

**ACTION HISTORY OF RTI REQUEST No.WLIOI/R/E/21/00033****Applicant Name**

M D Gupta

**Text of Application**

Sub: Appointment of Sh. Arun Kumar Dubey as Internal Audit Officer in Wildlife Institute of India, Dehra Dun. Kindly provide the following information regarding above referred subject under RTI Act 2005 : 1. Certified photocopy of judgment dated 28.11.2016 of Honble High Court of Uttarakhand , Nainital in Special Appeal No. 348 of 2015, and 338 of 2015. 2. Certified photocopy of judgment dated 10.01.2017 of Honble High Court of Uttarakhand , Nainital in Special Review Appeal No. 884 of 2016. 3. Certified photocopy of Single Bench judgment dated 09.07.2019 of Honble High Court of Uttarakhand , Nainital in Writ petition No. 3679 of 2017 in case of Sh. A.K. Dubey V/S Wildlife Institute of India and others. 4. Certified photocopy of Division Bench judgment dated 02.09.2019 of Honble High Court of Uttarakhand , Nainital in Special Appeal No. 826 of 2019 in case of Sh. A.K. Dubey V/S Wildlife Institute of India and others. 5. Certified photocopy of constitution of committee made via Notification No. WII/ADM/2019-20/81, dated 30.09.2019. 6. Certified photocopy of recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 30.09.2019 in respect of Appointment of Sh. Arun Kumar Dubey as Internal Audit Officer in Wildlife Institute of India, Dehra Dun. 7. Certified photocopy of approval of Governing Body of WII/ competent authority regarding recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 30.09.2019 in respect of Appointment of Sh. Arun Kumar Dubey as Internal Audit Officer in Wildlife Institute of India, Dehra Dun. 8. Certified photocopy of office order through which Sh. Arun Kumar Dubey was appointed as Internal Audit Officer in Wildlife Institute of India, Dehra Dun. 9. Certified photocopy of constitution of committee made through Notification No. WII/ADM/2019-20/81, dated 06.02.2020. 10. Certified photocopy of recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 06.02.2020 for implementation of Division Bench judgment dated 02.09.2019 of Honble High Court of Uttarakhand , Nainital in Special Appeal No. 826 of 2019 in case of Sh. A.K. Dubey V/S Wildlife Institute of India and others. 11. Certified photocopy of approval of Governing Body of WII/ competent authority regarding recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 06.02.2020 for implementation of Division Bench judgment dated 02.09.2019 of Honble High Court of Uttarakhand , Nainital in Special Appeal No. 826 of 2019 in case of Sh. A.K. Dubey V/S Wildlife Institute of India and others. 12. Certified photocopies of representations/ letters submitted by Sh. Arun Kumar Dubey before the Institute management being aggrieved by the appointment on the post of Internal Audit Officer in Wildlife Institute of India, Dehra Dun.

**Reply of Application**

SN.	Action Taken	Date of Action	Action Taken By	Remarks
1	RTI REQUEST RECEIVED	11/04/2021	Nodal Officer	
2	REQUEST FORWARDED TO CPIO	12/04/2021	Nodal Officer	Forwarded to CPIO(s) : (1) P.K.Aggarwal
3	REQUEST UNDER PROCESS	11/05/2021	P.K.Aggarwal- (CPIO)	

Print

No. WII/RTI/CPIO/2021-22 (Qtr-I)/07

Date: 31 May, 2021

To,

Shri M.D. Gupta  
8/11, Kaulagarh Road  
Anand Vihar, Dehradun

Sub.: Information under RTI Act, 2005—reg.

Ref.: Your Online RTI No. WLIOI/R/E/21/00033 dated 11/04/2021

Dear Sir,

With reference to your RTI application cited above under RTI Act, 2005 and the requested information sought by you is attached herewith as **Appendix-I**.

I would like to inform you that the Institute is completely closed from 14 April, 2021 due to COVID-19 due to which delay has occurred in furnishing the reply.

The information/ documents are being sent by email. A copy of the same is also being sent by speed post.

In case, you are not satisfied with the information provided above, you may file an appeal to the First Appellate Authority indicated below within thirty days from the date of receipt of this letter.

Director, WII

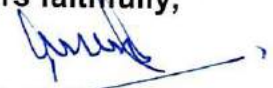
FAA & Director

Address: Wildlife Institute of India, Chandrabani, Dehradun

Phone No.: 01352640910

Thanking you,

Yours faithfully,



NO & CPIO (RTI)

Encl.: as above.

89 pages.



**Wildlife Institute of India  
Chandrabani, Dehradun  
Administration Section**

No. : A/2-31/2005-WII (Vol-V)

Dated: <sup>28</sup> May, 2021

**Sub: Information under Right to Information Act-2005**

**Ref : CPIO Note dated 12.04.2021 providing information on the RTI application of Shri M.D Gupta of RTI No. WLIOI/R/E/00033 dated 11.04.2021**

**Information required:-** The information under RTI Act 2005 on the above quoted reference is furnished below :-

Point No	Point-wise information sought	Reply of WII
1.	Certified photocopy of judgment dated 28.11.2016 of Honble High Court of Uttarakhand, Nainital in Special Appeal No.348 of 2015, and 338 of 2015.	The information is furnished at <b>Annexure-1.</b>
2.	Certified photocopy of judgment dated 10.01.2017 of Honble High Court of Uttarakhand, Nainital in Special Review Appeal No.884 of 2016	The information is furnished at <b>Annexure-2.</b>
3.	Certified photocopy of Division Bench Judgment dated 09.07.2019 of Honble High Court of Uttarakhand, Nainital in Writ petition No.3679 of 2017 in case of Sh. A.K Dubey V/S Wildlife Institute of India and others	The information is furnished at <b>Annexure-3.</b>
4.	Certified photocopy of Division Bench judgment dated 02.09.2019 of Honble High Court of Uttarakhand, Nainital in Special Appeal No.826 of 2019 in case of Sh. A.K Dubey V/S Wildlife Institute of India and others.	The information is furnished at <b>Annexure-4.</b>
5.	Certified photocopy of constitution of committee made via Notification No. WII/ADM/2019-20/81, dated 30.09.2019	The information is furnished at <b>Annexure-5.</b>
6.	Certified photocopy of recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 30.09.2019 in respect of Appointment of Sh. Arun Kumar Dubey as Internal Audit Officer in Wildlife Institute of India, Dehradun	The information is furnished at <b>Annexure-6.</b>
7.	Certified photocopy of approval of Governing Body of WII/competent authority regarding recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 30.09.2019 in respect of Appointment of Sh. Arun Kumar Dubey as Internal Audit Officer in Wildlife Institute of India, Dehradun.	The information is furnished at <b>Annexure-7.</b>

**ATTESTED**

CPIO, Wildlife Institute of India, Dehradun

**INFORMATION PROVIDED  
UNDER RTI**



8.	Certified photocopy of office order through which Sh. Arun Kumar Dubey was appointed as Internal Audit Officer in Wildlife Institute of India, Dehradun	The information is furnished at <b>Annexure-8</b> .
9.	Certified photocopy of constitution of committee made through Notification No. WII/ADM/2019-20/81, dated 06.02.2020	The information is furnished at <b>Annexure-9</b> .
10.	Certified photocopy of recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 06.02.2020 for implementation of Division Bench judgment dated 02.09.2019 of Honble High Court of Uttarakhand, Nainital in Special Appeal No.826 of 2019 in case of Sh. A.K Dubey V/S Wildlife Institute of India and others.	The information is furnished at <b>Annexure-10</b> .
11.	Certified photocopy of approval of Governing Body of WII/Competent authority regarding recommendations made by the committee constituted through Notification No. WII/ADM/2019-20/81, dated 06.02.2020 for implementation of Division Bench judgment dated 02.09.2019 of Honble High Court of Uttarakhand, Nainital in Special Appeal No.826 of 2019 in case of Sh. A.K Dubey V/S Wildlife Institute of India and others.	The information is furnished at <b>Annexure-11</b> .
12.	Certified photocopies of representations/letters submitted by Sh. Arun Kumar Dubey before the Institute management being aggrieved by the appointment on the post of Internal Audit Officer in Wildlife Institute of India, Dehradun	The information is furnished at <b>Annexure-12</b> .

*Rajni*  
28/05/21  
(Rajni)

Admin Assistant

~~Section Officer~~

The information has been complied as available in file - submitted files.

ATTESTED

*Deputy Registrar*

*[Signature]*  
CPIO, Wild Life Institute of India, Dehradun  
01.05.2021

*Amit Palra*  
28/5/2021

INFORMATION PROVIDED  
UNDER RTI

2/6/21



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Appeal No. 348 of 2015

Smt. Tejvinder Kaur Ahuja and others ..... Appellants

Versus

M.D. Gupta and others ..... Respondents

With

Special Appeal No. 338 of 2015

A.K. Dubey ..... Appellant

Versus

Wild Life Institute of India and others ..... Respondents

Mr. Manoj Tiwari, Senior Advocate assisted by Mr. Alok Mahra, Advocate and Mr. Bhagwat Mehra, Advocate for the appellants.  
Mr. Rakesh Thapliyal, Assistant Solicitor General for the Union of India/Institute.  
Mr. Kishore Kumar, Advocate holding brief of Mr. M.C. Pant, Advocate for the writ petitioner.

Dated: 28<sup>th</sup> November, 2016

Coram: Hon'ble K.M. Joseph, C.J.  
Hon'ble Alok Singh, J.

K.M. JOSEPH, C.J. (Oral)

These two appeals being connected, we dispose of the same by this common judgment.

2. These appeals relate to the service conditions of the employees of the Wild Life Institute of India (from hereinafter referred to as "the Institute"). Appellants in Special Appeal No. 348 of 2015 are respondent nos. 10, 11 and 7 respectively in the writ petition. Appellant in Special Appeal No. 338 of 2015 is respondent no. 6 in the Writ Petition. The first respondent in

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



Special Appeal No. 348 of 2015 is the writ petitioner and will be referred to as such.

3. The writ petitioner approached this Court seeking the following two reliefs in the writ petition :

- "1. Issue writ Issue writ rule or direction in the nature of certiorari quashing the impugned order dated 8.11.2011 along with its effect and operation also after calling the entire records from the respondents and further to declare the condition provide in the service rules 2007 to treat the presently working as Hindi translator for promotion in the feeding cadre is unconstitutional and ultra virus to the Constitution of India and declare the same nonest in law.
2. Issue writ rule or direction in the nature of mandamus directing the respondents to rectify their mistakes as indicated by the respondents in its letter dated 9.1.2004 and also not to carry out any promotional exercise or consider the promotion of the beneficiary of the earlier illegal persons during the year 1993-2000 in utter disregard to the recruitment rules of 1986 and further to direct the respondents to make promotional exercise in tune of rules of 1986 on the post and vacancies available during the period of 1993-2000 strictly in terms of the rules of 1986 and to consider the case of the petitioner for the same or in alternate to grant the benefit of promotion to the petitioner on the basis of his eligibility and seniority w.e.f. the date when the same has been given to other ineligible persons ignoring the service rules."

4. The learned Single Judge allowed the writ petition. The judgment passed by the learned Single Judge comprises of three pages. We deem it appropriate to extract the same as under :

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



"Having heard learned counsel for all the parties, it transpires that innumerable illegalities and irregularities have been done by the Directors of this Wild Life Institute (an autonomous body working under the Ministry of Forest and Environment, Union of India), the outcome whereof is the illegal appointments and promotions on the whims and caprices of Directors of this Institute, de hors all the recruitment and promotion rules, for the reasons best known to them. By such whimsical and arbitrary action on the part of directors, from time to time, respondent nos.4 to 11 were favoured in the manner of appointment or promotion. If the appointments were made on a particular post, then those were without publication of any advertisement, at any time, rendering an equal opportunity to the competent persons and likewise, the promotions were made by such officer de hors the rules favouring persons of their choice. Such an action on the part of responsible officers, inasmuch as holding the rank of Director, made the petitioner victim. So, he moved to the Government of India. Furthermore, one of the Directors Mr. S. Singhit, when noticed these irregularities and illegalities, he wrote a letter to the Government of India entailing the clause as under: -

*"Since the procedure for promotions made were not in confirmation to the Recruitment Rules approved by the Governing Body and because of which eligible candidates could not get opportunity to be considered for promotion, it is proposed that the promotions in question should be done afresh and all eligible candidates should be given opportunity to appear in the competitive examination as stipulated in the Recruitment Rules."*

In response to that letter, the Government of India, vide letter dated 9.1.2004, issued appropriate directions which are as follows: -

*"Kindly refer to your letter No.A/2-154/2003-WII dated 21.10.2003 on the above cited*

ATTESTED

CPIO, Wild Life Institute of India - Dehradun

INFORMATION PROVIDED  
UNDER RTI



*subject. In this regard, the undersigned is directed to convey that the appointing authority should take the decision at his level. If any mistake has been committed, the same has to be rectified and responsibility fixed and disciplinary action be taken against those found guilty by following the prescribed rules and procedure."*

Even so, nothing happened, much less conducting any disciplinary action against the delinquents and they remained in service for quite a long time and many of them even retired. Some of them have completed more than two decades of their service.

It is pertinent to mention that in the year 2007, fresh recruitment Rules were framed. The last clause appended to those Rules seems to be indicted in order to render special favour to the Hindi Translator who is respondent no.7- Smt. Baljeet Kaur, herein, and this lady was appointed without issuing any advertisement just on the basis of pick and choose policy by the then Director. That apart, certain persons, who were not even possessing the minimum qualification, prescribed under the Rules, got appointments at the pleasure of Director. Since all these candidates have completed more than two decades of their service and the Directors, who played such a felonious role, have also since been retired, so, perhaps, it would not be feasible to take any stringent action against those delinquents and to issue the termination orders of these persons but, at least, the petitioner should be safeguarded from injustice.

The seniority list of the petitioner has not been finalized so far. Attention of this Court was drawn to the letter dated 25.10.2011 issued by the Government of India to close up the matter. The Court do not agree with the contents of such letter and quashes the directions, whatever issued, in such letter because illegality always remains the same and that can never attain the status of legality.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



Looking to the above facts, the Court has restrained itself to issue any hard and harsh order against these respondents but at the same time, orders the present Director of the Institute to prepare and finalize the Seniority List of all the Class-III employees, working in the Institute, on different posts giving the notional promotion to the petitioner from the date on which he became entitled on the post of his next gradation and so on. At the same time, the Court quashes the clause *"The present incumbent on the post of Hindi Translator will remain in the feeder channel for promotion to the post of Section Officer. In future, the isolated post of Hindi Translator will get promotional avenues as per GoI guidelines."*

The Director of the Institute is also ordered to take appropriate steps to revert back those respondents who have got illegal promotions dehors the Rules.

Let the compliance of the order be made as quickly as possible but not later than within six weeks, otherwise the Court may contemplate to lodge the FIR against such delinquent officials and the office superintendent as well, who may be in conspiracy with the Director. The Court may further consider to lodge an FIR against the Director as well as the Office Superintendent besides entrusting the matter to the CBI for holding enquiry in the matter.

The petition stands disposed of accordingly."

5. Feeling aggrieved, the appellants are before us.

6. We have heard Mr. Manoj Tiwari, learned senior counsel in both the appeals on behalf of the appellants, Mr. Rakesh Thapliyal, learned Assistant Solicitor General on behalf of the

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



Institute and Mr. Kishore Kumar, learned counsel on behalf of the writ petitioner.

7. The writ petition was filed with the following brief allegations :

(i) The writ petitioner was appointed on 21.02.1985 as LDC. The Institute was the department of the Respondent no. 3 (Union of India). The Institute was converted into a Society and was given autonomy and since the year 1986, it became an autonomous body. The services of the writ petitioner were regularized vide order dated 25.06.1986. The writ petitioner was promoted on ad-hoc basis on the post of UDC vide order dated 28.05.1990. A gradation list of LDC cadre was issued vide Annexure No. 5. The promotion given to the writ petitioner was regularized vide order dated 21.07.1994 with effect from 25.1.1990.

(ii) The Service Rules were framed in the year 1986. O-(1) corresponds to LDC and O-(2) corresponds to UDC. It is also provided that a UDC may work as Cashier, Assistant Storekeeper, Assistant Hostel Superintendent. O-(3) comprises of Store Keeper-I, Hostel Superintendent-I, Hindi Translator-I and Stenographer Grade II. O-(4) comprises of the sole post of Accountant. O-(5) provides for Senior Personal Assistant (Stenographer Grade I) and O-(6) provides for Administrative Officer/Finance Officer. It would appear, in short, that for promotion from O-(2) to O-(3), the Rules provided for the following mode of recruitment :

ATTESTED

  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



"100% by promotion by Grade O-(2), who have put in at least 5 years in that grade, through competitive examination and record evaluation by DPC (Deputation on stop gap basis)"

(iii) The case of the writ petitioner appears to be that flouting the Rules, promotions were given. The matter engaged the attention of the authority and it suffices for us to refer to a few communications. Annexure No. 19 is addressed by the Director of the Institute to the Deputy Inspector General, Wild Life, Ministry of Environment & Forests. It is necessary in order to appreciate the contentions to refer to it and extract the same as under:

"No.A/2-154/2003-WII

Dated: 21<sup>st</sup> October 2003

To,

Shri Aseem Srivastava, IFS  
Deputy Inspector General (WL),  
Ministry of Environment & Forests,  
Paryavaran Bhawan, 'B' Block,  
CGO Complex, Lodi Road,  
New Delhi - 110 003

Sub: Violation of Recruitment Rules in promotions.

Sir,

This has reference to your letter NO. 22-5/2002-WL-1 dated 28<sup>th</sup> August, 2003 on the above subject. The Recruitment Rules for the Administrative and Technical Services for the Wildlife Institute of India was approved by the Governing Body in its 1<sup>st</sup> meeting held on 20.3.1986 (copy enclosed).

Recruitment and promotion rules for L.D.C. / U.D.C. Storekeeper / Hostel Superintendent / Hindi translator and Accountant as approved by the Governing Body are as under :-

Group & Grade	Minimum Essential Qualification	Age	Mode of Recruitment
O-(1) L.D.C.	S.S.S.C., Typing 30 w.p.m.	18-28 years	Direct recruitment 100%. Departmental candidates eligible upto 35 years, but no relaxation in minimum qualifications.

ATTESTED

CPIO, Wild Life Institute of India Dehradun

INFORMATION PROVIDED  
UNDER RTI



O-(2) U.D.C.	University degree for direct recruits. Typing 30 w.p.m.	Not applicable	(i) 50% by promotion from Grade O-1, with 5 years service in that grade, through DPC based on record and interview, (Deputation on stop gap basis)
		19-28 years	(ii) 50% by direct recruitment through competitive examination and interview by DPC.
			Departmental Candidates possessing minimum qualifications also eligible (with age relaxed upto 40 years) for direct recruitment.
O-(3) Store Keeper, Hostel Suptd, Hindi Translator	University Degree	Not applicable	100% by promotion from Grade O-2, who have put in at least 5 years of service in that grade, through competitive examination and record evaluation by DPC (Deputation on stop gap basis)
O-(4) Accountant		Not applicable	(i) 100% by promotion from Grade O-3 (i) of those who have put in 8 years in that grade, through competitive examination and record evaluation by DPC (Deputation of stop gap basis or absorption of deputationists over 45 years)

As per the above approved Recruitment Rules, promotion to Store Keeper/Hostel Superintendent/Hindi Translator shall be 100% by promotion from Grade O-2 who have put in at least 5 years service in that grade, through competitive examination and record evaluation by DPC.

Contrary to the above provisions, promotion to the above posts were made by Departmental Promotion Committee (DPC) without conducting the competitive examination amongst all those UDCs who were eligible at that point of time.

