT 806 & 1992 (1) KLT 690 have little application in the matter of fixing seniority of Forest Range Officers especially when the special rules, viz. Kerala Forest Subordinate Service Rules prescribe the methods of fixing seniority in the entry cadre of Forest Range Officers.
14. Hence the seniority of Rangers require to be fixed more appropriately after properly appreciating the rules, case laws and the judgements and applying them to the ground realities, which are also explained hereunder.
15. The direct recruitment of B.Tech Forestry Graduate was started in Kerala Forest Department consequent to the amendment to Kerala Forest Subordinate Service Rules as per G.O (MS) No. 75/76/AD dated 25.02.1976, in order to induct the B.Tech Degree holders in Forestry of Calicut University. Accordingly, two officers namely K.K.Chandran and N.Shamzul Huda, B.Tech Degree holders in Forestry were selected as Rangers. After the first batch of 1969-1973 B-Tech (Forestry), this course happened to be discontinued by Calicut University. Hence the vacancies which were in the quota earmarked for DR from B.Tech (Forestry) graduates had to be filled in by FAs selected through Kerala Public Service Commission as provided in the proviso under note 1 in Rule 2 of Kerala Forest Subordinate Service Rules. Consequent to starting of B.Sc. (Forestry) by Kerala Agricultural University, the Rule 6 of Kerala Forest Subordinate Service Rules was amended as per G.O. (P) 80/94/F&WLD dated 20.12.1994 and the term "**B.Tech (Forestry) of Calicut University**" was replaced by **B.Sc Forestry of "Kerala Agricultural University or other recognized Universities of India or a Degree from Indian Institute of Forest Management"**. The candidates selected by Kerala Public Service Commission from among the B.Sc (Forestry) Graduates are now being appointed as Forest Range Officers in DR quota. The Forest Range Officers who were appointed from Forest Apprentice category to the quota of DRs for want of B.Tech Forestry Graduates from Calicut University

are also regular appointees in view of the proviso under note 1 of Rule 2 of Kerala Forest Subordinate Service Rules and the quota for Forest Apprentices during this period has to be reckoned as 50%.

16. From Rules 27 (a) to (c) of the KS&SR, it is clear that seniority can be lowered only by a punishment. Similarly, there is no provision in Kerala Forest Subordinate Service Rules and in KS & SSR to reduce seniority as a consequence of not passing departmental test. The consequential effects of not passing departmental test by a DR, FA and FTR as per the rules are:

- (i). postponement of increment.
- (ii). postponement of declaration of probation and
- (iii). discharge of probationer after giving notice and speaking order (if probation is not extended).

17. From the rules, it can easily be found that the declaration of probation is done on satisfaction of the following conditions:

- (i). the probationer shall be on duty for the prescribed period.
- (ii). the probationer shall pass prescribed departmental tests.
- (iii). the work and conduct of the probationer must be satisfactory.
- (iv). other suitability conditions if any prescribed by Special rules shall be complied with.

18. Passing of departmental test is only one among the requirements for declaring probation. As is evident from Rule 21 as well as Sub Rules 20 (a) and 20 (b) and provisos there under, the Appointing Authority and Government have power to extend probation for want of compliance of any or all of the above conditions. If probation is extended only for want of departmental test qualification, it is stipulated in the provisos under Sub Rule 20 (a) and 20 (b) that;

- i. the appointing authority shall consider suitability for full membership as soon as departmental test is passed.
- ii. if the probation is extended only for want of departmental test qualification and if the probationer acquires test qualification before the expiry of the extended probation, he should be deemed to have satisfactorily completed his probation on the last date of the examination or test.

19. Proviso under Sub Rule 19 (b) stipulates that if probationer has appeared for prescribed departmental test, he shall continue on probation till the results are published. From the Rules 19, 20, 21 and 39 of Kerala State and Subordinate Service Rules, it can be seen that the entire scheme of rules provides for extension of probation in order to acquire test qualification and for declaration of probation on acquiring the test qualification.

