

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.246/2020, 238/2020,  
239/2020, 242/2020, 243/2020, 244/2020, 245/2020,  
248/2020 AND 249/2020**

**DISTRICT:- AHMEDNAGAR & NASHIK**

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**ORIGINAL APPLICATION NO.246/2020**

Dattatray s/o. Murlidhar Devkate,  
Age : Major Years, Occ. Forest Guard,  
R/o. Satana, Tq. Malegaon, Dist. Nashik. **...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
  2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
  3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
  4. Sunil Bhalchandra Shirke,  
Age: 32 years, Occ : Forest Guard,  
R/o. Forest Department, Malegaon,  
Tq. Malegaon, Dist. Nashik.
  5. Sangita Pandurang Choure  
Age: 31 years, Occ : Forest Guard,  
R/o. Forest Department, Taharabad,  
Tq. Baglan, Dist. Nashik.
  6. Gaurav Kailas Ahire  
Age: 36 years, Occ : Forest Guard,  
R/o. Forest Department, Taharabad,  
Tq. Baglan, Dist. Nashik.
  7. Kondiba Ramdas Irkar,  
Age: 36 years, Occ : Forest Guard,  
R/o. Forest Department, Sinnar,  
Tq. Sinnar, Dist. Nashik. **...RESPONDENTS**
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**ORIGINAL APPLICATION NO.238/2020**

Balu Shridhar Sumbe,  
Age : 40 years, Occ. Forest Guard,  
R/o. Samrat Nagar, Post : Nav-Nagapur (MIDC),  
Tq. & Dist. Nashik.

**...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
4. Dattu Pundlik Bhoje,  
Age: 33 years, Occ : Forest Guard,  
R/o. Forest Department, Bhandardara,  
Tq. Akola, Dist. Ahmednagar.
5. Ganesh Nandkishor Satre,  
Age: 32 years, Occ : Forest Guard,  
R/o. Forest Department, Nashik,  
Forest Area Traimbakeshwar,  
West Region, Nashik,  
Tq. Traimbakeshwar, Dist. Nashik.
6. Rohit Rajendra Shinde,  
Age: 36 years, Occ : Forest Guard,  
R/o. Forest Department, Nashik,  
Forest Area Sinnar,  
West Region, Nashik,  
Tq. Sinnar, Dist. Nashik.
7. Ashok Mahan Bagul,  
Age: 35 years, Occ : Forest Guard,  
R/o. Forest Department, Nashik,  
Forest Area Kalwan,  
EAST Region, Nashik,  
Tq. Kalwan, Dist. Nashik.

**...RESPONDENTS**

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**ORIGINAL APPLICATION NO.239/2020**

Rahul s/o. Anil Tarwade,  
Age : 35 years, Occ. Forest Guard,  
R/o. Ashtawada Pathardi,  
Tq. Pathardi, Dist. Ahmednagar.

**...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
4. Kishor Ajinath Gangurde,  
Age: 35 years, Occ : Forest Guard,  
Forest Office, Karjat, Rashin Road, Karjat,  
Tq. Karjat, Dist. Ahmednagar.
5. Pandurang Janardan Khandal,  
Age: 37 years, Occ : Forest Guard,  
Forest Office, Pathardi,  
Manik Daundi Road, Pathardi,  
Tq. Pathardi, Dist. Ahmednagar.
6. Adinath Laxman Pise  
Age: 47 years, Occ : Forest Guard,  
Forest Office, Tisgaon,  
Ahmednagar Road, Tisgaon,  
Tq. Pathardi, Dist. Ahmednagar.
7. Deepak Ramdas Hire,  
Age: 45 years, Occ : Forest Guard,  
Divisional Forest Office, Malegaon, Camp Road,  
In front of Sitabai Hospital, Malegaon,  
Tq. Malegaon, Dist. Nashik.

**...RESPONDENTS**

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**ORIGINAL APPLICATION NO.242/2020**

Bahiru s/o. Kalu Benke,  
Age : 42 years, Occ. Forest Guard,  
R/o. Post Akole, Peersai Nagar,  
In front of Hotel Pratik,  
Tq. Akole, Dist. Ahmednagar.