It is evident that the Recruitment Rules as approved by the Governing Body to be adopted by WIL, have, prima-facie been violated to the extent mentioned above in the promotions of UDCs to Store Keeper/Hostel Superintendent/Hindi Translator and Accountants.

The promotions to the above posts were recommended by the Departmental Promotion Committee, which were approved by the then Director, WIL.

Since the procedure for promotions made were not in confirmation to the Recruitment Rules approved by the Governing Body and because of which eligible candidates

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



could not get opportunity to be considered for promotions, it is proposed that the promotions in question should be done afresh and all eligible candidates should be given opportunity to appear in the competitive examination as stipulated in the Recruitment Rules.

The decision of the MoEF on the above issue may be communicated to us at the earliest.

Yours faithfully,

(S. Singsit)  
Director

Encl: As above"

(iv) Referring to the said letter, the Deputy Inspector General wrote to the Director on 09.01.2004 as follows :

F.No.22-5/2002 WL-1  
Government of India  
Ministry of Environment and Forests

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi - 110003

Dated: 9.1.2004

To,  
The Director  
Wildlife Institute of India  
P.B. No. 18, Chandrabani  
Dehra Dun

Sub: Violation of Recruitment Rules in promotion.

Sir,

Kindly refer to your letter No.A/2-154/2003-WII dated 21.10.2003 on the above cited subject. In this regard, the undersigned is directed to convey that the appointing authority should take the decision at his level. If any mistake has been committed, the same has to be rectified and responsibility fixed and disciplinary action taken against those found guilty by following the prescribed rules and procedure.

Yours Faithfully,

SD/  
(ASEEM SRIVASTAVA)  
DEPUTY INSPECTOR GENERAL (WL)

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



(v) It was the complaint of the writ petitioner that respondent no. 2 (Registrar, Wild Life Institute of India) was inert and trying to circumvent the order of the Ministry. The writ petitioner alleges that he had sent subsequent reminders on 29.04.2008, 24.06.2008, 01.09.2008 and 03.08.2009, which were not disposed of and which are produced as Annexure No. 20.

(vi) Thereafter, the writ petitioner vide letter dated 13.11.2009 requested for financial up-gradation under the ACP Scheme. The ACP benefit was given to him with delay, but the inaction of the management is questionable. It is, thereafter, that Annexure No. 1 order was passed, which is impugned in the first relief, which we have already extracted. The said order is dated 08.11.2011 and it reads as follows :

No. A/2-154/2003-WII

Dated: 8<sup>th</sup> November, 2011

**OFFICE MEMORANDUM**

Sub: Representations of Shri M.D. Gupta, Assistant Grade II regarding alleged violation of Recruitment Rules in promotions.

- Ref. (i) Representation dated 22.07.2003 addressed to Director, Wildlife Institute of India (WII), Dehradun.
- (ii) Representation dated 19.8.2003 addressed to Chairman, Governing Body, WII & Secretary, Ministry of Environment & Forests (MoEF), New Delhi.
- (iii) Reminder letters dated 29.4.2008, 24.06.2008 and 01.09.2008 addressed to Director, WII
- (iv) Representation dated 26.09.2011 addressed to Hon'ble Union Minister of Environment & Forests and President, WII-Society.

In the representations of Shri M.D. Gupta, Assistant-II cited above, he has stated that his promotions from Upper Division Clerks (O-2) to higher grades would have accrued

**ATTESTED**

CPIO, Wild Life Institute of India, Dehradun

**INFORMATION PROVIDED  
UNDER RTI**



to him had the WII authorities followed the method of Competitive Examination along with evaluation of record as per the extant recruitment rules of the Institute. The relevant promotions referred by him in his representations however, were given on seniority basis and evaluation of ACRs by the WII authorities. Shri Gupta has also alleged concealment of facts by WII authorities in putting up the case before Ministry. The matter has been carefully examined in the Ministry and I am directed to convey the following decision taken by the MoEF on his aforesaid representations:

- (1) The chances of promotion the Petitioner thought that would accrue were only notional and would have been subject to the outcome of a Competitive Examination. His promotion has, thus, not been affected directly.
- (2) The officials of the Administrative Cadre of Wildlife Institute of India were promoted on the basis of DoPT guidelines during 1993-2000. Since, the WII has amended and harmonized the RRs based on DoPT rules in 2007, therefore, promotions made during 1993-2000 may not be reverted/revoked and may be regularized.
- (3) The allegation vide his letter dated 26.09.2011 (under reference iv above) regarding concealment of facts by present Institute authorities to MoEF for obtaining its views/consent from the Governing Body and MoEF has also been examined by the MoEF and found not to be true, hence, not acceptable.

All his representations mentioned above stand disposed accordingly.

Registrar  
Wildlife Institute of India  
Dehradun

To,  
Shri M.D. Gupta  
Assistant Grade-II  
Wildlife Institute of India  
Dehradun

Copy to Deputy Inspector General (WL), Ministry of Environment & Forests, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi for information.

Registrar  
Wildlife Institute of India  
Dehradun

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



8. It is appropriate at this stage also to advert to certain subsequent developments. In the year 2007, the Institute decided to revise the Recruitment and Promotion Rules. Accordingly, the Rules were made and they came into force with effect from 01.08.2007. In the said Rules, it is inter alia provided that for Hindi Translator, the post was to be filled by direct recruitment (this was to be done through Test and Interview or failing which by deputation or short term contract). At the end of Schedule 4, which deals with Recruitment Rules for Hindi Translator, the following was added:

"The present incumbent on the post of Hindi Translator will remain in the feeder channel for promotion to the post of Section Officer. In future, the isolated post of Hindi Translator will get promotional avenues as per Government of India guidelines."

9. A perusal of the prayer would show that the writ petitioner mounted a challenge to the portion providing for "the present incumbent remaining in the feeder channel for promotion to the post of Section Officer".

10. It is now ripe to advert to the case of the appellants. Appellants were all directly recruited as Upper Division Clerks, which, as we noted, fall in Grade O-(2). They were recruited in the year 1987 pursuant to selection held in the year 1986. The first appellant in Special Appeal No. 348 of 2015 was promoted to Grade O-(3) vide order dated 22.09.1999, whereas the appellant nos. 2 and 3 were promoted vide order dated 20.11.2000. Appellant in Special Appeal No. 338 of 2015 was

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



selected on the basis of direct recruitment conducted through Staff Selection Commission as Hindi Translator vide order dated 21.07.1989 and thereafter, he was promoted in the year 1999 to Grade O-(4).

11. Mr. Manoj Tiwari, learned senior counsel for the appellants would submit that the learned Single Judge has granted relief in a writ petition, which was filed in the year 2011. In other words, he points out laches on the part of the writ petitioner. He would point out that by the impugned judgment, the learned Single Judge has issued directions, which will unsettle the promotions, which have been given nearly 15 years' earlier. He would further submit that even accepting the case of the writ petitioner, the learned Single Judge erred in directing notional promotion to be given. In other words, it is contended that if it is a case that examination was not held, the question is posed as to how the learned Single Judge could have directed notional promotion to be given *de hors* holding of examination. No reason has been given in support of the conclusions or directions. In fact, he would pray that the matter may be set aside and remitted back for fresh consideration. He would also submit that the promotions were actually effected in terms of the Government of India guidelines as is made clear in the impugned order and no reliance can be placed on the decision of the Governing Body of the Institute taken in the year 1986 as they are not statutory in nature.

12. Mr. Rakesh Thapliyal, learned counsel appearing for the Institute would point out that actually as far as the Institute is

ATTESTED

  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



concerned, it has accepted the judgment of the learned Single Judge. What is more, it is contended that the judgment of the learned Single Judge was implemented by passing fresh orders as per which, in fact, appellants have also been benefited.

13. Mr. Kishore Kumar, learned counsel appearing for the writ petitioner would also submit that having regard to the subsequent developments in the form of implementation of the judgment by the Institute as per which in fact, the writ petitioner has been given the due promotions, no interference with the judgment of the learned Single Judge is called for.

14. It is true that the learned Single Judge has not given the details of contentions of the parties with reference to the particulars, which we have attempted to do in our judgment. But we do not think it necessary in the circumstances of the case to remit it back for further consideration, as the pleadings were complete before the learned Single Judge. As already noticed, the Institute was once a part of the department of the Government of India. Sometime in the year 1986, it was transformed into an autonomous body as a Society was formed. The supreme body of the Society appears to be the Governing Body. The Governing Body has formulated the Rules relating to recruitment in the year 1986. We must, at this juncture, deal with one argument of the learned Senior Counsel for the appellants that these Rules are liable to be ignored, as they are not statutory in nature. This area is no longer *res integra* as the Apex Court has spoken authoritatively on this issue in a catena of decisions and we need only refer to the judgment of the

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



Apex Court in the case of B.S. Minhas Vs. Indian Statistical Institute and others reported in (1983) 4 Supreme Court Cases 582. We need only advert to paragraph nos. 23 and 24, which reads as under :

"23. The next question that arises for consideration is whether the appointment of respondent No.4 as Director of respondent No.1 is illegal because of non-compliance with bye-law 2. Bye-law 2 does require that before appointment, the vacancy in the post of Director should be suitably publicised. In the instant case, it is admitted on both sides that no publicity whatsoever was given in respect of the 410 vacancy. The contention of Shri Garg, however, is that the bye-law having no force of statute, non-compliance with its requirement can not in any way affect the appointment of respondent No. 4 as Director of respondent No. 1. Shri Tarkunde, however, contended that assuming that the bye-law is not statutory, even so respondent No. 1 was bound to comply with it. In support of his contention he strongly relied upon Ramana Dayaram Shetty v. International Airport Authority of India. The Court in that case held:

"It is a well settled rule of administrative law that an executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. This rule was enunciated by Mr. Justice Frankfurter in Vitarelli v. Seaton where the learned Judge said:

An executive agency must be rigorously held to the standards by which it professes its action to be judged. Accordingly, if dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that procedure must be scrupulously observed.... This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with the sword.

The aforesaid principle laid down by Mr. Justice Frankfurter in Vitarelli v. Seaton has been accepted as applicable in India by this Court in Amarjeet Singh Ahluwalia v. State of Punjab and in subsequent decision given in Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi. Mathew J. quoted the above referred observation of Mr. Justice Frankfurter with approval.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



24. In view of the pronouncement of this Court on the point it must be held to be obligatory on the part of respondent No. 1 to follow the bye-laws, if the bye-laws have been framed for the conduct of its affairs to avoid arbitrariness. Respondent No. 1 cannot, 411 therefore, escape the liability for not following the procedure prescribed by bye-law 2."

15. Therefore, we have no hesitation in rejecting the contention of the learned senior counsel for the appellants that the 1986 decision of the Governing Body of the Institute, which is undisputedly an authority under Article 12 of the Constitution of India, was binding and it could be departed only on pain of invalidation of action in deviation therefrom.

16. Taking the 1986 Rules as binding on all the parties, we have to necessarily find, having regard to the communications which we have extracted between the Director and the Deputy Inspector General of Wild Life, that promotions were effected in violation of the 1986 Rules. Promotions, in other words, given to the appellants in Special Appeal No. 348 of 2015 were in naked violation of the requirement that promotion be effected only on the basis of the result of the examination. It is in fact, not in dispute by the learned counsel for the Institute that promotions were effected without holding any examination.

17. At this juncture, we should also advert to the aspect relating to laches on the part of the writ petitioner. True it is that the appellants were promoted nearly more than a decade before the filing of the writ petition; but we must also notice in this case that the appellants had moved the authority, the

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



Director of the Institute had admitted the violation in the communication to the Government of India, the Government of India had issued the communication dated 09.01.2004 directing rectification, which apparently was to be done in terms of the admitted position by the Director. The matter lingered on without any further consequential action. The writ petitioner appears to have addressed representations and finally the impugned order was passed in the year 2011. The writ petition was filed in the year 2011 itself. Therefore, in the facts of this case, we are not impressed with the contention that the writ petition should have been dismissed on the ground of laches.

18. The resultant position is that the promotions, which were given, were illegal in the context of the 1986 Rules. The question further arises that on finding that the promotions were given illegally, what is the further action to be undertaken. We are dealing with this matter after nearly one and a half decades of the promotions being given in the years 1999 and 2000. The matter becomes further complicated by the aspect that many persons have retired and gone. Acting pursuant to the judgment of the learned Single Judge, the Institute has purported to implement it and, on the basis of the report of the committee, given notional promotion to the writ petitioner. In the circumstances of this case, we would agree with the learned Single Judge that the impugned order cannot be sustained, as the reason given for not interfering with the illegal promotions was that they were being given in accordance with the Government of India guidelines. When there was a decision taken by the Governing Body, which is binding as we have

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



already held, promotions given contrary to the same were to be revisited and illegality rectified. Therefore, the reason given in Annexure no. 1 does not appeal to us as legal and therefore, it cannot be sustained. Equally unappealing to us is the reason that the chances of promotion the petitioner thought that would accrue were only notional and would have been subject to the outcome of the competitive examination and that his promotion is not directly affected. The holding of the competitive examination was a mandatory requirement under the Rules and it would have made a mark on the destiny of the candidates and it is not merely a question of chances of promotion. It is a direct violation of the writ petitioner's right to be considered for promotion as per the 1986 Rules. Therefore, the two main reasons given for passing the order cannot be sustained. Accordingly, we agree with the learned Single Judge that Annexure No. 1 must go. The learned Single Judge has also declared the portion, which we have extracted, relating to the Hindi Translator continuing to be in the feeder category for promotion to the post of Section Officer as illegal and unconstitutional. The reason given is that it is done to favour the 7<sup>th</sup> respondent, who had been promoted as Hindi Translator. According to the learned senior counsel for the appellants, the 7<sup>th</sup> respondent was promoted as Hindi Translator as per the Rules then in force in the year 1986; but we have already noticed that the promotion given to the appellant no. 3 (respondent no. 7 in the writ petition) was without holding the examination. According to Mr. Rakesh Thapliyal learned counsel for the Institute, in the year 1988, the

**ATTESTED**

CPIO, Wild Life Institute of India, Dehradun

**INFORMATION PROVIDED  
UNDER RTI**



Governing Body decided to fill up the post of Hindi Translator by direct recruitment.

19. It may be noted that the appellant in Special Appeal No. 338 of 2015 was appointed as Hindi Translator by way of direct recruitment in the year 1989 and it is thereafter that in the year 2000, the third appellant in Special Appeal No. 348 of 2015 was promoted as Hindi Translator.

20. We are also not inclined to interfere with the quashing of the portion providing that the incumbent translator will remain in the feeder category for promotion as Section Officer. Under the 2007 Rules, in fact, Section Officers are to be appointed by way of promotion from Assistant Grade I inter alia. The remaining question is only the direction to give notional promotion to the writ petitioner.

21. We would think that once it is found that the promotions given to the appellants are bad for violation of the decisions of the Governing Body, which we have held to be binding, the proper thing to do would be to direct that the promotional exercise be held strictly in accordance with the Rules as in force from time to time. The Rules of 1986 will, in other words, continue to hold the field till they are modified or superseded. They have indeed been superseded with effect from 01.08.2007 and till they were superseded, the promotional exercise must be conducted in terms of the 1986 Rules. For promotion from O-(2) to O-(3), in other words, the candidate must satisfy the requirement of having been successful in the departmental

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



examination. All the candidates, who are eligible and who are in service, in other words, must undergo the examination and their eligibility for promotion must be determined on the said basis. Therefore, the direction to give notional promotion to the writ petitioner without reference to the requirement of the Rules cannot be sustained.

22. Resultantly, the appeals are partly allowed. In place of the direction given by the learned Single Judge to give notional promotion to the writ petitioner, we direct that the Institute will carry out the promotional exercise for the posts in terms of the decisions of the Governing Body of the Institute beginning with the Governing Body's decision of 1986 and also culminating in the Rules of 2007, which came into effect on 01.08.2007. This is besides the decision taken by the Governing Body in the year 1988 which is, as submitted before us, in modification of the 1986 Rules. In fact, it is brought to our notice that the appellant in Special Appeal No. 338 of 2015, who was directly recruited as Hindi Translator, was wrongly given promotion as Accountant [O-(4)]; he stands reverted and he is holding the post of Hindi Translator; there is only one post of Hindi Translator; and appellant no. 3 in Special Appeal No. 348 of 2015 is given promotion as Assistant Grade I after the impugned judgment. We only direct that the process of filling up the vacancies be undertaken strictly as per the decisions taken in the years 1986, 1988 and 2007. We make it clear that this will not result in deprivation of any benefit, which persons, who have served and retired, have secured or are securing. Till the exercise is concluded, the notional promotion, which has

ATTESTED

  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



already been given to the writ petitioner, will continue on ad-hoc basis and it will finally be decided on the basis of the exercise to be undertaken by the Institute. This exercise should be concluded within a period of three months from the date of receipt of a certified copy of this judgment. We also make it clear that the promotions given to the parties to these appeals contrary to the Rules will be treated as ad-hoc and will be subject to the outcome of the promotional exercise.

23. We record the submission of the learned counsel for the Institute that after the judgment of the learned Single Judge a seniority list has been prepared. The directions, which we have given to hold the promotional exercise, would necessarily take note of all the rights of the employees with reference to the vacancies, as and when they arose.

*sd*  
(Alok Singh, J.)  
28.11.2016

Rahul

*sd*  
(K.M. Joseph, C. J.)  
28.11.2016

*Compared by DTP* PHOTOSTATE  
TRUE COPY

*15/12/16*

Dehradun  
Dehradun  
Wild Centre of Uttarakhand  
NAIMITAL

ATTESTED

*[Signature]*  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



29  
IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

\*\*\*\*\*

SPECIAL APPEAL NO. ....338..... OF 2015

(Under Chapter VIII Rule 5 of the High Court Rules)

..... District- Dehradun

A. K. Dubey, S/O Late Sri Shobha Nath Dubey, presently serving as Section Officer/ Accountant, Wild Life Institute of India, Chandrabani, Dehradun.

.....Appellant

VERSUS

1. Wild Life Institute of India through its Director, Post Box No. 18, Chandrabani, Dehradun.
  2. Registrar, Wild Life Institute of India, Post Box No. 18, Chandrabani, Dehradun.
  3. Union of India through Secretary, Department of Environment & Forest, New Delhi.
  4. Sri M. D. Gupta, S/O Late Sri Manohar Lal Gupta, R/O 8/11, Kaulagarh Road, Anand Vihar, Dehradun.
- .....Respondents

This Special Appeal is being filed against the judgment and order dated 26.05.2015 passed by Hon'ble Single Judge in Writ Petition No. 1580 (S/S) of 2011 (M. D. Gupta Vs. Wild Life Institute of India and others).

Court fees paid is Rs. ....100/-.....

The relief sought by the instant Special Appeal is that the impugned judgment and order dated 26.05.2015 be set aside and the writ petition be dismissed with cost.

The impugned judgment and order is being challenged inter-alia on the following grounds :-

GROUNDS

- I. Because the impugned judgment has been passed without considering the documentary evidences available on record, and the same is totally against the material available on record.
- II. Because the Hon'ble Single Judge while deciding the Writ Petition has travelled beyond the prayers made in the Writ Petition, that too without there being any pleadings for the same, due to which the Appellant and other Respondents in the Writ Petition could not rebut the same.
- III. Because with due respect, it is submitted that the Hon'ble Single Judge could not considered the vital aspects as were highlighted in the Counter Affidavit and proceeded in a misguided way.



ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI





29

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

AFFIDAVIT

IN

REVIEW APPLICATION NO. .... OF 2016

IN

SPECIAL APPEAL NO. 338 OF 2015

(Under Chapter VIII Rule 5 of the High Court Rules)

District- Dehradun

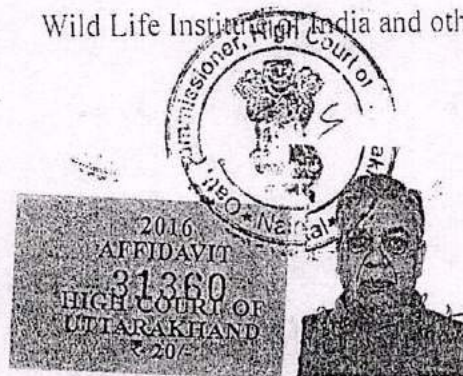
A.K. Dubey

.....Appellant

Versus

Wild Life Institute of India and others

.....Respondents



Affidavit of A.K. Dubey, aged about 55 years, S/o Late Sri Shobh Nath Dubey, presently serving as Section Officer/ Accountant, Wild Life Institute of India, Chandrabani, Dehradun.

Certified that Deponent has sign / LTI / RTI on his photograph in my presence

(Deponent)



I, the deponent above named do hereby solemnly affirm and state on oath as under:-

- 1. That the deponent is the applicant in the above noted review application and, as such, he is fully conversant with the facts and circumstances deposed to below.

A.K. Dubey

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED UNDER RTI



2. That the full facts and circumstances of the case have been disclosed in the accompanying review application, which may be treated as part of this affidavit.

I, the deponent above named do hereby verify that the contents of para no. 1 and 2 of this affidavit and those of para no. 1, 2, 4, 6, 7, 8, 11, 12..... of this application are true to my personal knowledge, those of paragraph no. 3, 5, 9, 10..... of this application are based on perusal of records and those of paragraph no. .... of this application are based on legal advice, which all I believe to be true. That no part of this affidavit is false and nothing material has been concealed.

So Help Me God

(Deponent)

L+1 & deponent

I, Alok Mahra, Advocate, High Court of Uttarakhand at Nainital, do hereby identify the deponent who has produced the records of the case before me and I am satisfied that he is the same person as alleged.

Advocate  
Regd. No. 633/99  
Bar No. A-6

Solemnly affirmed before the me .../... the day of December, 2016 at 10:40 a.m./p.m. by the deponent who has been identified by the aforesaid person.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit, which have been read over and explained by him.



Swati  
SWATI VERMA  
Regd. No. UK - 377 / 2014  
Oath Commissioner  
High Court of Uttarakhand  
AL - NAINITAL  
Sl. No. 31360  
Dated 11/12/2016

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL  
MCC Review Application No. 884 of 2016  
In  
SPECIAL APPEAL No. 338 of 2015

A.K.Dubey

.....Appellant

Versus

Wild Life Institute of India and others.

.....Respondents

Mr. Alok Mahra, Advocate for the review applicant / appellant.  
Mr. Rakesh Thapliyal, Assistant Solicitor General for the Union of India / Institute.  
Mr. Kishore Kumar, Advocate holding brief of Mr. M.C. Pant, Advocate for the writ petitioner.

CPIO, Wild Life Institute of India, Dehradun

Dated: 10.01.2017

Coram: Hon'ble K.M. Joseph, C.J.  
Hon'ble Alok Singh, J.

INFORMATION PROVIDED  
UNDER RTI

K.M. Joseph, C.J. (Oral)

Present review has been filed focusing only on the following sentence in Paragraph-22 of the judgment:

"...In fact, it is brought to our notice that the appellant in Special Appeal No. 338 of 2015, who was directly recruited as Hindi Translator, was wrongly given promotion as Accountant [O-(4)];"

2. Learned counsel for the review petitioner would point out that the appellant in Special Appeal No. 338 of 2015 was given promotion as per the law then. We have recorded the submission of the respondent authority about the reversion. The reversion was made during the pendency of the Appeal. After noticing this, we had directed filling up the vacancies as per the decisions taken in the years 1986, 1988 and 2007, with which direction, there is no complaint. If that is so, we see no merit in the review petition and the same is dismissed. No order as to costs.

Compared by  
PROTEST  
SUB-COPY

Assistant Registrar (Copying)  
High Court of Uttarakhand  
NAINITAL

(Alok Singh, J.)  
10.01.2017

(K.M. Joseph, C.J.)  
10.01.2017

HIGH COURT OF UTTARAKHAND



**HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**Writ Petition (S/S) No. 3679 of 2017**

Arun Kumar Dubey .....Petitioner  
 Versus  
 Union of India ...Respondent  
 Advocate : Mr. Pankaj Miglani, Advocate for the petitioner  
 Mr. Rakesh Thapliyal, Assistant Solicitor General of India/respondents

**Hon'ble Sharad Kumar Sharma, J.**

There is an Institute called as "Wildlife Institute of India" (hereinafter would be referred to be as an "Institute"), which is admittedly created under the Societies Registration Act; but the mode and manner and its deep and pervasive control which is being exercised by the Government of India, hence it has been held out to be a State within the scope of Article 12 of the Constitution of India. In order to regulate the services of its employees, the Institute in pursuance to the directives which were referred to by the respondent's counsel was pertaining to 1986, which intended to propagate the mother tongue i.e. "Hindi", keeping that in mind they had, he argues that the Institute has framed the service rules and decided to appoint Hindi "Translators". which has been called as **"The Recruitment Rules of Scientific and Administrative Services Wildlife Institute of India"** (hereinafter to be called as "Rules of 1986"). The said rules contains various classifications of posts and its modalities of recruitment, qualification which has been contained under Section 5 and the various categories of the post be held and the same has been classified into O1, O2, O3, O4 and O5 categories of employees and henceforth.

2. Before venturing to the factual aspects of the matter, it becomes necessary for the Court to deal with the rules on which the argument has been extended by the learned counsel for the

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
 UNDER RTI



respondent. It is not in controversy that as per table V-0 (Annexure 1 to the writ petition), it provides with the various group of posts, the minimum qualification which a candidate is required to hold to make him eligible, the age slab in which the employee should fall and the mode of its recruitment.

3. This Court at this stage is straightaway considering the criteria of appointment which is contemplated under rules for posts falling under O3 group or cadre of post which is the bone of contention of the present writ petition and is in controversy. The O3 cadre post is inclusive in it the post of Hindi Translators. It would not be out of place to mention that it has been an argument as extended by the learned counsel for the respondent that the inclusion of the post of Hindi Translator into O3 level post was to meet the spirit and the purpose as enunciated by the Government of India in its letter dated 14<sup>th</sup> January 1985 to promote the mother tongue Hindi for which post was created.

4. Interpreting its implications of the letter of Government of India, it has been argued by the learned counsel for the respondent that, in fact, the said letter where it postulated the appointment on the post of Hindi Translators to be incorporated in the Rules in fact spirited that the appointments as contemplated by way of direct recruitments to be made in pursuance to the directions of Government of India dated 14<sup>th</sup> January 1985, it has had to be made by way of direct recruitment. It has to be born in mind that the rules governing the service conditions of an employee of the Institute was enforced by the Governing Body of the Institute for the first time in 1986, i.e. much after the directives issued by the Government of India i.e. on 14<sup>th</sup> January 1985.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI

-27-



5. If, for a moment, the argument as extended by the learned counsel for the respondent is accepted, in that eventuality, the Institute itself while formulating its rules and in particular when it relates to O3 level post which included Hindi Translator, which was a Ministerial cadre post, they themselves have, in column 4, admittedly, made the said post as to be a post which is available to be filled by way of promotion from the feeding cadre of O2 level post and the basic eligibility criteria was that the candidate should have worked on O2 level post for a period of 5 years to make him eligible to be considered for promotion. The said provision governing the criteria of promotion and eligibility of 1986 Rules continued to be in vogue till an administrative contingency accrued in the department, whereby a situation arose as there was no one available in the feeding cadre of O2 category who was eligible to be considered for promotion for O3 level post, consequently, in a meeting, which was held on 21<sup>st</sup> July 1988, as held by the Governing Body of the Institute, they, by virtue of their Agenda Item No. 6.2 had taken a decision that the said post of "Hindi Translator", which was otherwise under the Rules it has been directed to be filled up by way of promotion. Since there is no provision for direct recruitment and there is no qualified O2 level person available therein, but since it was necessary to fill the post, they have taken a decision for making a direct recruitment on the post of Hindi Translator which otherwise under the existing rules was a promotional post from feeding cadre of O2. Meaning thereby, reference to Agenda point No. 6.2 as taken by the Institute's Governing Body on 21<sup>st</sup> July 1988, in fact, was a conscious decision taken by the Institute irrespective of so-called reference of the letter dated 14<sup>th</sup> January 1985, on which reliance was placed during the course of the argument by the learned counsel for the respondent. In that eventuality, if the respondents themselves had taken a decision by

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



the Agenda in question, whereby siphoning the promotional post into a direct recruitment post, in that eventuality, the respondents would also be deprived of to have any shelter in their argument pertaining to the implications of Rule 15 is directive aspects from the very fact that they themselves have and framed by Rules and had acted *de hors* to the directions issued by the Government of India which they otherwise claim they are bound to adhere in accordance with Rule 15 of the Rules framed by them.

6. As a consequence of the decision taken by the Governing Body on 21<sup>st</sup> July 1988, and in order to meet the contingency which was projected in the Agenda with regards to the vacancies of Hindi Translators posts which was as O3 level post, it is not in dispute that the respondent had taken a conscious decision to advertise the O3 post and resort to the process of direct recruitment for the said post and consequently, in order to fill up the said post they had taken a decision on 17<sup>th</sup> November 1988, whereby in order to provide fairness in the process of selection, they have requisitioned the selection to be made through Staff Selection Commission.

7. Though it might be a one time arrangement due to non availability of a person in the feeding cadre of O2, but the fact remains that it was a conscious decision taken by the Resolution of the Governing Body dated 17<sup>th</sup> November 1988, that the post was advertised and a regular selection process for O3 post was held through Staff Selection Commission and on conclusion of the process of selection, admittedly, the petitioner was recruited as Hindi Translator by an order dated 12<sup>th</sup> December 1989. As per the service Rules, the next promotional post which is available for promotion to the incumbents, who are already working on O3 level

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

- 29 -

INFORMATION PROVIDED  
UNDER RTI



are on the post on their successful completion of <sup>8</sup>5 years of service they become eligible to be appointed at O4 level post i.e. the post of an Accountant herein and the process of recruitment as per the rules is contemplated that it had to be through a competitive examination, evaluation of the service records by the Departmental Promotional Committee.

8. After having been appointed and joined on the said post of Hindi Translator, admittedly, till the petitioner has matured his claim for consideration for promotion to O4 level, there had been no controversy that the criteria of promotion of O4 level post had not undergone any amendment or change as a consequence of the resolution dated 17<sup>th</sup> November 1988, nor it constituted to be a part of the Agenda which was placed for consideration before the Governing Body. Hence criterion for promotion to O4 level remained the same as provided in the Service Rules of 1986, which reads as under:-

O-(4) (i)	Accountant	Not applicable	(i) 100% by promotion from Grade O-3. (i) of those who have put in 8 years in that grade, through competitive examination and record evaluation by DPC. (Deputation on stop gap basis of absorption of deputationists over 45 years).
-----------	------------	----------------	---

9. The respondents resorted to the process of promotion at O4 level consequently, they conducted the departmental examination, they held the DPC, they considered and evaluated the service records of the petitioner and thereafter, they have passed an order of promotion of the petitioner on 22<sup>nd</sup> September 1999, by which the petitioner was promoted to an O4 cadre i.e. on the post of an Accountant. Ever since, his promotion as an Accountant, made on 22<sup>nd</sup> September 1999, the case of the petitioner is that as soon as he is brought into the feeding cadre of O3 level irrespective of the process of inductment in the feeding cadre and as it has been held in

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

- 30 -

INFORMATION PROVIDED  
UNDER RTI



para 19/20 of the judgement of the Division Bench that on his induction into the O3 level cadre, he automatically falls to be as a member of the cadre and would be eligible for consideration for promotion as an Accountant subject to the condition that he fulfils the eligible criteria.

"19. It may be noted that the appellant in Special Appeal No. 338 of 2015 was appointed as Hindi Translator by way of direct recruitment in the year 1989 and it is thereafter that in the year 2000, the third appellant in Special Appeal No. 348 of 2015 was promoted as Hindi Translator.

20. We are also not inclined to interfere with the quashing of the portion providing that the incumbent translator will remain in the feeder category for promotion as Section Officer. Under the 2007 Rules, in fact, Section Officers are to be appointed by way of promotion from Assistant Grade I inter alia. The remaining question is only the direction to give notional promotion to the writ petitioner."

10. What is surprising is that even for a moment if it is presumed that the respondent had resorted to a mode of promotion or a recruitment *de hors* to the rules then to there has had to be reasonable time within which they could have consciously taken a decision of reversion or whatsoever if all it was permissible then under law but rather on the contrary they permitted the petitioner to function on the promotional post of Accountant at O4 level till the matter was raised before this Court by way of writ petition No. WPSS No. 1580 of 2011, *M.D. Gupta v. Wild Life Institute of India and others*, by one Mr. M. D. Gupta, who had filed the writ petition, challenging the order dated 8<sup>th</sup> November 2011, and rather in the writ petition, as preferred by Mr. M.D. Gupta, he had sought for the following reliefs:-

"1. Issue writ Issue writ rule or direction in the nature of certiorari quashing the impugned order dated 8.11.2011 along with its effect and operation also after calling the entire records from the respondents and further to declare the condition provide in the service rules 2007 to treat the presently working as Hindi translator for promotion in the

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



feeding cadre is unconstitutional and ultra virus to the Constitution of India and declare the same nonest in law.

2. Issue writ rule or direction in the nature of mandamus directing the respondents to rectify their mistakes as indicated by the respondents in its letter dated 9.1.2004 and also not to carry out any promotional exercise or consider the promotion of the beneficiary of the earlier illegal persons during the year 1993-2000 in utter disregard to the recruitment rules of 1986 and further to direct the respondents to make promotional exercise in tune of rules of 1986 on the post and vacancies available during the period of 1993-2000 strictly in terms of the rules of 1986 and to consider the case of the petitioner for the same or in alternate to grant the benefit of promotion to the petitioner on the basis of his eligibility and seniority w.e.f. the date when the same has been given to other ineligible persons ignoring the service rules."

11. The controversy as far as it related to the promotion already granted to the petitioner it started germinating from the stage when the writ petition was preferred before this Court by Mr. M.D. Gupta, praying for quashing of an order dated 8<sup>th</sup> November 2011, and also praying for a writ of mandamus, rectifying the mistake as indicated in the letter dated 9<sup>th</sup> January 2004, and has prayed for that no promotional exercise to be carried out for consideration of promotion for the beneficiary of the illegal promotion, which was granted to them between 1993 to 2000, because according to his version, the said appointment was de hors to the Rules of 1986.

12. Though we are not concerned at this stage with regard to the consequence which flowed from the judgement of the learned Single Judge dated 26<sup>th</sup> May 2015, as rendered in WPSS No. 1580 of 2011, for the reason that as soon as the order dated 26<sup>th</sup> May 2015 was passed, immediately without even waiting for the gestation period for the persons affected by the said judgement to prefer a Special Appeal, the respondent had purported to take a decision of reverting the petitioner from the post of Accountant to the post of

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



Hindi Translator by virtue of an Order No. WII/ADM/2011-12/017(Part) dated 7<sup>th</sup> July 2015, which was passed by respondent No. 2. In particular, the reference pertaining to the reversion of the petitioner from the post of Accountant to the post of Hindi Translator finds reference in sub clause (b) of clause 3 of the letter dated 7<sup>th</sup> July 2016, which is quoted hereunder:-

“3 (b) Further, the DPC considered and treated the post of Hindi Translator (non-ministerial) in line of promotion of the ministerial posts of the Institute. This recommendation of DPC and consequent promotion of Hindi Translator to the post of Accountant and of Smt. Baljit Kaur from UDC of ministerial cadre to the post of Hindi Translator (non-ministerial) was erroneous because the post of Hindi Translator was a direct recruitment isolated post and the rules do not permit lateral movement of Hindi Translator to the ministerial cadre for promotion purpose nor the personnel from ministerial cadre could get promotion to the post of Hindi Translator. The sense contained in the Order of Hon'ble High Court which is under implementation is also conveying the isolated nature of the post of Hindi Translator.

That the direct recruitment of Shri A.K. Dubey to the post of Hindi Translator was made from the reserve pool of successful candidates of exam advertised by the Staff Selection Commission for filling up of posts of Hindi Translators in all departments of Government of India under the recruitment rules of Official Language, (Rajbhaasha) Recruitment Rules. This exam was announced by the Staff Selection Commission vide their Advertisement F. No. 2/37/87-P&P (Vol.II). Shri A.K. Dubey appeared in the exam and the result placed him in the wait list.”

13. It would not be out of relevance to mention that if an order of reversion is taken into consideration, the reason which has been assigned therein by the respondent No. 2, while passing an order was on the premise that since the only discrepancy which was pointed out by the respondent was that the petitioner suffered was that since his applicant was made by way of a direct recruitment and

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI

- 33 -



that was not the source of his inductment permissible under Rules into the service as an O3 level officer, hence, he would be rendering himself to be non-suited to be considered for promotion to O4 level post for the reason that as per the interpretation which has been given by the respondent it was to the effect that only those persons who have been appointed by way of promotion only as O3 level officer, they would only be considered for promotion of O4 level i.e. Accountant. The relevant para of the paragraph (b) of clause 3 (clause 3(b) of order dated 7<sup>th</sup> July 2015 quoted above), in fact, gives the said expression and the foundation for reversion of the petitioner and that to after 16 years of petitioner having worked on the promotional post i.e. since 22<sup>nd</sup> September 1999 till date of passing of impugned order dated 7<sup>th</sup> July 2015.

14. Being aggrieved against the judgement of the learned Single Judge dated 26<sup>th</sup> <sup>may</sup> June 2015, a Special Appeal was preferred before the Division Bench of this Court. There were two Special Appeals being Special Appeal No. 348 of 2015, *Smt. Tejvinder Kaur Ahuja and others v. M.D. Gupta and others* (with which we are not concerned at the present moment), and other Special Appeal No. 338 of 2015, *A.K. Dubey v. Wild Life Institute of India and others*, which was preferred by the present petitioner against the judgement of the learned Single Judge dated 26<sup>th</sup> <sup>may</sup> June 2015.

15. The Special Appeal was compositely considered the claim of the two group of appellants who were raising their grievance against the directives which has been issued by the learned Single Judge for taking an action of reverting the services of the employees, who had already been granted promotion about 16 years back and promotional benefits had already been extended to them. The Division Bench of this Court, after considering the

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI

- 34 -



various correspondences which was made inter se between the Institute and the Government of India, governing the criteria of promotion and the recruitments and for the purposes of laying down its modalities, the Division Bench has recorded findings in relation to the petitioner in para 19, 20, 21 and 22 which are quoted hereunder:-

“19. It may be noted that the appellant in Special Appeal No. 338 of 2015 was appointed as Hindi Translator by way of direct recruitment in the year 1989 and it is thereafter that in the year 2000, the third appellant in Special Appeal No. 348 of 2015 was promoted as Hindi Translator.

20. We are also not inclined to interfere with the quashing of the portion providing that the incumbent translator will remain in the feeder category for promotion as Section Officer. Under the 2007 Rules, in fact, Section Officers are to be appointed by way of promotion from Assistant Grade I inter alia. The remaining question is only the direction to give notional promotion to the writ petitioner.