20. There had been no practice or precedent of discharging a probationary Forest Range Officer in the Forest Department only for want of departmental test qualification. The practice has been to declare probation on acquisition of test qualification even after the prescribed probation period. There is no practice or precedent of deemed discharge of the probationer in the other categories in Forest Department such as Clerks, Forest Guards, Foresters etc. From the Rules, it can be seen that the scheme of rules does not provide for reduction in rank or for re-fixing the rank as a consequence of not passing departmental test or not declaring probation.
21. It has also been clarified by the Government in Circular No. 97882/ST3/73/PD dated 22.07.1974 that confirmation is not the criteria for fixing the seniority of an officer.
22. It is submitted that it is most pertinent to note that none of the Forest Range Officers has actually been discharged for want of test qualification by an order of the appointing authority after giving due notice. In fact, the probationary Forest Range Officers who did not acquire test qualification within the probation period have so far been allowed to continue in service and to acquire test qualifications.
23. A careful examination of the above rules, case laws and the facts of the cases indicate that, the seniority of Forest Range Officers requires to be fixed more appropriately after properly appreciating the rules, case laws and the judgements of the Hon'ble High Court and applying them to ground realities. The following principles appear to be just and reasonable for fixing seniority of Rangers.
 - i. The Forest Range Officers appointed from Forest Apprentices will get seniority from the date of appointment as Probationary Ranger, provided the appointment is within the quota fixed for Forest Apprentices.
 - ii. The inter-se seniority among Forest Range Officers appointed from Forest Apprentices on the same date and have passed Rangers Course together will be determined in the order of rank secured by them in the Rangers course as provided in Sub Rule 9 (f) of Kerala Forest Subordinate Service Rules.
 - iii. 25% of vacancies earmarked for Direct Recruitment of B.Tech Graduates in Forestry from Calicut University had been filled by appointment of Forest Apprentices in accordance with Note 1 under rule 2 of KFSSR, when the B.Tech (Forestry) course was discontinued till the rules were amended as per G.O. (P) 80/94/F&WLD dated 20.12.1994 to facilitate recruitment of the B.Sc Forestry Graduates from the Kerala Agricultural University. Since this appointment of Forest Apprentices during the said period was in accordance with Note 1 under Rule 2 of Kerala Forest Subordinate Service Rules, the quota for FAs during this period shall be reckoned as 50% and hence these appointees from the category of Forest Apprentices will also get seniority from the date of appointment as Probationary Ranger, as provided in Note (1) under Rule 2 of Kerala Forest Subordinate Service Rules, Sub Rule 27 (a) and proviso there under of KS & SSR.

- iv. The Rangers appointed through PSC, by selection from B.Sc (Forestry) graduates of Kerala Agricultural University, in accordance with and subsequent to the amendment as per G.O (P) 80/94/F&WLD dated 20.12.1994 will get seniority from the date of the order appointing them as Probationary Rangers as per Sub Rule 9 (a) of Kerala Forest Subordinate Service Rules.
 - v. The inter-se seniority among the Rangers appointed from B.Sc Forestry Graduates of Kerala Agricultural University and included in the same advice memo of PSC will be in the order in which their names appear in the advice memo as provided in Sub Rule 9 (b) of Kerala Forest Subordinate Service Rules and 27 (c) of KS & SSR.
 - vi. Rangers appointed from FTR will get seniority from the date of appointment as Probationary Rangers provided the appointment is within their quota.
 - vii. Inter-se seniority among Rangers appointed from FTR, who passed Rangers Course together, will be determined in the order of the rank secured by them in Forest Rangers Course as per Rule 10 (f) of Kerala Forest Subordinate Service Rules.
 - viii. The seniority of Rangers appointed from FNTR will be determined by the date of order of their appointment provided the appointment is within their quota
 - ix. The inter-se seniority among Rangers appointed from FNTR as per same order will be determined by the order in which their names appear in the seniority list in the feeder category of Deputy Rangers on the date of their appointment as Forest Range Officers as provided in Rule 27 (b) of KS & SSR.
 - x. The seniority of Rangers if any appointed in excess of their quota will be determined as explained in the proviso under sub rule 27 (a) of Kerala State and Subordinate Service Rules as per principles laid down in AIR 1990 Supreme Court 1607.
24. The entire facts and the legal positions as explained above were placed before the Hon'ble High Court in a detailed affidavit and a common decision was prayed for in Writ Appeal No.2614/98, Writ Appeal No. 31/99, O.P. No. 13788/97, O.P. No. 4823/2000, O.P. No.6259/2000, O.P.No.22582/2000 and O.P. No.31214/2000. The Hon'ble High Court decided the above cases in the common judgement dated 21.12.2001. As per the said judgement, it was decided that the seniority list as on 01.01.1984 cannot be interfered with since it was prepared as per relevant rules and was finally settled. In respect of the seniority list as on 01.01.1992, the Hon'ble High Court observed as follows in Paragraphs 10 to 16 of the judgement.