**...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
4. Ashok Arjun Adane,  
Age: 58 years, Occu: Forest Guard,  
Divisional Samajik Forest Department,  
In Revenue Commissioner Area,  
Nashik Road, Nashik.
5. Rajendra Mahadeo Bhosle,  
Age: 54 years, Occu: Forest Guard,  
Divisional Samajik Forest Department,  
In Revenue Commissioner Area,  
Nashik Road, Nashik.
6. Pradnya Namdeo Saonawane,  
Age: 32 years, Occu: Forest Guard,  
Divisional Samajik Forest Department,  
In Revenue Commissioner Area,  
Nashik Road, Nashik.
7. Sonali Sampat Deshmukh,  
Age: 33 years, Occu: Forest Guard,  
Divisional Samajik Forest Department,  
In Revenue Commissioner Area,  
Nashik Road, Nashik.

**...RESPONDENTS**

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**ORIGINAL APPLICATION NO.243/2020**

Somnath s/o. Nandu Gadhve,  
Age : 32 years, Occ. Forest Guard,  
R/o. Flat No.707, Stuti Building,  
Hari Sanskruti Appt, Khargul Mala,  
Station East, Nasik Road, Nasik-422 101. **...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
  2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
  3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
  4. Namdev Maruti Tajne,  
Age: 53 years, Occu: Forest Guard,  
Divisional Forest Office, Sangamner,  
Tq. Sangamner, Dist. Ahmednagar.
  5. Jayshree Ramdas Ahire,  
Age: 33 years, Occu: Forest Guard,  
Divisional Forest Office, Malegaon,  
Camp Road, In front of Sitabai Hospital,  
Tq. Malegaon Dist. Nashik.
  6. Nanabhau Vishwanath Gaikwad,  
Age: 50 years, Occu: Forest Guard,  
Sub Forest Guard Office, Ahmednagar,  
Van Bhavan, Nagar Aurangabad Road,  
Near BTR Camp, Ahmednagar,  
Tq and Dist Ahmednagar.
  7. Kisan Irrappa Pawar,  
Age: 29 years, Occu: Forest Guard,  
Forest office Kopargaon,  
Tq. Kopargaon, Dist Ahmednagar. **...RESPONDENTS**
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**ORIGINAL APPLICATION NO.244/2020**

Sandeep s/o. Sayaji Kale,  
Age : 40 years, Occ. Forest Guard,  
R/o. Savita Buglow, Shri Hari Krupa Society,  
Plot No.2-A/1, Survey No.207,  
Mhasrul Road, Nashik.

**...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
4. Swati Kawarusinh Zalte,  
Age: 33 years, Occu: Forest Guard,  
Forest office, Igatpuri, At Post Igatpuri,  
Tq. Igatpuri, Dist Nashik.
5. Nilesh Nana Gare,  
Age: 38 years, Occu: Forest Guard,  
Forest office Harsul, At post Harsul,  
Tq. Traimbakeshwar, Dist. Nashik.
6. Raosaheb Ramchandra Sadgir,  
Age: 55 years, Occu: Forest Guard,  
Divisional Forest office, Sangamner,  
At Post Sangamner, Dist Ahmednagar.
7. Yogesh Tuka Mahajan,  
Age: 53 years, Occu: Forest Guard,  
Forest Office Peth, At Post Peth,  
Tq. Peth, Dist. Nashik.

**...RESPONDENTS**

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**ORIGINAL APPLICATION NO.245/2020**

Dnyaneshwar s/o. Jagannath Sonawne,  
Age : 32 years, Occ. Forest Guard,  
R/o. Satana Bahaksi Road, Shanti Nagar,  
Mavli, Niwas, Tq. Satana, Dist. Nashik. **...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganes Gadhkari Chowk, Nashik.
4. Kishor Vasanttrao Mohite,  
Age: 31 years, Occu: Forest Guard,  
Forest office, Satana, Tq Baglan, Dist Nashik.
5. Yogesh Kantilal Patil,  
Age: 32 years, Occu: Forest Guard,  
Forest office, Malegaon, Tq Malegaon Dist Nashik.
6. Deepak Ramdas Hire,  
Age: 45 years, Occu: Forest Guard,  
Forest office, Malegaon, Tq Malegaon Dist Nashik.
7. Akshay Dattatray Hembade,  
Age: 31 years, Occu: Forest Guard,  
Forest office, Taharabad,  
Tq. Baglan, Dist. Nashik. **...RESPONDENTS**