21. We would think that once it is found that the promotions given to the appellants are bad for violation of the decisions of the Governing Body, which we have held to be binding, the proper thing to do would be to direct that the promotional exercise be held strictly in accordance with the Rules as in force from time to time. The Rules of 1986 will, in other words, continue to hold the field till they are modified or superseded. They have indeed been superseded with effect from 01.08.2007 and till they were superseded, the promotional exercise must be conducted in terms of the 1986 Rules. For promotion from O- (2) to O-(3), in other words, the candidate must satisfy the requirement of having been successful in the departmental examination. All the candidates, who are eligible and who are in service, in other words, must undergo the examination and their eligibility for promotion must be determined on the said basis. Therefore, the direction to give notional promotion to the writ petitioner without reference to the requirement of the Rules cannot be sustained.

22. Resultantly, the appeals are partly allowed. In place of the direction given by the learned Single Judge to give notional promotion to the writ petitioner, we direct that the Institute will carry out the promotional exercise for the posts in terms of the decisions of the Governing Body of the Institute beginning with the Governing Body's decision of

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

35-  
INFORMATION PROVIDED  
UNDER RTI



1986 and also culminating in the Rules of 2007, which came into effect on 01.08.2007. This is besides the decision taken by the Governing Body in the year 1988 which is, as submitted before us, in modification of the 1986 Rules. In fact, it is brought to our notice that the appellant in Special Appeal No. 338 of 2015, who was directly recruited as Hindi Translator, was wrongly given promotion as Accountant [O-(4)]; he stands reverted and he is holding the post of Hindi Translator; there is only one post of Hindi Translator; and appellant no. 3 in Special Appeal No. 348 of 2015 is given promotion as Assistant Grade I after the impugned judgment. We only direct that the process of filling up the vacancies be undertaken strictly as per the decisions taken in the years 1986, 1988 and 2007. We make it clear that this will not result in deprivation of any benefit, which persons, who have served and retired, have secured or are securing. Till the exercise is concluded, the notional promotion, which has already been given to the writ petitioner, will continue on ad- hoc basis and it will finally be decided on the basis of the exercise to be undertaken by the Institute. This exercise should be concluded within a period of three months from the date of receipt of a certified copy of this judgment. We also make it clear that the promotions given to the parties to these appeals contrary to the Rules will be treated as ad-hoc and will be subject to the outcome of the promotional exercise."

16. The language and the sentence formulation of the above paras and its intention behind it as referred in the aforesaid paragraphs, each of them will have a bearing for considering the veracity of the impugned order of reversion dated 7<sup>th</sup> July 2015, which has been passed in relation to the petitioner. Rather, the Division Bench of this Court at the time when it was dealing with the controversy was conscious of the fact that the appellant of Special Appeal No. 338 of 2015, i.e. the present petitioner, was a direct recruit of 1989, which was made by the Governing Body as one time arrangement, who was appointed as a Hindi Translator. Para 20 of the said judgement also played a pivotal role for the purposes of determination of the controversy in question whereby the Division Bench in its specific terms has expressed that the Division Bench is not intending to interfere in quashing the portion

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI

- 36 -



providing the incumbent Translator the benefit of services to remain in the feeding cadre of promotion as Section Officer i.e. the post of an Accountant under the Rules, as applicable at that relevant point of time.

17. We would be more concerned to the arguments which has been extended by the learned counsel for the respondent in relation to the findings which has been recorded in para 22 of the said judgement. The Division Bench in its para 22 had specifically provided that the Hindi Translator, since there happens to be only one post and the same has been done by direct appointment on the basis of policy decision of the Governing Body, the Division Bench has only directed that the process, resorted to for filling up the vacancies by undertaking the same strictly in accordance to the decision which has been taken in 1986, 1988 and 2007 by the respondent.

18. The Division Bench has specifically observed by making it clear that the effect of the judgement will not at all result into any deprivation of benefit in relation to those employees who have served the department and had attained the age of superannuation and **have secured or are securing the benefit** out of the decisions taken in pursuance to the Office Memorandums of 1986 or 1988. Meaning thereby, if the exact intention as spirited by para 22 is taken into consideration, the Division Bench has laid down the following wider principles:-

- (1) That the direct recruitment on O3 level post as a one-time arrangement on its inductment would be treated as to be the member of the said cadre i.e. O3 and would be eligible to be considered for promotion subject to the fulfilment of the other eligibility.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

-37-

INFORMATION PROVIDED  
UNDER RTI



(2) The Division Bench judgement has safeguarded all the actions and the decision taken, which has been taken by the respondents in pursuance to the Office Memorandums of 1986, 1988 and 2007.

(3) At this stage, we are only concerned with the decision taken by the Governing Body in 1988 by virtue of which they have cared on exception and had resorted to the process of direct recruitment, as against the O3 posts which otherwise in accordance with the Service Rules applicable was to be filled in by way of promotion

(4) The Division Bench in its specific terms had laid down that any person who has been benefited in pursuance to the decisions taken on 1986 or 1988 and if they have **secured the benefit or they are securing with the same, the same would not be deprived** of irrespective of the directions which has been given in the concluding part of the paragraph.

19. The learned counsel for the respondent, while giving an interpretation to concluding part of the paragraph since it happens to be in continuity to the savings/exceptions, which has been provided to the incumbents already securing a benefit as a consequence of promotion to the O4 level, which has been referred in para 22 of the said judgement, the subsequent part of it where the Division Bench has held that the promotion would be treated to be a notional promotion it was and has to be read in correlation to the petitioners of the writ petition, who have claimed for their promotion in pursuance to a challenge given to an Order dated 8<sup>th</sup> November 2011. That is why the Division Bench, specifically in para 22 had observed that till the exercise is concluded for consideration of promotion of the **"petitioners"**, they will continue on ad-hoc basis and will be finally determine on the basis of the exercises to be taken by the Institute for consideration of their promotion. That

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

- 38 -

INFORMATION PROVIDED  
UNDER RTI



means it didn't include in its ambit the respondents of the writ petition, as its applicability was confined to the petitioners.

20. In view of the observations made by the Division Bench in paragraph No. 22, where the promotions have been treated as to be notional promotions, where the directions have been issued to undertake the exercise of promotion, where the status of the petitioners have been protected till they are considered for actual promotion in pursuance to the direction of the Division Bench judgement, that has specifically to be considered in the light of safeguarding the considerations in relation to the petitioners because the Division Bench while giving such direction has never emphasised or directed that the said criteria was to be adopted in relation to the respondents of the writ petition who had already been promoted because they had already been promoted and they had already been granted the benefit and are securing the benefit as a consequence of the promotion granted to them by the respondents which would be reference which was made in relation to the petitioner.

21. The aforesaid contention also further stands fortified that the actions which have been taken by the respondents in pursuance to the decision taken by the Governing Body in 1986, 1988 and 2007, the same has been yet again reiterated to be protected in view of the findings which has been recorded in the judgement of review dated 10<sup>th</sup> January 2017, where a clarification was being sought by the petitioner in relation to the entitlement of promotion of the direct recruits, who have been appointed as an O3 level. The Division Bench while dismissing the Review Petition had protected the action or the decision which has already been taken in pursuance to the Agendas of the Governing Body of 1986 and 1988. As a

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

-35

INFORMATION PROVIDED  
UNDER RTI



consequence of passing of the order of reversion dated 7<sup>th</sup> July 2015, being *de hors* to the provision of law and the Service Rules, as applicable, since being *de hors* to the directives of the Division Bench judgement which has safeguarded the decisions taken in pursuance to the Resolution of 1988, and since it was resulting into the deprivation to the petitioner of his right after a lapse of 16 years of regular promotion granted to the petitioner by the respondents themselves, the petitioner had preferred a representation before the respondents which has been rejected by the impugned order dated 25<sup>th</sup> October 2017 on a premise which was yet again was nothing but a reiteration of the impugned order and the basis of reversion dated 7<sup>th</sup> July 2015. That as if merely because of the fact that there happens to be a direct recruit of the petitioner made by the respondents as one time arrangement, as against the ministerial posts he would for all times to come be deprived of his promotional avenues irrespective of the fact he has become the regular member of the feeding cadre i.e. O3 on account of an arrangement which was adhered to consciously by the respondent by undertaking the process of recruitment through Service Selection Board and on his induction by direct recruitment, he becomes member of the cadre.

22. The learned counsel for the respondent had during the course of the argument contended that as per the Rules of 1986, they have got ample of power to take an action which runs contrary to the Rules. The powers conferred on the respondent to take an action which runs contrary to the rules herein it would mean and it would not be including the action which is being taken by the Institute itself by giving a direct recruitment and by given promotion to the petitioner on the post of an Accountant as back as on 22<sup>nd</sup> September 1999. It is settled law that the petitioner cannot be or an employee cannot be made to suffer on account of an inappropriate decision or

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

- 40 -

INFORMATION PROVIDED  
UNDER RTI



a decision contrary to the rules governing the service conditions of an employee, because they themselves cannot be the beneficiary of their wrongful decision which they resorted by direct recruitment in 1989 and promotion in 1999. And particularly, when in the light of the fact that the Division Bench judgement once it has already held that irrespective of the fact that the petitioner was directly appointed as a Hindi Translator under the Rules of 1986, immediately on the conclusion of the process of selection, he would fall to be the member of the cadre i.e. O3 level and would be eligible to be considered for promotion to O4 level, because of the findings which has been recorded in para 22 of the said judgement of the Division Bench which has attained its finality.

23. The learned counsel for the respondent during the course of argument had contended that the decisions impugned dated 7<sup>th</sup> July 2015, and 25<sup>th</sup> October 2015, cannot be faulted with, because it was nothing but an exercise of powers which the Institute claims to have been vested in them under the rules and particularly a reference was made by the learned counsel for the respondent to the powers which has been vested with the Governing Body under Rule 12 of the Rules and Regulation of the Society of the Wildlife Institute of India.

24. Particularly, the stress which has been placed upon by the learned counsel for the respondent during the course of his argument is on sub clause (b) of Regulation 12 and in particular, clauses vii, xiv, xvii(b). Clause xvii(b) is quoted hereunder:

**"Rule 12. Powers**

xvii) b) Creation of posts, term and tenure of appointments, emoluments, allowances, rules of discipline and other conditions of staff and officers of the Society.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



Emoluments structure, i.e., adoption of pay scales, allowances and revision thereof and creation of posts above the pay level of Rs. 14,300/- per month or an equivalent level upon revision of pay scales from time to time would need the prior approval of the Government of India in consultation with the Ministry of Finance (Department of Expenditure)."

25. Even if the interpretation to the argument extended by the learned counsel for the respondent is taken into consideration in the light of the powers which has been vested with the Governing Body under clause 12(b), it would relate to and be restricted specifically in relation to the parameters of service conditions or the modalities which are included in clause (b) of sub clause (xvii) of regulation 12. The said clause safeguards the power of the Governing Body in relation to:-

- (1) Creation of post, which is not the case at hand;
- (2) Altering the term of conditions of appointment, on which the learned counsel for the respondent tried to submit that the powers which has been exercised by the Institute in passing the impugned orders is in rectification of their earlier mistakes, which has chanced on account of the conversion of the promotional posts into a direct recruitment post and subsequently by granting the promotion to the petitioner as an Accountant i.e. at O4 level post in 1999, it would fall to be within the ambit of powers of the Governing Body in view of the use of word "terms" in the aforesaid clause.

26. This Court is not in agreement with the argument as extended by the learned counsel for the respondent as far as the interpretation which has been given by him to sub clause (b) of clause (xvii) of the Regulation 12. The use of word "terms" herein would postulates the terms contained under the Rules of 1986 and even if it is accepted that the Governing Body could have exercise

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED

10/11/2011



166

its power in altering the conditions and terms of the appointment then in the instant case, admittedly, as per the documents on record, it shows that it was a conscious decision taken by the Governing Body in its Agenda Item No. 6, point No. 6.2 as placed before the Governing Body on 21<sup>st</sup> July 1988, which reads as under:-

**“6.2 Qualifications for the post of Hindi Translator:**

According to existing approved recruitment rules for the post of Hindi Translator, the post is to be filled up 100 per cent by promotion from the posts of U.D.C., (Asstt. Store Keepeer and Asstt. Hostel Superintendent). The qualifying service prescribed for promotion is 5 years. The post can also be filled by deputation on stop gap basis. There is no provision for filling up the post by direct recruitment; hence no qualifications have been prescribed. At present there is no one in the feeder grade who could be considered for promotion against this post. It is necessary therefore to fill the post by direct recruitment.”

27. If that be so, and even for a moment, if it is considered that the decision of appointment as a direct recruitment or a promotion thereafter is read in consonance to clause (b) of sub clause (xvii) of Regulation 12 then too it would fall to be within a conscious decision making power and taken within the ambit of the powers vested with the Governing Body under the Regulation 12 of the regulation framed therein.

28. In that view of the matter and in view of the inferences which has been derived by para 22 of the Division Bench judgement rendered by this Court earlier on 28<sup>th</sup> November 2016, since irrespective of the conversion of posts of promotion to a direct recruitment by the decision of the Agenda point No. 6.2 dated 21<sup>st</sup> July 1988, as soon as the recruitment is made by direct recruitment, the petitioner would fall to be within the feeding cadre of promotion on the post of O4 level i.e. Accountant, on which he was promoted

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

43- INFORMATION PROVIDED  
UNDER RTI



as back as on 22<sup>nd</sup> September, 1999. and thus in view of the ratio as propounded by the Division Bench of this Court any decision which was flowing as a consequence of the decision of the Governing Body of 1988, that has been protected by the judgement of the Division Bench and hence the petitioner for the purposes of getting a claim which was flowing from promotion granted to him on the post of Accountant on 22<sup>nd</sup> September 1999 cannot be disturbed or reverted back as a consequence of the impugned order under challenge in the present writ petition. Thus this Court is of the view that the action taken by the respondent in absolute a hurried action without application of mind by passing the impugned order dated 7<sup>th</sup> July 2015, reverting the petitioner after 16 years of his promotion on 22<sup>nd</sup> September 1999, in pursuance to the decision rendered by the learned Single Judge cannot be sustained, since being in violation of Rules 1986 and in violation of the ratio which stand settled by its judgement in para 19, 20 and 21 and 22 of the Division Bench.

29. Consequently, the writ petition is allowed and the impugned order dated 7<sup>th</sup> July <sup>2015</sup> 2016 and 25<sup>th</sup> October 2017 are quashed and the respondents are directed by way of a writ of mandamus to consider the petitioner having been promoted regularly on the post of an Accountant w.e.f. 22<sup>nd</sup> September, 1999 and to remit him all the benefits which were flowing as a consequence of the promotion granted to him on 22<sup>nd</sup> September 1999.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

30. However, there would be no order as to cost.

(Sharad Kumar Sharma, J.)  
09.07.2019

Mahinder

INFORMATION PROVIDED  
UNDER RTI

CPIO, Wild Life Institute of India, Dehradun

ATTESTED

- 44 -



**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Special Appeal No. 826 of 2019**

Wildlife Institute of India and others

...Appellants

Vs.

Arun Kumar Dubey

...Respondent

Mr. Rakesh Thapliyal, learned Assistant Solicitor General with Mr. Sanjay Bhatt, learned Standing Counsel, for the Union of India-Appellants.

Mr. Pankaj Miglani, learned counsel for the respondent-writ petitioner.

**Dated: 02<sup>nd</sup> September, 2019**

**Coram: Hon'ble Ramesh Ranganathan, C.J.**  
**Hon'ble Alok Kumar Verma, J.**

**Ramesh Ranganathan, C.J. (Oral)**

This Special Appeal is preferred by the respondents, in Writ Petition (S/S) No. 3679 of 2017, aggrieved by the order passed by the learned Single Judge dated 09.07.2019. The respondent-writ petitioner herein had filed the said writ petition seeking a writ of certiorari to quash the orders dated 07.07.2015 and 25.10.2017; and a writ of mandamus directing the respondents to promote him to the post of Accountant (O-4 Grade) w.e.f. 12.12.1997, and to grant him promotion to the post of O-5 Grade five years thereafter i.e. since 12.12.2002, and to consider his later promotions strictly in accordance with the orders dated 28.11.2016 and 10.01.2017 passed in Special Appeal No. 338 of 2015.

2. Facts, to the limited extent necessary, are that the appellant-Institute framed Recruitment Rules in the year 1986, in terms of which the post of Hindi Translator was among the posts specified in O-3 Grade. The mode of appointment, to the post of Hindi Translator in O-3 Grade, was by way of promotion from employees in O-2 Grade, who had put in atleast 05 years of service. On the ground that there was no person in O-2 Grade, eligible to be promoted as Hindi Translator in O-3 Grade, the Governing Body of the appellant-Institute passed a Resolution on 21.07.1988 resolving that the post of Hindi Translator be filled up by way

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

-45-

INFORMATION PROVIDED  
UNDER RTI



of direct recruitment. Thereafter, a requisition was made by the appellant-Institute to the Staff Selection Commission (an independent body) which issued an advertisement inviting applications for the post of Hindi Translators, conducted a regular process of selection and, on completion of the said process, selected the respondent-writ petitioner and recommended that he be appointed as a Hindi Translator in the appellant-Institute. In terms of the recommendation, made by the Staff Selection Commission, the appellant-Institute appointed the respondent-writ petitioner as a Hindi Translator, with the Grade-Pay of Rs. 4200/-, on 12.12.1989. The respondent-writ petitioner was, thereafter, promoted as an Accountant in O-4 Grade, with a Grade-Pay of Rs. 4600/-, on 22.09.1999. Consequent on the respondent-writ petitioner's promotion as an Accountant in O-4 Grade, one Mrs. Baljeet Kaur was appointed, in the vacant post of Hindi Translator, on 13.10.2000.

3. Writ Petition (S/S) No. 1580 of 2011 was filed questioning the manner of appointment by promotion of respondents 4 to 11 therein, which included Mrs. Baljeet Kaur. While Mrs. Baljeet Kaur was appointed as a Hindi Translator by promotion on 13.10.2000, her promotion, along with others, was subjected to challenge more than a decade thereafter in the year 2011. The respondent-writ petitioner herein was, admittedly, not a party to Writ Petition (S/S) No. 1580 of 2011.

4. In his order, in Writ Petition (S/S) No. 1580 of 2011 dated 26.05.2015, the learned Single Judge came down heavily on the appellant-Institute and observed that, in the year 2007, fresh Recruitment Rules were framed; the last clause appended to those Rules seemed to indicate that, in order to render special favour to the Hindi Translator i.e. Mrs. Baljeet Kaur, she was appointed without issuance of any advertisement just on the basis of a pick and choose policy by the then Director; that apart, certain persons, who did not even possess the minimum qualifications prescribed under the Rules, were appointed under the pleasure of the Director; since all these candidates had completed

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

—46—  
INFORMATION PROVIDED  
UNDER RTI



more than two decades of service, and the Directors, who had played such a felonious role had also retired, it was not feasible to take any stringent action against those delinquents and to issue termination orders to these persons, but at least the petitioner therein should be safeguarded from injustice.

5. While quashing the clause prescribed in the 2007 Rules, which provided that "the present incumbent on the post of Hindi Translator will remain in the feeder channel for promotion to the post of Section Officer; and, in future, the isolated post of Hindi Translator will get promotional avenues as per Government of India guidelines", the learned Single Judge directed the Director of the appellant-Institute to take appropriate steps to revert back those respondents who were given illegal promotion *de hors* the Rules. The learned Single Judge observed that, if the order was not complied with, he would contemplate lodging an FIR against the delinquent officials, and the office superintendent who had conspired with the Director; and he may further consider lodging an FIR against the Director as well as the office superintendent, besides entrusting the matter to the CBI for holding an inquiry into the matter.