Para 10. In this case, the question was raised whether under rule 21 of KS & SSR Government have got power to extend the period of probation retrospectively even after the expiry of the

period of probation. We may refer Rule 21 of Kerala State and Subordinate Service Services (Amendment) Rules 1992. In Rule 21, for the first and second sentences, by the Amendment Act, following has been substituted.

"In the case of any probationer falling under Sub Rule (b) of rule 19 or Sub Rule (c) of rule 20, the appointing authority may extend his probation for a maximum period of one year to enable him to acquire special qualifications or pass the prescribed tests, as the case may be, or to enable the appointing authority to decide whether the probationer is suitable for full membership or not. Extension of probation beyond one year may, however, be ordered by Government if found necessary".

A contention was raised that since the above mentioned amendment has been effected in the year 1992 the same will have only prospective operation and consequently persons like third respondent ought to have been discharged from service or in the alternative would take place lower as against persons who have passed the test earlier.

Para 11: We are of the view the said contention can not be accepted considering the facts and circumstances of the case. The practice followed by the department all along was not to discharge a probationary Ranger for want of test qualification. It is on the basis of the said practice the final seniority list as on 01.01.1984 was prepared. The list was prepared after disposing of all the appeals. The said list has become final. Petitioner had never challenged the said list at any point of time, not even in this proceedings. Now that the third respondent and others have already passed the departmental test it is for the Government to pass appropriate orders extending the period of probation. Identical question came up for consideration before the Apex Court in M.H. Patil V. State of Maharashtra and Others (1999) 1 SCC 249. In that case challenge was made against preparation of seniority list dated 22.05.1973 of Sub Inspectors of Prohibition and Excise. Relevant rule provided that every person appointed to the clerical and non gazetted executive service of the prohibition and excise department was required to take the prescribed departmental examination under the rules unless he was exempted from taking the examination. Rules require that the candidates must pass the departmental examination within the period of three years from the date of his appointment. In case of failure to pass the examination within the said period he was liable to be removed from the department. No candidate would be allowed to appear again in the examination after the expiry of 3 years without any special sanction of the Government for any additional chance to appear which would be given only in very exceptional circumstance. Apex Court found that the date of passing of departmental examination was never the criteria in the matter of

fixation of seniority. Apex Court held that this has also been the view taken by the department right from the year 1977 onwards although prior to 1977 the department has interpreted the rule as contended by the appellant. Seniority lists have been prepared on the basis of continuous officiation right from 1977 onwards. The Apex Court found no reason to disturb the seniority list so prepared.

Para 12: We find no reason to take different view in the instant case. Position is similar as far as third respondent is concerned. His position as Range Officer was settled as on 01.01.1984 vide office order dated 26.05.1985 and the list was published in the Kerala Gazette dated 05.11.1985. The same was settled after disposing of all the appeals. That position remains unchallenged even in this proceedings. Many of the persons and third respondent have subsequently acquired the test qualification. Government has also got power to extend the period of probation. If the seniority of persons like third respondent and similarly placed persons is unsettled at this distance of time that will be unjust and illegal.

Para 13: The Apex Court had occasion to examine the challenge against seniority list of Income Tax Officers of Class I Grade II on the basis of the Seniority Rules of 1949 and 1950 in Rabindra Nath. V Union of India, 1970 Supreme Court 470. Challenge was made against the said seniority list after a number of years. Applying sit back theory the Court held it would be unjust to deprive the respondents of the rights which have accrued to them. Each person ought to be entitled to sit back and consider that his appointment and promotion effected a long time ago would not be set aside after the lapse of a number of years. This was the principle followed by the Apex Court in Jaisingh's case as well (AIR 1967 Supreme Court 1427).

Para 14: We are therefore of the view that second respondent is justified in not unsettling the seniority list of Range Officers as on 01.01.1984. In fact, in several cases, even though many of the persons just like the third respondent had subsequently acquired the test qualification, there has been considerable delay on the part of the authorities to declare their probation. Administrative delay in declaring probation shall not affect the eligibility of a qualified probationer from becoming an approved probationer with effect from the date on which he becomes qualified. Now that the Government have got the power to extend the period of probation and to declare probation accordingly, we therefore leave the matter to the Government to pass appropriate orders.