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**ORIGINAL APPLICATION NO.248/2020**

Bhagwan s/o. Khandu Govekar,  
Age : Major Years, Occ. Forest Guard,  
R/o. Gangai Nivas, Sankalp Nagar,  
Bhayegaon Road, Nashik,  
Tq. Malegaon, Dist. Nashik. **...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.
2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
4. Sonal Gangadhar Pawar,  
Age: 33 years, Occu: Forest Guard,  
R/o. Forest Department, Malegaon,  
Tq. Malegaon, Dist. Nashik.
5. Vaishali Ramdas Ahire,  
Age: 31 years, Occu: Forest Guard,  
R/o. Forest Department, Malegaon,  
Tq. Malegaon, Dist. Nashik.
6. Sayyad Harun Jabbar Pirjade,  
Age: 35 years, Occu: Forest Guard,  
R/o Forest Department, Malegaon,  
Tq. Malegaon, Dist. Nashik.
7. Pandurang Janardan Handal,  
Age: 37 years, Occu: Forest Guard,  
R/o. Sub forest guard office, Ahmednagar,  
Tq. Ahmednagar, Dist Ahmednagar. **...RESPONDENTS**

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**ORIGINAL APPLICATION NO.249/2020**

Vivek s/o. Vasant Nikam,  
Age : 42 years, Occ. Forest Guard,  
R/o. Social Forest Department, Trimbakeshwar,  
Tq. Trimbakeshwar, Dist. Nashik. **...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary (Forest),  
Revenue and Forest Department,  
Mantralaya, Mumbai – 400 032.

2. The Principal Chief Conservator of Forest,  
Civil Lines, Nagpur-1.
3. The Chief Conservator of Forest,  
Nashik Circle, Aranya Sankul,  
Old Mumbai Agra Road, Trimbak Naka,  
Ramganesch Gadkari Chowk, Nashik.
4. Keda Mangu Deore,  
Age: 55 years, Occu: Sub Forest Guard,  
Office West, Division Nashik,  
In front of green view, Trimbak Road, Nashik.
5. Dilip Sukhdev Zagade,  
Age: 53 years, Occu: Sub Forest Guard,  
Age: 31 years, Occu: Sub Forest Guard,  
Office West, Division Nashik,  
In front of green view, Trimbak Road, Nashik.
6. Rajendra Kashinath Ahire,  
Age: 44 years, Occu: Sub Forest Guard,  
Wild Life Division, Nashik office,  
In front of Tribble Development Bhavan,  
Aranya Sankul, Nashik.
7. Suresh Pandurang Choure,  
Age: 35 years, Occu: Sub Forest Guard,  
Subdivisional Forest office, Malegaon,  
Camp road, In front of Seetabai Hospital,  
Malegaon, Dist Nashik. **...RESPONDENTS**

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APPEARANCE : Shri S.R.Sapkal, Counsel for  
Applicants in all these matters.  
: Shri V.R.Bhumkar, Presenting  
Officer for respondents in all these  
matters.  
: Shri Y.S.Shinde, Counsel for  
respondent nos.4 to 7 in all these  
matters.

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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN  
AND  
SHRI VINAY KARGAONKAR, MEMBER (A)**

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**Reserved on : 22-02-2024  
Pronounced on : 15-03-2024**

**O R D E R**  
**(PER: SHRI VINAY KARGAONKAR, M (A).)**

1. Heard Shri S.R.Sapkal, learned Counsel for Applicants in all these matters, Shri V.R.Bhumkar, learned Presenting Officer for respondents authorities in respective matters and Shri Y.S.Shinde, learned Counsel for respondent nos.4 to 7 in respective matters.