6. It is only in the fresh Recruitment Rules, made in the year 2007, that the post of Hindi Translator was treated as an isolated post. The learned Single Judge, in his order in Writ Petition (S/S) No. 1580 of 2011 dated 26.05.2015, had only directed that appropriate steps be taken to revert back those respondents who were given illegal promotion *de hors* the Rules. Though the respondent-writ petitioner herein was not among the respondents, in Writ Petition (S/S) No. 1580 of 2011, the appellant-Institute, by its proceedings dated 07.07.2015, reverted the respondent-writ petitioner, from the post of Accountant to that of Hindi Translator, on the premise that the post of Hindi Translator was an isolated post, and was not part of the feeder category for promotion as an Accountant. While Mrs. Baljeet Kaur, along with others, (who were respondents 4 to 11 in Writ Petition (S/S) No. 1580 of 2011), preferred Special Appeal No.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

- 47 - INFORMATION PROVIDED  
UNDER RTI



348 of 2015 against the order passed by the learned Single Judge in Writ Petition (S/S) No. 1580 of 2011 dated 26.05.2015, the respondent-writ petitioner herein sought Leave to Appeal in Special Appeal No. 338 of 2015 filed by him.

7. Both Special Appeal Nos. 348 and 338 of 2015 were disposed of by a Division Bench of this Court by its common order dated 28.11.2016. After examining the matter in great detail, the Division Bench observed that the reasons given by the learned Single Judge, in holding that the seventh respondent (i.e. Mrs. Baljeet Kaur) was favoured in being promoted as a Hindi Translator, was justified; and she was promoted without holding any examination. The Division Bench, after taking note of the submission, urged on behalf of the appellant-Institute herein, that, in the year 1988, the Governing Body of the appellant-Institute had decided to fill up the post of Hindi Translator by direct recruitment, observed that the respondent-writ petitioner herein (appellant in Special Appeal No. 338 of 2015) was appointed as a Hindi Translator by way of direct recruitment in the year 1989; and it was thereafter, in the year 2000, that the third appellant in Special Appeal No. 348 of 2015 (Mrs. Baljeet Kaur) was promoted as a Hindi translator.

8. While expressing its disinclination to interfere with the order passed by the learned Single Judge, in quashing that portion of the order impugned in the Writ Petition which provided that the present incumbent in the post of Hindi Translator would remain in the feeder channel for promotion to the post of Section Officer, the Division Bench observed that, once it is held that promotions given to the appellants therein was bad for violation of the decision of the Governing Body which were binding, the proper thing to do was to direct that the promotional exercise be held strictly in accordance with the Rules, as in force, from time to time; the 1986 Rules would continue to hold the field till they were modified or superseded; they had been superseded with effect from

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



conducted in terms of the said Rules; for promotion from O-2 Grade to O-3 Grade, the candidates should satisfy the requirement of having been successful in the departmental examination; all candidates, who were eligible and who were in service, must undergo the examination, and their eligibility for promotion must be determined on the said basis; and the direction to give notional promotion to the writ petitioner therein, without reference to the requirement of the Rules, could not be sustained. The Division Bench directed that, in place of the directions issued by the learned Single Judge to give notional promotion to the writ petitioner therein, the Institute should carry out the promotional exercise to the posts in terms of the decision of the Governing Body of the Institute, beginning with the Governing Body's decision in the year 1986 and culminating in the Rules of 2007 which came into effect on 01.08.2007; and this was besides the decision taken by the Governing Body in the year 1988 which was in modification of the 1986 Rules.

9. The Division Bench noted the submission, urged on behalf of the appellant-Institute, that the respondent-writ petitioner herein, who was directly recruited as a Hindi Translator, was wrongly given promotion as an Accountant in O-4 Grade; he stood reverted, and was holding the post of Hindi Translator; and there was only one post of Hindi Translator. While the Division Bench had no doubt directed that the process of filling up the vacancies be undertaken strictly as per the decisions taken in the years 1986, 1988 and 2007, it did not examine the validity of the respondent-writ petitioner's reversion from the post of Accountant in O-4 Grade, to that of a Hindi Translator, in O-3 Grade; and, on the other hand, had opined that the 1986 Rules would govern in the light of the decision taken by the Governing Body in the years 1986, 1988 and 2007 till the 2007 Rules were made.

10. The respondent-writ petitioner thereafter filed Review Application No. 884 of 2016, in Special Appeal No. 338 of 2015, seeking review of one sentence, in the earlier judgment, that "in fact it was brought to their

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

49 -  
INFORMATION PROVIDED  
UNDER RTI



notice that the appellant in Special Appeal No. 338 of 2015, who was directly recruited as a Hindi Translator, was wrongly given promotion as an Accountant in O-4 Grade". While taking note of the submission, urged on behalf of the respondent-writ petitioner herein, that his promotion was as per law, the Division Bench made it clear that they had only recorded the submission of the appellant-Institute regarding the reversion; the reversion was made during the pendency of the appeal; and, after noticing this, they had directed filling up the vacancies as per the decisions taken in the years 1986, 1988 and 2007, with which direction there was no complaint. Finding no merit in the review petition, the Division Bench dismissed the same.

11. Thereafter the respondent-writ petitioner invoked the jurisdiction of this Court by filing Writ Petition (S/S) No. 3679 of 2017, and it is the order dated 09.07.2019, passed therein, which is now under appeal before us. In the order under appeal, the learned Single Judge, after taking note of Agenda item No. 6.2 placed before the Governing Body on 21.07.1988, observed that the Governing Body had taken a conscious decision, under Regulation 12(xvii)(b) of the Regulations, to fill up the post by direct recruitment; on his direct recruitment as a Hindi Translator, the respondent-writ petitioner would fall within the feeding cadre for promotion to the post of O-4 Level, i.e. Accountant, in which he was promoted on 22.09.1999; in view of the order of the Division Bench in Special Appeal Nos. 348 and 338 of 2015 dated 28.11.2016, any decision, which flowed as a consequence of the decision of the Governing Body of 1988, was protected by the said judgment; and the respondent-writ petitioner's claim, which flowed from the promotion granted to him to the post of Accountant on 22.09.1999, could not be disturbed, nor could he be reverted as a consequence of the impugned order which was challenged in the Writ Petition.

12. While holding that the impugned order dated 07.07.2015, reverting the respondent-writ petitioner after 16 years of his promotion on

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



22.09.1999, suffered from non-application of mind, the learned Single Judge set aside the said order on the ground that it flouted the order of the Division Bench referred to hereinabove. After quashing the orders dated 07.07.2016 and 25.10.2017, the learned Single Judge directed the appellant-Institute to consider the respondent-writ petitioner to have been promoted regularly in the post of Accountant w.e.f. 22.09.1999, and to remit him all benefits, which were flowing as a consequence of the promotion granted to him on 22.09.1999. Aggrieved thereby, the present Special Appeal.

13. Mr. Rakesh Thapliyal, learned Assistant Solicitor General appearing on behalf of the appellant-Institute, would draw our attention to the order impugned in the Writ Petition dated 07.07.2015 to submit that the post of Hindi Translator, to which the respondent-writ petitioner was appointed on 12.12.1989 by direct recruitment, was an isolated post; there was no channel of promotion from the post of Hindi Translator to that of an Accountant; promotion of the respondent-writ petitioner, to the post of Accountant, was contrary to the Rules; the order passed by the learned Single Judge, in Writ Petition (S/S) No. 1580 of 2011 dated 26.05.2015, was affirmed by the Division Bench of this Court in Special Appeal Nos. 338 and 348 of 2015 dated 28.11.2016; in the light of the directions issued by the learned Single Judge, in Writ Petition (S/S) No. 1580 of 2011 dated 26.05.2015, all irregular and illegal promotions were required to be cancelled and persons, who were so promoted, were required to be reverted; the respondent-writ petitioner's promotion was contrary to the Rules; he was not even promoted as an Accountant through a regular process of selection; the learned Single Judge has, in the order under appeal, erred in upholding his promotion (illegally given) as an Accountant on 22.09.1999, and in directing that he be given all consequential benefits; promotion from the post of Accountant, even in terms of the 1986 Rules, is only through a competitive examination, and evaluation of the record by the Departmental Promotion Committee; there

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

-51-

INFORMATION PROVIDED  
UNDER RTI



is no automatic promotion to the post of Accountant; and the order under appeal, therefore, necessitates being set aside.

14. On the other hand Mr. Pankaj Miglani, learned counsel appearing on behalf of the respondent-writ petitioner, would submit that the Division Bench had directed the appellant-Institute to comply with the decision of the Governing Body, including the Resolution passed by it in the year 1998; the respondent-writ petitioner's appointment, as a Hindi Translator, was in terms of the decision of the Governing Body dated 17.11.1988; under the 1986 Rules, the post of Hindi Translator is in O-3 Grade; the said Rules provide for promotion to the post of Accountant from Officers in O-3 Grade, which also includes the post of Hindi Translator; the concept, of the post of Hindi Translator being an isolated post, was prescribed for the first time in the 2007 Rules nearly eight years after the respondent-writ petitioner was promoted from the post of Hindi Translator to the post of Accountant on 22.09.1999; there is no whisper in the counter affidavit, filed by the appellants herein before the learned Single Judge, that the respondent-writ petitioner was promoted as an Accountant without following the conditions stipulated in the 1986 Rules; the respondent-writ petitioner was held ineligible for promotion, as an Accountant mainly on the ground that the post of Hindi Translator was an isolated post; in the absence of any such plea in the counter affidavit, the contention that the respondent-writ petitioner was not promoted as an Accountant, through a regular process of selection, does not merit acceptance; the appellants were wholly unjustified in interfering with the respondent-writ petitioner's promotion as an Accountant on 23.09.1999, more than fifteen years thereafter vide proceedings dated 07.07.2015; the order of the learned Single Judge, directing that the respondent-writ petitioner be considered for promotion to higher posts, treating him as having been regularly promoted as an Accountant on 22.09.1999, cannot be construed as the appellant-Institute having been directed to automatically promote the respondent-writ petitioner; his claim for further promotion can be made only in accordance with the relevant

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

- 52 -

INFORMATION PROVIDED  
UNDER RTI



Rules; and, since the respondent-writ petitioner was eligible for promotion to the post of Finance Officer with effect from 23.09.2004 (i.e. on completion of five years of service as an Accountant), he should be promoted to higher posts in terms of the 1986 Rules which were then in force, as the fresh Recruitment Rules were first made in the year 2007.

15. It is no doubt true that the 1986 Rules prescribe appointment to the post of O-3 Grade (which includes the post of Hindi Translator), 100% by way of promotion from O-2 Grade, from such officers who have put in at least five years of service in that grade, through a competitive examination and record evaluation by the Departmental Promotion Committee. The Governing Body of the appellant-Institute, in its meeting held on 21.07.1988, examined Agenda No. 6.2 which related to qualifications for the post of Hindi Translator. After taking note of the fact that the existing Recruitment Rules required the post of Hindi Translator to be filled up 100% by way of promotion from the post of UDC, the Governing Body noted that, at present, there was no one in the feeder grade who could be considered for promotion against the said post; and it was necessary, therefore, to fill up the said post by way of direct recruitment. It is, in such circumstances, that it was resolved to approve the qualifications for the post of Hindi Translator.

16. It is only because the Governing Body of the appellant-Institute had, in its meeting held on 21.07.1988, resolved to fill up the post of Hindi Translator by way of direct recruitment, was a requisition made to the Staff Selection Commission which, after issuing an advertisement, inviting applications from all eligible candidates, and after conducting a regular process of selection, had selected the respondent-writ petitioner and had recommended his candidature for appointment to the post of Hindi Translator.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

17. It is pursuant to his regular selection, by the Staff Selection Commission, was the respondent-writ petitioner appointed to the post of

INFORMATION PROVIDED  
UNDER RTI





Hindi Translator on 12.12.1989. Both when the respondent-writ petitioner was appointed as a Hindi Translator, and when he was later promoted as an Accountant on 22.09.1999, it was the 1986 Rules which held the field. In terms thereof, the post of Accountant was in O-4 Grade, and the mode of appointment to the said post of Accountant was 100% by way of promotion, of those who had put in eight years of service in O-3 Grade, through a competitive examination, and evaluation of the record by the Departmental Promotion Committee. By the time the respondent-writ petitioner was considered, for promotion as an Accountant, he had already put in more than 9 years of service, and had thereby fulfilled the requirement of the 1986 Rules of having put in more than eight years of service in O-3 Grade.

18. All that the 1986 Rules stipulate is that appointment to the post of Accountant shall be made 100% by way of promotion from O-3 Grade, which Grade, as noted hereinabove, includes the post of Hindi Translator. While the posts of Store-Keeper and Hostel Superintendent also formed part of O-3 Grade, the 1986 Rules made no distinction between different posts in O-3 Grade (which included the post of Hindi Translator), and provided for promotion to the post of Accountant 100% by promotion from O-3 Grade. There is no reference in the 1986 Rules that the post of Hindi Translator is an isolated post.

19. The order, impugned in the Writ Petition dated 07.07.2015, shows that the basis, on which the office order dated 07.07.2015 was passed, was primarily that the post of Hindi Translator was an isolated post, and the Rules did not permit lateral movement, of the Hindi Translator, to the ministerial cadre. This stipulation, as is evident from the order passed in Special Appeal Nos. 348 and 338 of 2015 dated 28.11.2016, is in terms of the 2007 Rules, which provided that the post of Hindi Translator be filled up by direct recruitment, and that the incumbent, in the post of Hindi Translator would remain in the feeder channel for promotion to the post of Section Officer; and, in future, the isolated post of Hindi Translator

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

-54-

INFORMATION PROVIDED  
UNDER RTI



would get promotional avenues as per the Government of India guidelines.

20. As noted hereinabove, the respondent-writ petitioner was promoted as an Accountant on 22.09.1999 several years before the 2007 Rules came into force. It is for the first time in the 2007 Rules that the post of Hindi Translator was held to be an isolated post. Prior thereto, the post of Hindi Translator formed part of O-3 Grade, and promotion to the post of Accountant in O-4 Grade was to be made from among all eligible officers in O-3 Grade 100% by way of promotion. The 2007 Rules cannot be applied retrospectively to annul the promotion of the respondent-writ petitioner as an Accountant, eight years prior thereto, on 22.09.1999.

21. Further the order of the Division Bench, in Special Appeal Nos. 348 and 338 of 2015 dated 28.11.2016, has attained finality (the appellants having chosen not to prefer any appeal there-against), and the said order would bind the appellants herein. As noted by the Division Bench, in the said order, the appellants were required to fill up the vacancies strictly as per the decision taken in the years 1986, 1988 and 2007, which included the decision dated 17.11.1988 of the Governing Body of the appellant-Institute to fill up the post of Hindi Translator by direct recruitment. Consequent on the appointment of the respondent-writ petitioner as a Hindi Translator on 12.12.1989, he formed part of the cadre of officers in O-3 Grade, and was eligible to be promoted as an Accountant in O-4 Grade on completing 8 years of service in O-3 Grade. He could not have been denied promotion on the basis of a Rule made in the year 2007, eight years after he was promoted as an Accountant, nor could he have been reverted, from the post of Accountant to the post of Hindi Translator on 07.07.2015, fifteen years after his promotion on 23.09.1999. The learned Single Judge was, in our view, justified in setting aside the order impugned in the Writ Petition dated 07.07.2015 whereby the respondent-writ petitioner was reverted from the post of Accountant to the post of Hindi Translator.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun



22. The order under Appeal passed by learned Single Judge, directing the appellant-Institute to give the respondent-writ petitioner the benefits flowing as a consequence of his promotion granted on 22.09.1999, cannot be construed as obligating the appellant-Institute to promote the petitioner automatically to the next higher posts, without adhering to the Rules in force. Suffice it, in such circumstances, to make it clear that the respondent-writ petitioner shall be considered for promotion to higher posts, if he is otherwise eligible to be promoted to such higher posts, strictly in accordance with the conditions stipulated in the Rules in force.

23. The Special Appeal is, accordingly, disposed of. No costs.

(Alok Kumar Verma, J.)

02.09.2019

Rahul

(Ramesh Ranganathan, C.J.)

02.09.2019

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI

- 56 -



**WILDLIFE INSTITUTE OF INDIA  
CHANDRABANI, DEHRADUN**

No. WII/ADM/2019-20/81

Dated: 30.09.2019

**NOTIFICATION**

**Sub: Constitution of Committee for Implementation of the Division Bench Judgment of Hon'ble High Court of Uttarakhand, Nainital dated 02.09.2019 in Special Appeal No. 826 of 2019 – Shri A.K. Dubey V/s Wildlife Institute of India & Others-reg.**

For ensuring time bound implementation of the subject quoted Division Bench Judgment of Hon'ble High Court of Uttarakhand at Nainital, the following Committee is hereby constituted:

- |       |                                      |   |                  |                    |
|-------|--------------------------------------|---|------------------|--------------------|
| (i)   | Dr. Y.V. Jhala, Scientist-G          | - | Chairman         | <i>[Signature]</i> |
| (ii)  | Dr. V.P. Uniyal, Registrar           | - | Member           |                    |
| (iii) | Dr. K.Sivakumar, Scientist-F         | - | Member           | <i>[Signature]</i> |
| (iv)  | Shri P.K. Aggarwal, Deputy Registrar | - | Member-Secretary |                    |

The brief for the Committee is as under:

- Study the Division Bench Judgment of Hon'ble High Court of Uttarakhand, Nainital dated 02.09.2019 in Special Appeal No. 826 of 2019.
- Suggest follow-up actions required for implementing the direction of the said judgment.

The Committee will submit its report/recommendations to Director, WII on or before 10.10.2019. A copy of the judgment dated 02.09.2019 of Hon'ble High Court of Uttarakhand would be provided to the Members by the Member-Secretary.

This issues with the approval of the Director, WII.

*[Signature]*  
(Dr. V.P. Uniyal)  
Registrar, WII



**Distribution:**

All Members of the Committee

**Copy to:**

- PS to Director, WII
- PA to Dean, FWS *[Signature]*
- PA to Registrar *[Signature]*
- Guard File

**ATTESTED**

*[Signature]*  
CPIO, Wild Life Institute of India, Dehradun

**INFORMATION PROVIDED  
UNDER RTI**



No. WII/ADM/2019-20/81

Dated: 23.10.2019

**Sub: Recommendations for Implementation of Division Bench Judgment dated 02.09.2019 of Hon'ble High Court of Uttarakhand in Special Appeal No. 826 of 2019 in case of Shri A.K. Dubey V/s Wildlife Institute of India and others-reg.**

**Ref: Notification No. WII/ADM/2019-20/81 dated 30.09.2019.**

Vide above notification dated 30.09.2019 the following committee was constituted by the Director, WII for implementation of the subject quoted judgment of Division Bench, Uttarakhand High Court:

- (i) Dr. Y.V. Jhala, Scientist-G
- (ii) Dr. V.P. Uniyal, Scientist-G & Registrar
- (iii) Dr. K.Sivakumar, Scientist-F
- (iv) Shri P.K. Aggarwal, Deputy Registrar

The mandate of the Committee is as under:

- (i) Study of Division Bench Judgment of Hon'ble High Court of Uttarakhand, Nainital dated 02.09.2019 in Special Appeal No. 826 of 2019.
- (ii) Suggest follow-up actions required for implementation the direction of the said judgment.

Pursuant to and in compliance of the judgment of Division Bench of Uttarakhand High Court, Nainital in Special Appeal No. 826 of 2019, the Committee went through the judgment dated 09.07.2019 of Single Bench in Writ Petition No. 3679 of 2017 in case of Shri A.K. Dubey V/s Wildlife Institute of India and Others. The Committee met on 10.10.2019, 23.10.2019 and 24.10.2019.

The Committee also examined the following documents:

- (i) Recruitment and Promotion Rules for Administrative Services of WII of 1986, 1988 and 2007.
- (ii) Recruitment and Promotion Rules for Administrative/Finance Posts – 2019.

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

2

INFORMATION PROVIDED  
UNDER RTI



97.