Para 15: This Court in Appukuttan Nair's case considered the scope of rule 21 and 39 of the KS & SSR. Rule 21 of General Rules gives power to extend the period of probation for one year or three years period prescribed in the special rules. This Court took

the view that Government have no power to pass such an order extending the period of probation of officers till they require the test qualification without applying its mind to the number of years taken by them for passing the test. It was ordered that Rule 39 of the General Rules does not confer power on the State Government to fix a different norm regulating seniority of a few employees when everyone else is governed by the appropriate statutory provision in that behalf. In Somarajan's case this court held the effect of Rule 19 read with Rule 21 of the General Rules is that a person should be discharged, if he fails to complete the test qualification within the normal period of probation or the extended period of probation. If the officer fails to pass the test, it is the duty of the appointing authority to discharge him from service. The fact that appointing authority did not pass an order discharging the probationer does not entitle him to claim that he had continued in the higher post and that he should get seniority on the basis of first appointment.

Para 16: We are of the view the principle laid down by this Court in the above mentioned decision would not apply in the case of those persons whose seniority in the cadre of Rangers had already been settled as on 01.01.1984 by order dated 26.08.1985. We also notice persons who have completed 50 years of age have been permanently exempted from acquiring obligatory departmental tests for probation and promotion and those persons were given appropriate place in the final list.

25. The position with regard to seniority lists of Forest Range Officers as emerged after the above judgement is as noted below:
 - (i). The seniority list published as on 01.01.1984 remains finally settled. This seniority list was prepared based on the rules and regulations as explained in Paragraph 23 of this proceedings.
 - (ii). The seniority list as on 01.01.1992 published as per order No. E1-42632/93 dated 04.03.1997, which was prepared based on the date of acquisition of departmental test qualification, has not been interfered with by the Hon'ble High Court. However, in Para 11 of the judgment dated 21-12-2001, the Hon'ble High Court has categorically stated that the date of passing of departmental examination was never a criterion in the matter of fixation of seniority. The Hon'ble High Court has adopted the above principle from the judgement of the Hon'ble Supreme Court reported in M.H.Patil Vs State of Maharashtra and Others (1999) 1 SCC 249. The Hon'ble High Court has also taken note of the fact that Government have unrestricted power to extend probation after the notification of Kerala State and Subordinate Services (Amendment) Rules, 1992. Therefore, Government was directed take appropriate action with regard to declaration of probation.

- (iii). The seniority of the Range Officers appointed after 01..01..1992 has also been fixed based on the rules and regulations explained in Paragraph 23 of this proceedings.

Therefore, the representations of various Range Officers against the seniority list as on 01..01..1992 have to be disposed of in view of the decision of the Hon'ble High Court adopting the decision of the Hon'ble Supreme Court in M.H.Patil Vs State of Maharashtra and Others (1999) 1 SCC 249.

Further in the judgement dated 20-01-2009 in W.P©. No 37375/2008 filed by V.Vijayasankar and in judgment dated 11-02-2009 in W.P©. No. 4420/2009 filed by G.M.Kochukanjiram, the Hon'ble High Court directed the Government to take a decision on the representations of the petitioners against fixation of seniority of Range Officers based on the date of passing of obligatory departmental tests instead of as per Sub Rule 9(f) of the Kerala Forest Subordinate Service Rules and for consequential promotion to the category of Assistant Conservator of Forests based on the gradation list prepared as per rules within a period of three months from the date of receipt of copy of the judgments. Government in G.O.(Rt.) No. 113/10/F&WLD dated 16-03-2010, disposing the representation of G.M.Kochukanjiram and in G.O (Rt.) No. 215/2010/F&WLD dated 15-05-2010, disposing the representation of V.Vijayasankar have directed the Chief Conservator of Forests (Administration) to examine the issue based on merits and strictly in accordance with rules and to take a decision forthwith. Also it was directed that if the decision required Government intervention, the Chief Conservator of Forests (Administration) should approach the Government for required orders.

Under these circumstances, it has been decided to determine the seniority of Range Officers who were appointed after 01..01..1984 till 01..01..1992 also in accordance with the principles explained in Para 23 of this proceedings. A provisional seniority list prepared based on the above principles is appended. This proceedings and the provisional seniority list are being uploaded in the web portal of the Department. Officers, if any, aggrieved by this provisional order shall submit their claims on or before 20-08-2011. The provisional seniority list will be finalized soon after 20-08-2011, taking into consideration such claims also.



Principal Chief Conservator of Forests

Provisional Seniority List of Range Forest Officers for the period from 01-01-1984 to 01-01-1992

Sl.No.		Category	Date of Birth	Serial number in the present seniority list as on 01-01-1992	Date of Appointment	Critical Date for Determining Seniority	Remarks
142	Santhosh K John	FA	21-11-1959	142	27-10-1984	27-10-1984	
143	K.R.Sabu	FA	20-11-1957	200	27-10-1984	27-10-1984	
144	E.S.Rajendran Asari	FA	08-12-1952	145	27-10-1984	27-10-1984	
145	T.K.Babu	FA	21-11-1954	146	27-10-1984	27-10-1984	
146	G.M.Kochukanjiram	FA	25-05-1959	185	27-10-1984	27-10-1984	
147	J.Haridas	FA	25-06-1952	240	27-10-1984	27-10-1984	
148	M.U.Joseph	FTR	09-09-1950	143	27-10-1984	27-10-1984	
149	P.Gopalakrishnan Nair	FTR	19-06-1950	244	27-10-1984	27-10-1984	
150	V.Vijayasankar	FTR	06-02-1953	168	27-10-1984	27-10-1984	
151	P.R.Purushothaman Nair	FNTR	04-11-1938	156	11-07-1984	11-07-1984	
152	P.M.Abdul Sathar	FNTR	04-02-1937	147	31-12-1984	31-12-1984	
153	Joseph Mathew	FTR	20-07-1951	160	06-12-1985	06-12-1985	
154	K.K.Govindan	FTR	15-01-1950	149	06-12-1985	06-12-1985	
155	K.C.Jayan	FTR	29-12-1947	247	06-12-1985	06-12-1985	
156	K.V.Jalaludeen	FTR	01-03-1951	249	06-12-1985	06-12-1985	
157	K.G.Jayapal	FTR	22-08-1962	186	06-12-1985	06-12-1985	
158	C.Rajasekharan	FTR	02-08-1950	241	06-12-1985	06-12-1985	
159	T.H.Mohammed Ismail	FTR	25-02-1946	242	20-07-1984	20-07-1984	
160	C.K.Suresh Babu	FTR	02-12-1948	201	06-12-1985	06-12-1985	
161	C.G.Geevarghese	FTR	20-06-1945	170	06-12-1985	06-12-1985	
162	I.Siddique	FA	30-07-1961	150	20-12-1985	20-12-1985	
163	Mathew K James	FA	09-02-1962	245	20-12-1985	20-12-1985	
164	P.V.Madhusoodanan	FA	26-05-1960	212	20-12-1985	20-12-1985	
165	K.A.Abdul Rehiman	FA	06-05-1957	203	20-12-1985	20-12-1985	
166	M.Unnikrishnan	FA	29-06-1962	158	20-12-1985	20-12-1985	