The Committee went through the approved Recruitment Rules of 1986 which are as under:

Group & Grade	Minimum Qualification	Age	Mode of Recruitment
O (1) LDC	S.S.S.C Typing 30 w.p.m	18 - 28 years	Direct Recruitment 100%. Departmental candidates eligible up to 35 years, but no relaxation in minimum qualifications.
O (2) UDC	University degree for direct recruits. Typing 30 w.p.m.	Not Applicable	*i) 50% by promotion from Grade O-1, with 5 years service in that grade, through DPC based on record and interview (Deputation on stop gap basis permissible)
O (3)	(i) For Storekeeper, Hostel Supdt., Hindi Translator University degree	Not Applicable	(i) 100% by promotion from Grade O-2, who have put in at least 5 years service in that grade, through competitive examination and record evaluation by DPC. (Deputation on stop gap basis).
	(ii) For Stenographer, S.S.C with training certificate from ITI or other recognized institution. Shorthand speed 80 w.p.m typing 40 w.p.m.	19 - 28 years	(ii) 100% by direct recruitment. Departmental candidates possessing requisite qualifications also eligible (with relaxed age upto 40 years) for direct recruitment. (Deputation on stop gap basis).
O (4)	(i) Accountant	Not Applicable	(i) 100% by promotion from Grade O-3 (i) of those who have put in 8 years in that grade, through <b>competitive examination</b> and record evaluation by DPC. (Deputation on stop gap basis or absorption of deputationist over 45 years).
	(ii) Sr. Personal Assistant	-do-	(ii) 100% by promotion from Grade O-3 (i) of those who have put in 8 years in that grade, through competitive examination and record evaluation by DPC. (Deputation on stop gap basis or absorption of deputationist over 45 years).



96

O 5	Administrative/Finance Officer	-do-	(i) 100% by promotion from both categories; Accountants and Sr. Personal Assistant, who have put in 5 years service in Grade O-4 through competitive examination and record evaluation by DPC. (Deputation on stop gap basis or absorption of deputationist over 45 years).
-----	--------------------------------	------	---

It was observed that the Governing-Body in its 12<sup>th</sup> Meeting held on 17.11.1988 decided to fill-up the post of Hindi Translator by way of direct recruitment as there was no one in the channel who could be considered for promotion to the post of Hindi Translator. The recruitment rules for the post of Hindi Translator on direct recruitment basis was also approved on the basis of the qualifications laid down by the Official Languages Department for the post of Junior Hindi Translator.

It was brought to the knowledge of the Committee that Recruitment Rules for the post of Administrative Officer and Finance Officer were revised by the Governing Body in its 21<sup>st</sup> meeting held on 04.12.1992. The revised rules are as under:-

(i)	Administrative Officer	100% by promotion from Sr.PA, Office Superintendent, who have put in 5 years service in Grade O (4) by DPC. (Deputation on stop gap basis or absorption of deputationist over 45 years of age).
(ii)	Finance Officer	100% by promotion from Accountants who have put in 5 years service in Grade O (4) through competitive examination and record evaluation by DPC. (Deputation on stop gap basis or absorption of deputationist over 45 years of age).

It was noted that the Recruitment Rules for the Administrative Services (Recruitment and Promotion Rules) were revised and notified vide Circular No. A/1-3/XLVII/GB/WII (RRs) dated 01.08.2007 which includes the posts of Administrative Officer/Academic Officer, Finance Officer and Internal Audit Officer. The revised Rules for these posts are as under:

*[Handwritten signature]*  
*[Handwritten signature]*  
**ATTESTED**  
*[Handwritten signature]*  
 CPIO, Wild Life Institute of India, Dehradun

4

*[Handwritten signature]*  
*[Handwritten signature]*  
**INFORMATION PROVIDED  
 UNDER RTI**

-60-



95

**Administrative Officer/Academic Officer:**

*"100% by promotion from Section Officer, who have rendered not less than 5 years approved service in the Grade on the basis of Selection Cum Seniority and on the recommendations of the Departmental Promotion Committee (Deputation as per Government of India Rules)"*

**Finance Officer:**

*"100% by promotion from Section Officer, who have rendered not less than 5 years approved service in the Grade on the basis of Selection cum Seniority and on the recommendations of the Departmental Promotion Committee. Only those Section Officers shall be considered who have successfully completed the Cash and Accounts training conducted by ISTM, New Delhi (Deputation as per Government of India Rules)."*

**Internal Audit Officer:**

*"On deputation for a fixed tenure from the Organized Accounts Departments of the Government of India"*

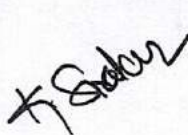


Further, the Recruitment and Promotion Rules for Administrative/Finance Posts along with Group-A Scientific Posts and Technical Posts were revised by the Institute and notified vide number A/1/3-29/2010-WII dated 01.02.2019. These rules have been made effective from 01.04.2006 but financial benefits from 01.02.2019. As per the revised rules the post of Administrative Officer has been elevated as Deputy Registrar in PB-3 with Grade Pay of Rs. 7600. The post of Finance Officer, Academic Officer and Internal Audit Officer have also been elevated to the Pay Scale in PB-3 with Grade Pay of 6600. The Recruitment Rules for the posts of Finance Officer, Academic Officer and Internal Audit Officer are given below:

**Academic Officer/Finance Officer:**



*"100% by promotion from amongst Section Officers who have rendered not less than 08 years of approved service in the Grade on the basis of Selection Cum Seniority and on the recommendations of Departmental Promotion Committee. (By deputation – As per Government of India Rules)"*

**Internal Audit Officer:**

*"On deputation for a fixed tenure from the organized accounts departments of the Government of India having minimum 5 years of regular service in the Grade of Assistant Accounts Officer/Accounts Officer having passed SAS examination."*

  
  
**ATTESTED**  
  
CPIO, Wild Life Institute of India, Dehradun

5

  
  
**INFORMATION PROVIDED**  
**UNDER RTI**



culminating in the Rules of 2007, which came into effect on 01.08.2007. This is besides the decision taken by the Governing Body in the year 1998 which is, as submitted before us, in modification of the 1986 Rules. In fact, it is brought to our notice that the appellant in Special Appeal No. 338 of 2015, who was directly recruited as Hindi Translator, was wrongly given promotion as Accountant [O-(4)]; he stands reverted and he is holding the post of Hindi Translator; there is only one post of Hindi Translator; and appellant no. 3 in Special Appeal No.348 of 2015 is given promotion as Assistant Grade I after the impugned judgment. We only direct that the process of filling up the vacancies be undertaken strictly as per the decisions taken in the years 1986, 1988 and 2007. We make it clear that this will not result in deprivation of any benefit, which persons, who have served and retired, have secured or are securing. Till the exercise is concluded, the notional promotion, which has already been given to the writ petitioner, will continue on ad-hoc basis and it will finally be decided on the basis of the exercise to undertaken by the Institute. This exercise should be conclude within a period of three months from the date of receipt of certified copy of the judgment. We also make it clear that the promotions given to the parties to these appeals contrary to the Rules will be treated as ad-hoc and will be subject to outcome of the promotional exercise.

(4) Being aggrieved from the decision dated 28.11.2016 of the Division Bench of Uttarakhand High Court, Nainital, the petitioner Shri A.K. Dubey, Hindi Translator filed a Review Application before the Division Bench which had been rejected/dismissed by the Hon'ble High Court of Uttarakhand vide its judgment dated 10.01.2017.

(5) That the judgment dated 28.11.2016 of Hon'ble High Court of Uttarakhand (Division Bench) was complied and seniority list of ministerial cadre administrative staff was prepared and promotion exercise in accordance with the recruitment rules of 1986 was carried out which is besides the decision taken by the Governing Body in the year 1988 which is in modification of 1986 rules and further revised in the year 2007.

*H. Bader*  
*Y. Kula*  
**ATTESTED**  
 CPIO, Wild Life Institute of India, Dehradun

*gla.*  
*[Signature]*  
**INFORMATION PROVIDED  
 UNDER RTI**



### Observations of the Committee:

- (1) The Committee observed that the Recruitment and Promotion of Administrative Cadre were to be made in accordance with the 1986, 1988, 1992 and 2007 Rules. The rules were violated and no competitive examination was conducted by the Institute and promotions were made *de hors* the Rules.
- (2) One of the employee namely; Shri M.D. Gupta, Assistant filed Writ Petition No. 1580 of 2011 in High Court of Uttarakhand on the promotions made by the Institute by violating the approved Recruitment Rules of 1986. This Writ Petition was decided by the court vide its judgment dated 26.05.2015 and ordered to take appropriate steps to revert back those respondents who were given promotions *de hors* the Rules. A decision was taken by the Institute to implement the orders of the Hon'ble high Court and it was implemented vide office order no. WII/ADM/2011-12/017 (Part) dated 07.07.2015.
- (3) Against the order dated 07.07.2015, two Special Appeals No. 348 of 2015, Smt. Tejvinder Kaur Ahuja and Others V/s M.D. Gupta and Others and other Special Appeal No. 338 of 2015, Shri A.K. Dubey V/s Wildlife Institute of India were filed. The Special Appeals were considered by the Division bench of Hon'ble High Court of Uttarakhand and vide its judgment dated 28.11.2016 decided as under:

**Para 21.** *We would think that once it is found that the promotions given to the appellants are bad for violation of the decisions of the Governing Body, which we have held to be binding, the proper thing to do would be to direct that the promotional exercise be held strictly in accordance with the Rules as in force from time to time. The Rules of 1986 will, in other words, continue to hold the field till they are modified or superseded. They have indeed been superseded with effect from 01.08.2007 and till they were superseded, the promotional exercise must be conducted in terms of the 1986 Rules. For promotion from I-2 to O-3, in other words, the candidate must satisfy the requirement of having been successful in the departmental examination. All the candidates, who are eligible and who are in service, in other words, must undergo the examination and their eligibility for promotion must be determined on the said basis. Therefore, the direction to give notional promotion to the writ petitioner without reference to the requirement of the Rules cannot be sustained.*

**Para 22.** *Resultantly, the appeals are partly allowed. In place of the direction given by the learned Single Judge to give notional promotion to the writ petitioner, we directed that the Institute will carry out the promotional exercise for the posts in terms of the decisions of the Governing Body of the Institute beginning with the Governing Body's decision of 1986 and also*

*[Signature]*

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

63-

INFORMATION PROVIDED  
UNDER RTI



92

(6) In compliance of judgment of Hon'ble High Court dated 28.11.2016, competitive examinations were made by the Institute as per provisions of 1986 Rules and promotion exercise was completed and promotions orders were issued accordingly in the Administrative Cadre as per the details given below:

Sl. No.	From	To	Name of the employee who have been given promotion	Vide office order no.	Effective date of promotion
<b>From O-2 to O-3 Level</b>					
1.	UDC	Storekeeper	Shri Rajiv Kumar Mehta	WII/ADM/2015-16/019 dated 12.04.2018	20.10.2000
2.	-do-	Hostel Superintendent	Smt. Baljeet Kaur	-do-	-do-
<b>From O-3 to O-4 Level</b>					
1.	Storekeeper/ Hostel Superintendent	Accountant/ Section Officer	Shri Rajiv Kumar Mehta	WII/ADM/2015-16/019 dated 07.06.2018	20.10.2008
2.	Storekeeper/ Hostel Superintendent	Accountant/ Section Officer	Smt. Baljeet Kaur	WII/ADM/2015-16/019 dated 07.06.2018	20.10.2008
<b>From Section Officer to Academic Officer/Finance Officer</b>					
1.	Section Officer	Academic Officer	Shri Rajiv Kumar Mehta	WII/ADM/2015-16/019 dated 26.07.2018	13.10.2013
2.	Section Officer	Finance Officer	Smt. Baljeet Kaur	WII/ADM/2015-16/019 dated 26.07.2018	13.10.2013
<b>From UDC to Section Officer</b>					
1.	UDC	Section Officer	T.K. Ahuja	WII/ADM/2015-16/019 dated 07.06.2018	20.10.2013
2.	-do-	-do-	A.S. Rawat	-do-	-do-
3.	-do-	-do-	Shakuntala Devi	-do-	-do-
4.	-do-	-do-	Anita Pahwa	-do-	-do-
5.	-do-	-do-	Kharak Singh Bhainsora	-do-	-do-

*K. Ruler*

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

8

INFORMATION PROVIDED  
UNDER RTI

-64-



91

From UDC to Assistant Grade I					
1.	UDC	Assistant Grade I	P.K. Mukherjee	WII/ADM/2015-16/019 dated 07.06.2018	20.10.2013
2.	-do-	-do-	Yogesh Bhatt	-do-	-do-

(7) Further, the Governing Body of the Institute in its 65<sup>th</sup> meeting held on 06.06.2017 considered the report of the Ministry of Environment, Forest and Climate Change's (MoEFCC's) Committee for inspection of Rajbhasha implementation work vide their letter no. 11014/07/2016-Raj-Bha (Office) dated 23.01.2017. The Committee recommended to create one post of Assistant Director (OL) in the Pay Band-3 (15600-39100) with Grade pay of Rs 5400 so that work related to official language policy may be implemented and supervised properly as well as Hindi translation work is carried out efficiently. The Governing Body approved the upgradation of existing post of Hindi Translator to the pay scale of 15600-39100 in Pay Band 3 with Grade Pay of Rs. 5400 and designated as Assistant Director (Rajbhasha). After approval of the Governing Body, the upgraded pay scale of Rs. 15600-39100 with Grade Pay of Rs. 5400 has been granted to Shri A.K. Dubey and designated as Assistant Director (Official Language) w.e.f. 06.06.2017 vide Office Order No. A/2-32/2004-WII dated 17.6.2017.

(8) **Judgment dated 02.09.2019 in Special Appeal No. 826 of 2019:**The operative part of judgment dated 02.09.2019 of Division Bench of Hon'ble High Court of Uttarakhand is as under:

*"Consequent on the appointment of the respondent- writ petitioner as Hindi Translator on 12.12.1989, he formed part of the cadre of officers in O-3 Grade, and was eligible to be promoted as an accountant in O-4 Grade on completing 8 years of service in O-3 Grade. He could not have been denied promotion on the basis of a Rule made in the year 2007, eight years after he was promoted as an Accountant, nor could he have been reverted, from the post of Accountant to the post of Hindi Translator on 07.07.2015, fifteen years after his promotion on 23.09.1999. The learned Single Judge was, in our view, justified in setting aside the order impugned in the Writ Petition dated 07.07.2015 whereby the respondent-writ petitioner was reverted from the post of Accountant to the post of Hindi Translator".*

*"The order under Appeal passed by learned Single Judge, directing the appellant-Institute to give the respondent-writ petitioner the benefits flowing as a consequence of his promotion granted on 22.09.1999, cannot be construed as obligating the appellant-Institute to promote the petitioner automatically to*

ATTESTED  
CPIO, Wild Life Institute of India, Dehradun

9  
-65-

INFORMATION PROVIDED  
UNDER RTI



*the next higher posts, without adhering to the Rules in force. Suffice it, in such circumstances, to make it clear that the respondent-writ petitioner shall be considered for promotion to higher posts, if he is otherwise eligible to be promoted to such higher posts, strictly in accordance with the conditions stipulated in the Rules in force".*

#### **Recommendations of the Committee:**

- (i) As directed by the Division Bench of Hon'ble High Court of Uttarakhand vide its judgment dated 02.09.2019 the promotion made to Shri A.K. Dubey from Hindi Translator to the Post of Accountant (O-4) now re-designated as Section Officer may be restored from the date 22.09.1999. Although the promotion for this post is through competitive examination as prescribed in 1986 rules. However, the direction given by the High Court may be complied.
- (ii) The Division Bench of Hon'ble High Court vide judgment dated 02.09.2019 has overruled the order of Single Bench Judgment dated 09.07.2019 wherein it was directed to remit him all the benefits which were flowing as a consequence of the promotion granted to Shri A.K. Dubey. It has now been decided by the Division Bench that the Respondent Writ Petitioner (Shri A.K. Dubey) shall be considered for promotion to higher post, if he is otherwise eligible to be promoted to such higher post, strictly in accordance with the conditions stipulated in the rules in force.

The Committee observed that all the promotional posts of Administrative Cadre such as (i) Assistant Grade I, (ii) Section Officer, (iii) Academic Officer and (iv) Finance Officer have been filled up through competitive examination as per 1986 rules and thereafter as per 2007 Rules in accordance with the compliance of the judgment dated 28.11.2016 of Division Bench of Uttarakhand High Court.

- (iii) Once in accordance with the judgment dated 02.09.2019, the promotion of Shri A. K. Dubey to the post of Accountant (O-4) has been restored, he would have been eligible for promotion to the post of Finance Officer/Academic Officer in the year 2004 after completion of 5 years residency in accordance with the Recruitment Rules of 1986. But both the positions were filled at that point of time and subsequently the post of Finance Officer and Academic Officer became vacant on 02.07.2007 and 31.12.2009 respectively.
- (iv) Shri A.K. Dubey was the only eligible candidate to compete for the post of Accountant through competitive examination in 1999 and thereafter promotion to the post of Finance Officer/Academic Officer in the year 2004

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

10

-66-

INFORMATION PROVIDED  
UNDER RTI



89

as per 1986 rules. However, Shri A.K. Dubey was not given the opportunity for competitive examination while others were given the opportunity for promotion to the post of Accountant (O-4 level). The reason cited was that the Hindi Translator position was stand-alone stream of employment in accordance with the Department of Official Language, Govt. of India.

- (v) The Hon'ble High Court of Uttarakhand in its judgment dated 02.09.2019 has restored the promotion of Shri A.K. Dubey to the post of Accountant and there is no mention of going through the competitive examination as per provisions of 1986 rules.
- (vi) Keeping the Institutional interests in mind, with the intent of implementing the Hon'ble High Court's Division Bench Judgement in its true spirit of restoring all due benefits retrospectively to Shri A.K. Dubey in accordance to the prevailing 1986 rules applicable at that time, while simultaneously not to harm other WII employees who have been given promotions in compliance to the judgment of Division Bench, Uttarakhand High Court dated 28.11.2016 and promotions were made through competitive examination as per 1986 rules and 2007 rules. The Committee noted that at present there is no post vacant for consideration of further promotion of Shri A.K. Dubey, Section Officer to the higher post as the next promotion under zone of consideration is Finance Officer and Academic Officer but both these positions are filled up. The promotion in Administrative Cadre are vacancy based. One post of Internal Audit Officer is vacant which is as per RRs is to be filled up by deputation appointment. The utilization of the post of Internal Audit Officer by the Institute is as under:

Sl. No.	Name of the Officer occupied the post	By promotion/ deputation	Period	
			From	To
1.	Shri R.S. Rana	By promotion	20.04.1993	31.08.1998
2.	Shri I.J. Malhotra	By deputation	02.09.2002	07.09.2007
3.	Shri S.K. Khantwal	By deputation	27.08.2007	31.12.2009

As per Recruitment and Promotion Rules 2007 the post of Internal Audit Officer was to be filled up by Deputation Appointment. This post could not be filled up on deputation because of its lower Grade Pay of Rs. 4800. The pay scale of the post of Internal Audit Officer has also been elevated to the Grade Pay of Rs 6600 as that of Finance Officer and Academic Officer effective from 01.04.2006 but financial benefits from 01.02.2019 as per Office

ATTESTED  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI

67



Memorandum No. A/1/3-29/2010-WII dated 01.02.2019. All these three positions are at the same pay level.