167	N.M.Mathew	FA	25-12-1956	151	20-12-1985	20-12-1985	
168	S.G.Mahesh Kumar	FA	13-10-1958	169	20-12-1985	20-12-1985	
169	S.Shaji	FA	28-11-1954	248	20-12-1985	20-12-1985	
170	A.Renjan	FA	31-07-1961	152	20-12-1985	20-12-1985	
171	V.K.Franncis	FA	04-10-1957	213	20-12-1985	20-12-1985	
172	P.Jayaprakash	FA	09-04-1956	202	20-12-1985	20-12-1985	
173	Baby Sajan	FA	23-07-1952	232	20-12-1985	20-12-1985	
174	P.Radhakrishna Pillai	FA	31-11-1953	161	20-12-1985	20-12-1985	
175	K.P.Krishnan	FA	06-08-1953	195	20-12-1985	20-12-1985	
176	E.Aboobackar	FA	10-10-1955	165	20-12-1985	20-12-1985	
177	C.V.Vijayan	FA	10-10-1959	171	20-12-1985	20-12-1985	
178	P.Revindranath	FA	08-01-1954	159	20-12-1985	20-12-1985	
179	G.R.Mohandas	FA	15-11-1956	226	20-12-1985	20-12-1985	
180	K.K.Sudarsanan	FA	06-02-1951	153	20-12-1985	20-12-1985	
181	G.Nandakumar	FA	15-11-1955	159(a)	20-12-1985	20-12-1985	
182	P.P.Shahul Hameed	FTR	22-04-1949	246	20-12-1985	20-12-1985	
183	V.Sugunan Nair	FTR	25-01-1946	227	14-10-1986	14-10-1986	
184	Mohammed Haneefa	FTR	20-04-1949	172	14-10-1986	14-10-1986	
185	P.Rajan	FTR	12-03-1951	173	14-10-1986	14-10-1986	
186	K.K.Sivan	FTR	24-08-1952	188	10-04-1986	10-04-1986	
187	K.P.Mammu	FTR	02-02-1953	162	14-10-1986	14-10-1986	
188	G.Gpoinathan Nair	FTR	01-06-1951	254	14-10-1986	14-10-1986	
189	A.N.Gopalakrishnan Nair	FTR	28-09-1948	163	06-12-1985	06-12-1985	
190	D.Rajeendranath	FTR	01-10-1951	199	08-06-1985	08-06-1985	
191	K.Aravindakshan Nair	FTR	08-06-1947	167	14-10-1986	14-10-1986	
192	A.Sathyanathan	FA	27-11-1955	250	01-01-1987	01-01-1987	
193	K.V.Uthaman	FA	08-04-1962	164	01-01-1987	01-01-1987	
194	C.Reghunathan	FA	01-12-1957	198	01-01-1987	01-01-1987	
195	K.Raju Thomas	FA	15-07-1963	166	01-01-1987	01-01-1987	
196	P.B.Omanakuttan	FA	26-12-1958	228	01-01-1987	01-01-1987	
197	S.Unnikrishnan	FA	03-05-1960	229	04-01-1987	04-01-1987	
198	M.Kamaludeen	FA	07-10-1954	187	01-01-1987	01-01-1987	
199	T.V.Viswambharan	FA	31-05-1958	230	01-01-1987	01-01-1987	
200	C.K.Vijayakumar	FA	05-04-1957	251	01-01-1987	01-01-1987	

201	D.Ratheesh	FA	15-06-1961	252	01-01-1987	01-01-1987	
202	P.M.Sasikumar	FA	04-03-1962	253	01-01-1987	01-01-1987	
203	R.Noushad Lal	FA	28-05-1960	196	01-01-1987	01-01-1987	
204	V.Jayakrishna	FA	31-07-1961	189	01-01-1987	01-01-1987	
205	K.C.Prasad	FA	10-02-1959	214	01-01-1987	01-01-1987	
206	C.Rajendran	FA	17-11-1959	176	29-01-1988	29-01-1988	
207	N.T.Sajan	FA	31-07-1962	177	29-01-1988	29-01-1988	
208	A.K.Girijakumar	FA	31-05-1954	190	29-01-1988	29-01-1988	
209	T.C.Thyagarajan	FA	24-07-1962	256	29-01-1988	29-01-1988	
210	K.Haridasan	FTR	13-02-1950	233	07-05-1988	07-05-1988	
211	P.Ramakrishnan Nair	FTR	01-06-1944	236	07-05-1988	07-05-1988	
212	K.Surendranathan	FTR	25-12-1952	174	07-05-1988	07-05-1988	
213	K.Ramakrishnana Nair	FNTR	07-01-1937	148	28-02-1979	28-02-1979	
							Senioroty reduced by 5 positions
214	M.K.Manomohan	FA	23-05-1958	255	29-01-1988	29-01-1988	
215	P.A.Balan	FNTR	23-02-1938	154	30-09-1981	30-09-1981	
216	M.Sainudeen	FNTR	29-06-1941	197	30-05-1981	30-05-1981	
217	P.J.John	FNTR	29-03-1938	155	23-04-1982	23-04-1982	
218	C.K.Alexander	FNTR	22-01-1937	144	23-04-1982	23-04-1982	
219	P.R.Suresh	FA	28-07-1961	257	21-12-1988	21-12-1988	
220	S.Sun	FA	31-05-1963	204	21-12-1988	21-12-1988	
221	C.Babu	FA	01-05-1961	259	21-12-1988	21-12-1988	
222	M.K.Sureshkumar	FA	30-05-1964	258	21-12-1988	21-12-1988	
223	A.P.Sunilbabu	FA	01-05-1965	215	21-12-1988	21-12-1988	
224	Y.Vijayan	FA	01-03-1960	234	21-12-1988	21-12-1988	
225	P.Unnimoideen	FNTR	01-07-1939	175	31-12-1988	31-12-1988	
226	K.M.John	FNTR	09-10-1940	194	29-04-1986	29-04-1986	
227	O.Louis	FNTR	22-04-1940	182	07-11-1986	07-11-1986	
228	M.A.Bharathan	FNTR	28-03-1938	178	28-03-1989	28-03-1989	
229	C.P.Chacko	FNTR	24-03-1939	179	28-03-1989	28-03-1989	
230	P.Bhaskaran	FNTR	18-07-1939	180	09-04-1989	09-04-1989	
231	Y.Madhavan	FNTR	26-09-1938	181	09-04-1989	09-04-1989	
231	K.V.Poulose	FNTR	29-09-1939	183	08-05-1989	08-05-1989	