- (vii) For compliance of the judgment dated 02.09.2019 in respect of Shri A.K. Dubey, the committee recommends as under:
- (a) The post of Finance Officer and Academic Officer has already been filled up in compliance of the Division Bench of Hon'ble High Court of Uttarakhand judgment dated 28.11.2016 by following RRs of 1986 and 2007. Presently, only one post of Internal Audit Officer in the Grade Pay of Rs.6600 in PB-3 as that of Finance Officer/Academic Officer, is vacant. Although the post of Internal Audit Officer is to be filled up by deputation appointment but for bringing the harmony in the Administrative Cadre, the post of Internal Audit Officer may be utilized by promotion till the retirement of Shri A.K. Dubey who will be superannuating on 30.06.2021.
- (b) Shri A.K. Dubey was eligible for promotion to the post of Finance Officer/Academic Officer in the year 2004 after completion of 5 years residency in accordance with the Recruitment Rules of 1986, thus, to protect the interest of Shri A.K. Dubey, the pay protection may be considered from 03.07.2007 (as the post of Finance Officer was filled up till 02.07.2007 and the promotion in the administrative cadre are vacancy based).
- (c) After giving pay scale of Grade Pay of Rs.6600 from 03.07.2007 and after allowing the financial upgradations under Modified Assured Progression Scheme (MACP), the position of Shri A.K. Dubey shall be as under:

Sl. No.	From	To	Post held	Pre-revised grade pay	Remarks
1.	12.12.1989	31.12.1995	Hindi Translator	2800 in PB-1	Because the pay scale of Hindi Translator was upgraded by the Deptt. of Official Language, Gol from 2800 to 4200
2.	01.01.1996	21.09.1999		4200 in PB-2	
3.	22.09.1999	31.03.2006	Accountant	4200 in PB-2	Promotion restored as per judgment of Hon'ble High Court.
	01.04.2006	02.07.2007	Accountant	4800 in PB-2	As per revised RRs of 2019 effective from 01.4.2006 scale was revised to Rs.4800

ATTACHED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



4.	03.07.2007	31.12.2009	-	6600 in PB-3	Pay Protection w.e.f. 3.07.2007 as the post of Finance Officer was filled up on deputation till 02.07.2007.
5.	01.01.2010	11.12.2019	Internal Audit Officer	6600 in PB-3	Promotion to the post of Internal Audit Officer.
6.	12.12.2009	11.12.2019	2 <sup>nd</sup> MACP	7600 in PB-3	2 <sup>nd</sup> MACP
7	12.12.2019	Onwards	3 <sup>rd</sup> MACP	8700 in PB-4	Will be due for financial Upgradation under MACP

- (d) The above recommendations of the Committee may be considered for approval.

*[Signature]*

(Dr. Y.V. Jhala)  
Scientist-G &  
Chairman

*[Signature]*

(Dr. V.P. Uniyal)  
Member

*[Signature]*

(Dr. K. Sivakumar)  
Member

*[Signature]*

(P.K. Aggarwal)  
Member Secretary

The above recommendations (as per PP 87-98 are approved.

*[Signature]*  
24.X.19

ATTESTED

*[Signature]*  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI

- 69 -



Dated: 24.10.2019

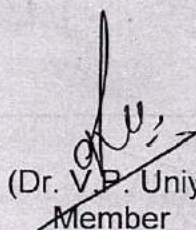
**Sub: Recommendations for Implementation of Division Bench Judgment dated 02.09.2019 of Hon'ble High Court of Uttarakhand in Special Appeal No. 826 of 2019 in case of Shri A.K. Dubey V/s Wildlife Institute of India and others-reg.**

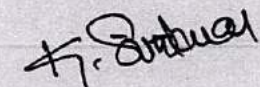
**Ref: Notification No. WII/ADM/2019-20/81 dated 30.09.2019.**

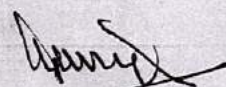
Vide above notification dated 30.09.2019 the following committee was constituted by the Director, WII for implementation of the subject quoted judgment of Division Bench, Uttarakhand High Court:

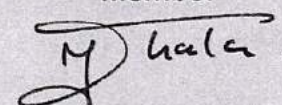
- (i) Dr. Y.V. Jhala, Scientist-G
- (ii) Dr. V.P. Uniyal, Scientist-G & Registrar
- (iii) Dr. K.Sivakumar, Scientist-F
- (iv) Shri P.K. Aggarwal, Deputy Registrar

The recommendations of subject quoted Committee constituted under above reference has concluded the assignment. The recommendations of the Committee may be considered for approval.

  
(Dr. V.P. Uniyal)  
Member

  
(Dr. K.Sivakumar)  
Member

  
(P.K. Aggarwal)  
Member Secretary

  
(Dr. Y.V. Jhala)  
Scientist-G & Chairman

To,

Director, WII

The recommendations of the committee are approved.  
The orders may be issued.

Registrar

24.X.19

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

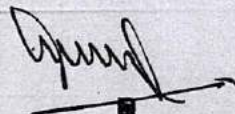
INFORMATION PROVIDED  
UNDER RTI



101-99/k

The recommendations of the committee has been approved by Director, WII vide <sup>Page 3/N</sup> ~~101~~ A draft office order was prepared for issue to Shri A.K. Dubey regarding his promotion, protection of pay and MACP vide <sup>Page 108/c</sup> ~~101~~ The draft was sent to Mr. Xitij Kaushik, Advocate on 24.10.2019 and after going through it, he is of the opinion that the same needs no changes as such.

The draft office order may be considered for approval and issue to Shri A.K. Dubey.

  
Dy. Registrar

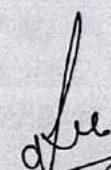
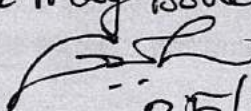
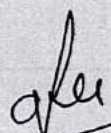
~~Registrar~~

W

~~D. WTI~~

~~Registrar~~

~~Dr. Regishm~~

  
25/10/19  
Registrar may issue the orders  
  
25/10/19  
  
25/10/19

ATTESTED

  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



WILDLIFE INSTITUTE OF INDIA  
CHANDRABANI DEHRADUN

No. WII/ADM/2019-20/81

Dated 25<sup>th</sup> October 2019Office Order

**Sub: Implementation of Division Bench Judgment dated 02.09.2019 of Hon'ble High Court of Uttarakhand in Special Appeal No. 826 of 2019 in case of Shri A.K. Dubey V/s Wildlife Institute of India and others-reg.**

Pursuant to and for compliance of subject quoted decision/order dated 02.09.2019 of Hon'ble High Court of Uttarakhand at Nainital and in supersession of all previous orders issued by the Institute in respect of Shri A.K. Dubey, the following orders are passed with immediate effect:

- (1) The promotion of Shri A.K. Dubey to the post of Accountant (now re-designated as Section Officer) is restored w.e.f. 22.09.1999 in the pre-revised pay scale of Rs. 5500-175-9000 which was further revised in PB-2 with Grade Pay of Rs. 4200 and subsequently upgraded to the Grade Pay of Rs. 4800 in PB-2 w.e.f. 01.04.2006.
- (2) Shri A.K. Dubey was eligible for promotion to the next higher post in the year 2004 after completion of 5 years residency in accordance with the Recruitment Rules of the Institute. The promotion in the Administrative Cadre are vacancy based. The first higher position of Finance Officer became vacant on 03.07.2007 as this post was occupied by a deputationist till 02.07.2007. The post of Academic Officer became vacant on 01.01.2010 as this was also filled up on regular basis and fallen vacant on 31.12.2009 on superannuation of an employee who had occupied this post. Similarly, the third equivalent post of Internal Audit Officer was occupied till 31.12.2009.
- (3) The Division Bench of Hon'ble High Court of Uttarakhand vide its judgment dated 28.11.2016 directed that the Institute will carry out the promotional exercise for the posts in terms of the decision of the Governing Body of the Institute beginning

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

1

INFORMATION PROVIDED  
UNDER RTI

o/c

-72



with the Governing Body's decision in 1986 and also culminating in the Rules of 2007 and this is besides the decision taken by the Governing Body in the year 1988 which is in modification of the 1986 Rules. It was directed that the process of filling up the vacancies be undertaken strictly as per the decisions taken in the years 1986, 1988 and 2007 Rules.

(4) In compliance of judgment of Hon'ble High Court dated 28.11.2016, competitive examinations were made by the Institute as per provisions of 1986 Rules and also as per 2007 Rules promotion exercise was completed and promotion orders were issued in the Administrative Cadre.

(5) The Recruitment and Promotion Rules for Administrative Cadre have been revised w.e.f. 01.08.2007 vide circular no. A/1-3/XLVII/GB/WII (RRs) dated 01.08.2007. Further, vide office memorandum no. A/1/3-29/2010-WII dated 01.02.2019 the Recruitment and Promotion Rules for Administrative Cadre have been revised w.e.f. 01.04.2006 but financial benefits from 01.02.2019.

(6) The posts of Finance Officer and Academic Officer have already been filled up in compliance of the Division Bench of Hon'ble High Court of Uttarakhand judgment dated 28.11.2016 by following RRs of 1986 and 2007. Presently, only one post of Internal Audit Officer in the same Grade Pay of Rs. 6600 in PB-3 as that of Finance Officer/Academic Officer, is vacant. Hence, Shri A.K. Dubey is hereby promoted to the higher post of Internal Audit Officer w.e.f. 01.01.2010 in the Grade Pay of Rs. 6600.

(7) Pursuant to and in compliance of the order of the Hon'ble High Court and to protect the interest of Shri A.K. Dubey, the pay protection has been considered and allowed to him, the Grade Pay of Rs. 6600 in PB-3 w.e.f. 03.07.2007 as one of the post became available on 03.07.2007 which was again filled up by regular promotion after compliance of the judgment dated 28.11.2016 of Division Bench of Hon'ble High Court.

INFORMATION PROVIDED  
UNDER RTI

ATTESTED

CPIO, Wild Life Institute of India, Dehradun





(8) After giving the pay protection on 03.07.2007 in PB-3 with Grade Pay of Rs. 6600, Shri A.K. Dubey has also been allowed financial upgradations under Modified Assured Progression Scheme (MACP) as per Government of India Rules, the position of Shri A.K. Dubey shall be as under:

Sl. No.	From	To	Post	Pre-revised grade pay	Remarks
1.	22.09.1999	31.03.2006	Accountant	4200 in PB-2	Promotion restored as per judgment of Hon'ble High Court.
	01.04.2006	02.07.2007	Accountant	4800 in PB-2	As per revised RRs of 2019 effective from 01.4.2006 scale was revised to Rs.4800.
2.	03.07.2007	31.12.2009	-	6600 in PB-3	Pay Protection w.e.f. 3.07.2007.
3.	01.01.2010	11.12.2019	Internal Audit Officer	6600 in PB-3	Internal Audit Officer.
4.	12.12.2009	11.12.2019	2 <sup>nd</sup> MACP	7600 in PB-3	2 <sup>nd</sup> MACP allowed as per Gol Rules.
5.	12.12.2019	Onwards	3 <sup>rd</sup> MACP	8700 in PB-4	Will be due for financial Upgradation under MACP.

The pay fixation in the above pay scales will be issued separately.

(Dr. V.P. Uniyal)

Registrar

**Distribution:**

**Shri A. K. Dubey, Internal Audit Officer**

**Copy to:**

1. Finance Officer
2. Personal File of the Officer
3. Guard File/Service Book

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

AZ

25-10-19

3

-74-

कुलसचिव/Registrar  
भारतीय वन्यजीव संस्थान  
Wildlife Institute of India  
देहरादून/Dehradun

6/11

INFORMATION PROVIDED  
UNDER RTI



**WILDLIFE INSTITUTE OF INDIA  
CHANDRABANI, DEHRADUN**

No. WII/ADM/2019-20/81

Dated 06<sup>th</sup> February, 2020

**NOTIFICATION**

**Sub: Constitution of Committee for implementation of the Division Bench Judgment of Hon'ble High Court of Uttarakhand, Nainital dated 02.09.2019 in Special Appeal No.826 of 2019- Shri A.K Dubey V/s Wildlife Institute of India & Others – reg.**

For implementation of the subject quoted with reference to the Division Bench Judgment of Hon'ble High Court of Uttarakhand at Nainital, the following Internal Committee is hereby constituted:

- |       |                                    |   |                  |
|-------|------------------------------------|---|------------------|
| (i)   | Dr. Pratap Singh, Scientist G      | - | Chairman         |
| (ii)  | Dr. Samrat Mondal, Scientist E     | - | Member           |
| (iii) | Smt. Baljeet Kaur, Finance Officer | - | Member           |
| (iv)  | Dr. Monali Sen, Registrar          | - | Member Secretary |

The mandate of the Committee is as under:-

- (i) To study the Division Bench Judgment of Hon'ble High Court of Uttarakhand, Nainital dated 02.09.2019 in Special Appeal No.826 of 2019.
- (ii) To review the recommendation of Committee constituted vide even number notification dated 30.09.2019 in the matter and follow up action/implementation of recommendation of said Committee.
- (iii) To suggest required followup action for implementing directions of said Hon'ble High Court Judgement.

The Committee will submit its report/recommendations to Director, WII within a period of ten days.

Issued with the approval of the Director, WII.

**INFORMATION PROVIDED  
UNDER RTI**

*Monali Sen*  
(Dr. Monali Sen, IFS)  
Registrar

**Distribution:-**

**All Members of the Committee**

Copy for information to:-

- (i) PS to Director, WII
- (ii) PA to Registrar
- (iii) Guard File

**ATTESTED**

CPIO, Wild Life Institute of India, Dehradun

*OLC*

*hark*

*debar*

*Heidi*



No. WII/ADM/2019-20/81

Dated: 13.02.2020

**Sub: Recommendations for Implementation of Division Bench Judgment dated 02.09.2019 of Hon'ble High Court of Uttarakhand in Special Appeal No. 826 of 2019 in case of Shri A.K. Dubey V/s Wildlife Institute of India and others-reg.**

**Ref: Notification No. WII/ADM/2019-20/81 dated 06.02.2020.**

1) Vide above notification dated 06.02.2020 the following committee was constituted by the Director, WII for implementation of the subject quoted judgment of Division Bench, Uttarakhand High Court:

- a. Dr. Pratap Singh, Scientist-G
- b. Dr. R Suresh Kumar, Scientist-E
- c. Dr. Monali Sen, Scientist-D and Registrar
- d. Smt. Baljeet Kaur, Finance Officer

2) The mandate of the Committee is as under:

- a. Study of Division Bench Judgment of Hon'ble High Court of Uttarakhand, Nainital dated 02.09.2019 in Special Appeal No. 826 of 2019.
- b. Suggest follow-up actions required for the implementation of the direction of the said judgment.

3) Pursuant to and in compliance of the judgment of Division Bench of Uttarakhand High Court, Nainital in Special Appeal No. 826 of 2019, the Committee went through the judgment dated 09.07.2019 of Single Bench in Writ Petition No. 3679 of 2017 in case of Shri A.K. Dubey V/s Wildlife Institute of India and Others. The Committee met on 13.02.2020

4) The Committee examined the following documents:

- a. Recruitment and Promotion Rules for Administrative Services of WII of 1986, 1988 and 2007.
- b. Recruitment and Promotion Rules for Administrative/Finance Posts – 2019.
- c. Hon'ble H/C SA No. 826, order dated 02.09.2019 and SA No. 829, order dated 02.09.2019.
- d. Hon'ble H/C WP No. 1580, order dated 25.05.2015.
- e. Recommendation dated 23.10.2019 by an internal committee of the Institute on the same matter.
- f. Govt. of India Departmental Promotion committee guidelines.
- g. Memorandum of Association of Wildlife Institute of India.
- h. Recommendations of the committee formed via notification no.

WII/ADM/2019-20/81 dated 30.09.2019

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



31  
211

**Background of the case:**

5. The Governing-Body in its 12<sup>th</sup> Meeting held on 17.11.1988 decided to fill up the post of Hindi Translator by way of direct recruitment, as there was no one in the channel for promotion to the post of Hindi Translator.
6. The recruitment rules for the post of Hindi Translator on direct recruitment basis were also approved based on the qualifications laid down by the Official Languages Department for the post of Junior Hindi Translator.
7. The Governing Body in its 21st meeting held on 04.12.1992, revised recruitment Rules for the post of Administrative Officer and Finance Officer. The revised rules are as under:-

Administrative Officer	100% by promotion from Sr.PA, Office Superintendent, who has put in 5 years service in Grade O (4) by DPC. (Deputation on stopgap basis or absorption of deputationist over 45 years of age).
Finance Officer	100% by promotion from Accountants who have put in 5 years of service in Grade O (4) through competitive examination and record evaluation by DPC. (Deputation on stopgap basis or absorption of deputationist over 45 years of age).

8. Recruitment Rules for the Administrative Services (Recruitment and Promotion Rules) were revised and notified vide Circular No. A/1-3/XLVII/GB/WII (RRs) dated 01.08.2007, which includes the posts of Administrative Officer/Academic Officer, Finance Officer and Internal Audit Officer. The revised Rules for these posts are as under:

Administrative Officer	"100% by promotion from Section Officer, who have rendered not less than 5 years approved service in the Grade on the basis of Selection Cum Seniority and on the recommendations of the Departmental Promotion Committee (Deputation as per Government of India Rules)
Finance Officer	"100% by promotion from Section Officer, who have rendered not less than 5 years approved service in the Grade on the basis of Selection cum Seniority and on the recommendations of the Departmental Promotion Committee. Only those Section Officers shall be considered who have successfully completed the Cash and Accounts training conducted by ISTM, New Delhi (Deputation as per Government of India Rules).

ATTESTED

CPO, Wild Life Institute of India, Dehradun



Internal Audit Officer	"On deputation for a fixed tenure from the Organized Accounts Departments of the Government of India"
------------------------	---

9. Further, the Recruitment and Promotion Rules for Administrative/Finance Posts along with Group-A Scientific Posts and Technical Posts were revised by the Institute and notified vide number A/1/3-29/2010-WII dated 01.02.2019, w.e.f. from 01.04.2006 but financial benefits from 01.02.2019. As per the revised rules, the post of Administrative Officer has been elevated as Deputy Registrar in PB-3 with Grade Pay of Rs. 7600. The post of Finance Officer, Academic Officer, and Internal Audit Officer have also been elevated to the Pay Scale in PB-3 with Grade Pay of 6600. The Recruitment Rules for the posts of Finance Officer, Academic Officer, and Internal Audit Officer are given below:

Academic Officer/Finance Officer	"100% by promotion from amongst Section Officers who have rendered not less than 08 years of approved service in the Grade on the basis of Selection Cum Seniority and on the recommendations of Departmental Promotion Committee. (By deputation – As per Government of India Rules)"
Internal Audit Officer	"On deputation for a fixed tenure from the organized accounts departments of the Government of India having minimum 5 years of regular service in the Grade of Assistant Accounts Officer/Accounts Officer having passed SAS examination."