233	S.Rasheed	FNTR	18-02-1937	184	08-05-1989	08-05-1989	
234	K.Chandran	FNTR	31-03-1940	191	29-09-1989	29-09-1989	
235	P.V.Divakaran	FNTR	07-03-1938	192	29-09-1989	29-09-1989	
236	N.Vidyadhran	FNTR	19-08-1937	193	29-09-1989	29-09-1989	
237	J.Reveendran Nair	FNTR	21-12-1939	205	16-01-1991	16-01-1991	
238	K.V.Krishnan	FNTR	19-12-1939	206	16-01-1991	16-01-1991	
239	A.K.Balachandraprasad	FNTR	21-04-1940	207	16-01-1991	16-01-1991	
240	T.Venugopal	FNTR	15-07-1942	225	16-01-1991	16-01-1991	
241	M.Achuthan Nair	FNTR	01-07-1943	231	16-01-1991	16-01-1991	
242	P.Surendran Nambiar	FNTR	28-06-1945	239	20-02-1991	20-02-1991	
243	K.Abdulla	FNTR	01-08-1941	208	20-02-1991	20-02-1991	
244	C.K.Kuttappan	FNTR	19-11-1940	209	23-03-1991	23-03-1991	
245	A.Gabriel	FNTR	19-04-1941	210	23-03-1991	23-03-1991	
246	A.A.Jose	FNTR	25-04-1939	211	12-04-1991	12-04-1991	
247	K.K.Ramankutty	FNTR	07-03-1940	243	12-04-1991	12-04-1991	
248	S.Chellappan Achary	FNTR	06-04-1942	216	28-09-1991	28-09-1991	
249	K.Muraleedharan	FNTR	19-12-1944	237	28-09-1991	28-09-1991	
250	K.Balachandran	FNTR	04-10-1938	217	28-09-1991	28-09-1991	
251	K.D.Gopalan	FNTR	10-02-1938	218	28-09-1991	28-09-1991	
252	K.S.John	FNTR	16-05-9141	219	28-09-1991	28-09-1991	
253	M.K.Divakaran	FNTR	06-05-1941	220	16-11-1991	16-11-1991	
254	P.G.Ramachandran	FNTR	17-03-1942	221	16-11-1991	16-11-1991	
255	K.M.Narayanan Namboothiri	FNTR	08-12-1939	222	25-11-1991	25-11-1991	
256	M.Ibrahim	FNTR	27-01-9141	223	25-11-1991	25-11-1991	
257	V.M.Gopalakrishnan	FNTR	04-10-1941	224	25-11-1991	25-11-1991	
258	P.Sugunan	FTR	18-10-1949	261	08-05-1989	08-05-1989	
259	A.Anilkumar	FTR	14-01-1951	235	11-05-1989	11-05-1989	
260	T.G.Natesan	FTR	07-01-1956	260	23-05-1989	23-05-1989	
261	K.Gopalakrishnan	FNTR	01-07-1963	238	02-09-1991	02-09-1991	
Note: Seniority of Range Officers of FNTR category is based on the date of regular promotion							


 Principal Chief Conservator of Forests