10. The Committee made earlier via Notification No. WII/ADM/2019-20/81 dated 30.09.2019 observed that the Recruitment and Promotion of Administrative Cadre were to be made in accordance with the 1986, 1988, 1992 and 2007 Rules. The rules were violated and the Institute conducted no competitive examination and promotions were made *dehors* the Rules.
11. Then committee also observed that, the judgment dated 28.11.2016 of Hon'ble High Court of Uttarakhand (Division Bench) had been complied and seniority list of ministerial cadre administrative staff was prepared, and promotion exercise in accordance with the recruitment rules of 1986 was carried out; which is beside the decision taken by the Governing Body in the year 1988 which is in modification of 1986 rules and further revised in the year 2007.
12. In compliance of judgment of Hon'ble High Court dated 28.11.2016, competitive examinations were conducted by the Institute as per provisions of 1986 Rules and promotion exercise was completed and promotions orders were issued accordingly in the Administrative Cadre as per the details given below:



Sl. No	From	To	Name of the employee who has been given promotion	Vide office order no.	The effective date of promotion
<b>From O-2 to O-3 Level</b>					
1.	UDC	Storekeeper	Shri Rajiv Kumar Mehta	WII/ADM/2015-16/019 dated 12.04.2018	20.10.2000
2.	-do-	Hostel Superintendent	Smt. Baljeet Kaur	-do-	-do-
<b>From O-3 to O-4 Level</b>					
1.	Storekeeper/Hostel Superintendent	Accountant/Section Officer	Shri Rajiv Kumar Mehta	WII/ADM/2015-16/019 dated 07.06.2018	20.10.2008
2.	Storekeeper/Hostel Superintendent	Accountant/Section Officer	Smt. Baljeet Kaur	WII/ADM/2015-16/019 dated 07.06.2018	20.10.2008
<b>From Section Officer to Academic Officer/Finance Officer</b>					
1.	Section Officer	Academic Officer	Shri Rajiv Kumar Mehta	WII/ADM/2015-16/019 dated 26.07.2018	13.10.2013
2.	Section Officer	Finance Officer	Smt. Baljeet Kaur	WII/ADM/2015-16/019 dated 26.07.2018	13.10.2013

13. Shri A.K. Dubey was the only eligible candidate to compete for the post of Accountant through competitive examination in 1999 and thereafter promotion to the post of Finance Officer/Academic Officer in the year 2004 as per 1986 rules. **However, Shri A.K. Dubey was not given the opportunity for competitive examination while others were given the opportunity for promotion to the post of Accountant (O-4 level).** The reason cited was that the Hindi Translator position was a stand-alone stream of employment in accordance with the Department of Official Language, Govt. of India.

14. Being aggrieved from the decision dated 28.11.2016 of the Division Bench of Uttarakhand High Court, Nainital, the petitioner Shri A.K. Dubey, Hindi Translator filed a Review Application before the Division Bench which had been rejected/dismissed by the Hon'ble High Court of Uttarakhand vide its judgment dated 10.01.2017.

ATTESTED

Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



15. As directed by the Division Bench of Hon'ble High Court of Uttarakhand vide its judgment dated 02.09.2019 the promotion made to Shri A.K. Dubey from Hindi Translator to the Post of Accountant (O-4) now re-designated as Section Officer was proposed for restoration from the date 22.09.1999. Although the promotion for this post is through competitive examination as prescribed in 1986 rules. However, the direction given by the High Court may be complied.
16. The Division Bench of Hon'ble High Court vide judgment dated 02.09.2019 has overruled the order of Single Bench Judgment dated 09.07.2019 wherein it was directed to remit him all the benefits which were flowing as a consequence of the promotion granted to Shri A.K. Dubey. It has now been decided by the Division Bench that the Respondent Writ Petitioner (Shri A.K. Dubey) shall be considered for promotion to a higher post, if he is otherwise eligible to be promoted to such higher post, strictly in accordance with the conditions stipulated in the rules in force.
17. Once in accordance with the judgment dated 02.09.2019, the promotion of Shri A. K. Dubey to the post of Accountant (O-4) has been restored, he would have been eligible for promotion to the post of Finance Officer/Academic Officer in the year 2004 after completion of 5 years residency in accordance with the Recruitment Rules of 1986. However, both the positions were filled at that point of time and subsequently the post of Finance Officer and Academic Officer became vacant on 02.07.2007 and 31.12.2009 respectively.
18. **The Hon'ble High Court of Uttarakhand in its judgment dated 02.09.2019 has restored the promotion of Shri A.K. Dubey to the post of Accountant and there is no mention of going through the competitive examination as per provisions of 1986 rules.**
19. **The then Committee (Committee made earlier via Notification No. WII/ADM/2019-20/81 dated 30.09.2019) noted that at present there is no post vacant for consideration of further promotion of Shri A.K. Dubey, Section Officer to the higher post as the next promotion under the zone of consideration is Finance Officer and Academic Officer but both these positions are filled up.** The promotion in Administrative Cadre is vacancy based. One post of Internal Audit Officer is vacant which is as per RRs is to be filled up by deputation appointment.
20. As per Recruitment and Promotion Rules, 2007 the post of Internal Audit Officer was to be filled up by Deputation Appointment. This post could not be filled up on deputation because of its lower Grade Pay of Rs. 4800. The pay scale of the post of Internal Audit Officer has also been elevated to the Grade Pay of Rs 6600 as that of Finance Officer and Academic Officer effective from 01.04.2006 but financial benefits from 01.02.2019 as per Office Memorandum No. A/1/3-29/2010-WII dated 01.02.2019. All these three positions are at the same pay level. Although the post of Internal Audit Officer is to be filled up by a deputation appointment; however, for bringing harmony in the Administrative Cadre, the post of Internal Audit Officer may

ATTESTED

CPIO, Wild Life Institute of India, Dehradun



be utilized by promotion until the retirement of Shri A.K. Dubey who will be superannuating on 30.06.2021.

21. Shri A.K. Dubey was eligible for promotion to the post of Finance Officer/Academic Officer in the year 2004 after completion of 5 years residency in accordance with the Recruitment Rules of 1986, thus, to protect the interest of Shri A.K. Dubey, the pay protection may be considered from 03.07.2007 (as the post of Finance Officer was filled up till 02.07.2007 and the promotion in the administrative cadre are vacancy based).
22. After enhancing pay scale of Grade Pay to Rs.6600 from 03.07.2007 and after allowing the financial upgradations under Modified Assured Progression Scheme (MACP), the position of Shri A.K. Dubey is calculated as under:

Sl. No.	From	To	Post held	Pre-revised grade pay	Remarks
1.	12.12.1989	31.12.1995	Hindi Translator	2800 in PB-1	Because the pay scale of Hindi the Deptt upgraded Translator. of Official Language, GoI from 2800 to 4200
2.	01.01.1996	21.09.1999		4200 in PB-2	
3.	22.09.1999	31.03.2006	Accountant	4200 in PB-2	Promotion restored as per judgment of Hon'ble High Court.
	01.04.2006	02.07.2007	Accountant	4800 in PB-2	As per revised RRs of 2019 effective from 01.4.2006 scale was revised to Rs.4800.
4.	03.07.2007	31.12.2009		6600 in PB-3	Pay Protection w.e.f. 3.07.2007 as the post of Finance Officer was filled up on deputation until 02.07.2007.
5.	01.01.2010	11.12.2019	Internal Audit Officer	6600 in PB-3	Promotion to the post of Internal Audit Officer.
6.	12.12.2009	11.12.2019	2 <sup>nd</sup> MACP	7600 in PB-3	2 <sup>nd</sup> MACP
7	12.12.2019	Onwards	3 <sup>rd</sup> MACP	8700 in PB-4	Will be due for financial Upgradation under MACP
ATTESTED					

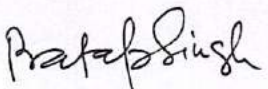
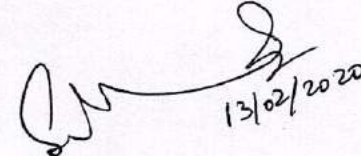
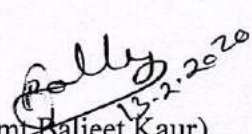
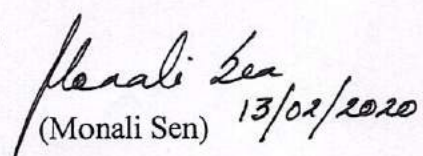


23. Thereby Shri A.K Dubey was posted in the vacant post of Internal Audit Officer as per the then committee's recommendation in November 2019.
24. The recommendations made by the previous committee were not submitted for approval of the General Body, therefore the implementation of the same becomes invalid. The posting of a regular employee in the deputation post cannot be decided de facto at the institute level.
25. The Recruitment and Promotion Rules for Administrative/Finance Posts along with Group-A Scientific Posts and Technical Posts were revised by the Institute and notified vide number A/1/3-29/2010-WII dated 01.02.2019. These rules have been made effective from 01.04.2006 but financial benefits from 01.02.2019. As per the revised rules, the post of Administrative Officer has been elevated as Deputy Registrar in PB-3 with Grade Pay of Rs. 7600. The post of Finance Officer, Academic Officer, and Internal Audit Officer have also been elevated to the Pay Scale in PB-3 with Grade Pay of 6600.
26. Shri A.K. Dubey presently being aggrieved by the post of Internal Audit Officer has again requested for considering his posting as per regular promotion channel (vide letter no. WII/ADM/2019-20/81 dated 06.02.2020).

**Recommendations of the committee:**

1. The committee recommends that Shri A. K. Dubey can be considered eligible for the post of Administrative officer as equivalent to Finance Officer and Academic Officer, so that the interest of the two other persons posted may not get violated as well. the committee also recommends that the new posting of Shri A. K. Dubey to be considered from 01.01.2010 at Grade pay of Rs. 6600 in PB 3 (level 11 of 7 CPC). The post of Internal Audit Officer should be kept reserved for deputation only. This recommendation may be submitted to Governing Body for approval.

Submitted for consideration and approval.

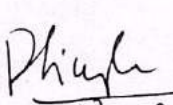
 (Dr. Pratap Singh) Chairman	 (Dr. R. Suresh Kumar) Member	 (Smt. Baljeet Kaur) Member	 (Monali Sen) Member Secretary
---	--	---	---


**ATTESTED**  
  
 CPIO, Wild Life Institute of India, Dehradun

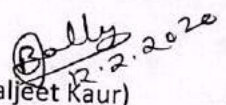
**INFORMATION PROVIDED  
 UNDER RTI**

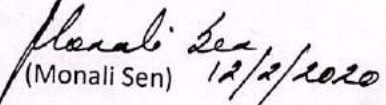


14. In compliance to office order dated 06.02.2019 ( 25 /C), the committee assembled at the chamber of Registrar, WII at 3.00 pm today.
15. The committee referred the following documents in detail:
- Hon'ble H/C SA No. 826, order dated 02.09.2019 & SA No. 829, order dated 02.09.2019.
  - Hon'ble H/C WP No. 1580, order dated 25.05.2015.
  - Recommendation dated 23.10.2019 by internal committee of the Institute in the same matter.
  - Govt. of India Departmental Promotion committee guidelines.
  - Memorandum of Association of Wildlife Institute of India.
16. After detailed deliberations the committee unanimously recommended the action of reviving the now abolished post of Administrative Officer & offering the same post to Shri Dubey based on his eligibility, procedural norms & Hon'ble H/C orders.
17. The detailed report will be submitted to Director WII within 3 working days for his approval & for also submitting the recommendation in the next General Body meeting.


  
 (Dr. Pratap Singh) 2020  
 Chairman

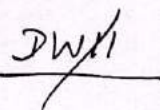
  
 (Dr. R. Suresh Kumar)  
 Member

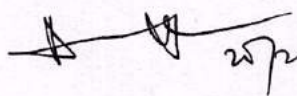
  
 (Smt Baljeet Kaur)  
 Member

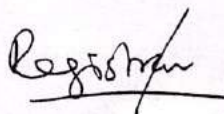
  
 (Monali Sen) 12/2/2020  
 Member Secretary

18. Recommendation in detail is submitted in 26-32/C.  
 Prepared to submit the same to GB for approval,  
 as per summary in 16/N ante.

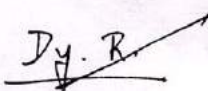
  
 13/2/2020







The proposal was submitted as GB agenda.  
 The members suggested to submit a file for scrutiny  
 at ministry.



12/2

  
 D.T. - 12/2/2020

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

INFORMATION PRO  
 UNDER RT.



Date: 06<sup>th</sup> January 2020

To,

The Director  
Wildlife Institute of India  
Chandrabani Dehradun

Sub: Implementation of Honorable High Court Order/ Judgment in Special Appeal NO 826 of 2019 dated 2-9-2019 and Special appeal No 829 of 2019 dated 2-9-2019.

Ref: Institute Letter No. WII/ADM/2019-20/81 dated: 29.11.19

Sir,

After going through the above referred letter I am surprised. The subject of the letter is **Implementation of Honorable High Court Order/ Judgment in Special Appeal NO 826 of 2019 dated 2-9-2019 and Special appeal No 829 of 2019 dated 2-9-2019**. But the conclusion of the letter is that on the recommendation of a committee (Constituted for the implementation of the honorable high court orders dtd: 02.09.19) promotion have been given to me. Sir I am unable to understand that the institute has implemented the order of the Honorable High Court or the recommendation of the committee.

**INFORMATION PROVIDED**

Sir earlier two committees were constituted for the implementation of the orders/ judgment of honorable high court. The first committee was constituted for the implementation of the judgment of Honorable High Court dt : 25.05.2015 in writ petition No. 1580 of 2011 (S/S) in case of MD Gupta Vs WII and others. (Recommendation of the committee is enclosed As **Annexure- I**). Accordingly on the recommendation of the committee an Office order No. WII/ADM/2011-12/17(Part ) dt: 07.07.2015 was passed.

**ATTESTED**

CPIO, Wild Life Institute of India, Dehradun

Second committee was constituted for the implementation of the order/Judgment of Honorable High Court of Uttarakhand dt: 28.11.2016 in Special Appeal No. 348/2015 and 338/2015 and review application No. 884/2016 i.e Smt.T.K Ahuja Vs. WII and Sh. A.K Dubey Vs. WII (Recommendation of the committee is enclosed As **Annexure II**). Accordingly on the recommendation of the committee an office order bearing No. WII/ADM/2015-16/19 (Part) dt.25.10.17 was passed and my promotion was denied by the Institute.

Both the orders dt: 07.07.15 & 25.10.17 which were issued on the recommendations of the committee were quashed by the honorable high Court of Uttarakhand vide order dt: 09.07.19 & 02.09.19 (copy enclosed as **Annexure III & IV**).

Ms. Monali Sen  
to examine in  
detail and  
discuss.

07/01/20

Registrar  
Pl. take necessary action  
must finalise by coming Tuesday.  
08/01/2020

Pl. pushup as indicated  
08/01/2020

WII OFFICE
DIARY NO.: 38
DATE: 09/01/2020

Copy to/Registrar 65  
Copy to/Deputy Dir. 65  
Copy to/Date 09/01/20



202

The Third committee was constituted for the implementation of the Honorable High court order/Judgment in Special Appeal No. 826 of 2019 dt: 02.09.19 & special Appeal No. 829 of 2019 dt: 02.09.19 (The recommendation of the Committee is enclosed As **Annexure V**) As per recommendation of the committee I am being given the post of Internal Audit Officer which is against the judgment of Honorable High Court as well as the Recruitment Rules of the Institute.

The Few Points of the Recommendation of the Committee are as below:-

- A) As per the recommendation of the committee at S.No.3 (Page 90) I was eligible for the post of Finance Officer/Academic Officer in the year 2004 after completion of 5 Years Residency Period in accordance with the recruitment rules of 1986, but I am not being given the said post. The employees, who became eligible in 2013, have been given the said post.
- B) As per recommendation at S.No. iv (Page-90-89) I was eligible for the promotion but not given the opportunity for the promotions. There was not any fault on my side.
- C) As per recommendation at S.No. vii (b) The promotion in the administrative cadre are vacancy based. This rule is applicable in my case only. Sh.MD Gupta has worked as Finance Officer/Academic Officer till July 2017. But Sh. Rajeev Mehta & Smt. Baljeet Kaur have been promoted as Academic Officer & Finance Officer respectively wef 13.10.13.
- D) The Division Bench of Honorable High Court vide its Judgment dated 2-9-19 has clearly instructed to promote the undersigned strictly in accordance with the conditions stipulated in the Rules in force. But I am being promoted to the post of Internal Audit Officer which is against the Recruitment Rules and against the judgment of Honorable High Court also.

Sir, I was reverted to the post of Hindi Translator vide Institute order dated 7-7-15 .Being aggrieved I filed a Special Appeal in the High Court of Uttarakhand. The Division Bench of Honorable High Court vide its judgment dated 28-11-2016 has clearly directed "**We only direct that the process of filling up the vacancies be undertaken strictly as per the decisions taken in the years 1986,1988 and 2007.** Further the High Court has ordered **we also make it clear that the promotion given to the parties to these appeals contrary to the rules will be treated as achoc and will be subject to outcome of the promotional exercise**). The High Court further directed "**The directions which we have given to hold the promotional exercise, would necessarily take note of all the rights of the employees with reference to the vacancies as and when they arose.**"

ATTESTED

CPIO, Wild Life Institute of India, Dehradun

- 85 -

INFORMATION PROVIDED  
UNDER RTI



(201)

Sir, except me, all the eligible candidates were considered for promotions as per judgment dated 28.11.2016. In spite of clear order, the Institute vide order 15.10.2017 again informed me that my case cannot be considered for promotion. Being aggrieved I again approached to High Court. The honorable High Court vide its order dated 09.7.2019 quashed Institute order dated 07.7.2015 and 25.10.2017.

The Institute again filed a special appeal No of 826 of 2019. The honorable High Court in his judgment dated 02.9.2019, dismissed said appeal and clear the facts as below :-

In para 17 of the judgment High court has clearly mentioned that "**Both when the respondents writ petitioner was appointed Hindi Translator and when he was later promoted as an Accountant on 22.9.1999, it was 1986 rules which held the field.**"

In para 18 of the judgment, the High Court has mentioned that "**There is no reference in 1986 rules that the post of Hindi Translator is an isolated post.**"

In para 21, the High Court has mentioned that "**Further the Order of Division bench in special appeal Nos 348 and 338 of 2015 dated 28.11.2016 has attained finality. (The appellants having chosen not to prefer any appeal there-against) and the said order would bind the appellant herein.**"

The High court further mentioned "**consequent on appointment of the respondent writ petitioner as Hindi Translator on 12.12.1989 he formed a part of the cadre of officers in O-3 Grade and was eligible to be promoted as an Accountant in O-4 Grade On completing 8 years service in O-3 Grade. He could not have been denied promotion on the basis of rules made in the year 2007, 8 years after he was promoted as an Accountant, nor could he had been reverted, from the post of Accountant to the post of Hindi Translator on 07.7.2015, fifteen years after his promotion on 23.9.1999.**"

In para 22 or the Judgment dated 02.9.2019, the Honorable High Court made it clear that the respondent writ petitioner shall be considered for promotion to higher post if he is otherwise eligible to be promoted to such higher post, strictly in accordance with the conditions stipulated in the rule in force.

ATTESTED  
  
CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI



21

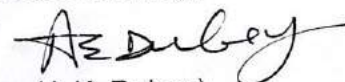
In spite of clear directions of the Honorable High Court, I am being given promotion on the post of Internal Audit Officer. The post of Internal Audit Officer is deputation post in the Institute and to be filled from organized Account Department of Government of India. The Internal Audit Officer is not in line of my promotion. The said promotion, given to me is not only violation of existing recruitment rules but also against the judgment of Honorable High Court of Uttarakhand resulting into contempt of High Court Uttarakhand Judgment dated 02.9.2019.

I would like to draw your kind attention that **Sh. Rajiv Kumar Mehta and others** had filed a special appeal No 829 of 2019 in the Uttarakhand High Court for seeking relief against the judgment dated 09.7.2019 but the division bench of the High Court dismissed the said appeal saying that they (Rajiv & Others) have been benefitted as a consequence of illegal order dated 07.7.2015 (copy enclosed as Annexure-VI).

In view of the above, I request you to please review the matter and I may be promoted to the post of Finance Officer which is in my line of promotion from due date Otherwise permit me to approach High Court of Uttarakhand to file the contempt of court. The post of Internal Audit Officer, as per existing recruitment rules, is required to be filled by a Deputationists and not by promotion.

An early action in the matter will be highly appreciated.

Yours faithfully,



(A K. Dubey)

Internal Audit Officer

ATTESTED



CPIO, Wild Life Institute of India, Dehradun

INFORMATION PROVIDED  
UNDER RTI