2. Since the grievance raised and the prayers made in all these Original Applications (O.As.) are identical, we have heard all these matters together and deem it appropriate to decide the same by common order. These Original Applications have been filed by the applicants who are working as Forest Guard. They have challenged the loss of seniority on their request transfer from one Forest Division to another Forest Division.

3. Brief facts of the case :-

Applicants were appointed and posted as Forest Guard in their respective Divisions. When the applicants were in their respective region, they submitted application for request transfer from their respective forest divisions to another forest division. Respondents took consent letter/ bond from the applicants to the effect that if they are

transferred on their requests then the applicants will lose their seniority. The applicants submitted an undertaking in the office of respondents to that effect and thereafter they are transferred from their respective Forest Division to another Forest Division. The details of the request transfers are mentioned in the chart as under:

Sr. No.	O.A.NO.	Name of Applicant	Transferred from	Transferred to	Bond/ Consent
1	246/2020	Dattatray s/o. Murlidhar Devkate,	19.09.2008 Sawantwadi Kolhapur Division	Nashik Division	Consent Letter
2	238/2020	Balu Shridhar Sumbe,	01.10.2011, 05.10.2011 Nashik Forest Division	Ahmednagar Division	Clause-2 of Bond
3	239/2020	Rahul s/o. Anil Tarwade,	02.04.2012 Nagpur Division	Nashik Division	Bond
4	242/2020	Bahiru s/o. Kalu Benke,	27.07.2010 Dahanu (Dahisar) Division	Nashik Division	Bond
5	243/2020	Somnath s/o. Nandu Gadhve,	02.04.2012 Palghar Division	Nashik Division	Consent Letter
6	244/2020,	Sandeep s/o. Sayaji Kale,	02.03.2009 Thane Division	Nashik Division	Consent Letter
7	245/2020	Dnyaneshwar s/o. Jagannath Sonawne,	01.07.2013 Thane Division	Nashik Division	Bond
8	248/2020	Bhagwan s/o. Khandu Govekar,	29.06.2010 Thane Division	Nashik Division	Consent Letter
9	249/2020	Vivek s/o. Vasant Nikam,	26.06.2008 Thane Division (Transfer Order is not annexed)	Nashik Division	

4. Submission by the applicants :-

[a] Applicants submitted that the respondents have prepared the provisional seniority list on 01-01-2019. The applicants have requested the respondents to correct the seniority list and place the applicants at appropriate places. Respondent authorities have not considered the requests of the applicants and finalized the seniority list as on 01-01-2020 which was published on 10-06-2020. Respondents have fixed the seniority of the applicants from the date of their request transfer ignoring the previous service rendered by the applicants. Applicants submit that if the condition of zero seniority is accepted then they will lose their seniority in the cadre of Forest Guard for the period from their respective dates of appointment till they were respectively transferred in new forest division (Circle). Applicants further contended that they will lose their long continuous service only because their request for transfer from one Circle to another was accepted by the respondents.

[b] Applicants further submitted that when they were transferred from one division/circle to another, there was no law/rule or policy decision of the Government to transfer the employees on zero level of seniority. Applicants

submitted that seniority list prepared by respondents is against Rule 4(1) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982. Applicants submitted that the Hon'ble Apex Court in the case of **Ashok Gulati V/s. B.S.Jain [1987 SCC 4224]**, has laid down principles relating to the determination of the seniority. Hon'ble Apex Court has observed that the seniority should be counted on following grounds:

- [i] On the basis of appointment.
- [ii] On the basis of Confirmation.
- [iii] On the basis of regularization of service.
- [iv] On the basis of length of service.
- [v] On any other reasonable basis.

[c] Applicants submitted that they were not given an opportunity of hearing while finalizing the seniority list. Applicants further submitted that in similar facts and circumstances, Maharashtra Administrative Tribunal at Nagpur in O.A.No.545/2015 has passed an order and allowed the said O.A. Applicants have accordingly prayed for allowing the present O.As.

5. Submissions of respondents :-

[a] Respondents have submitted that the applicants were transferred on their requests by competent authorities as per the G.R. dated 06-08-2015. As per said G.R. dated

06-08-2015 transferred employees would lose their seniority if the transfers are made on their own request. All the applicants were transferred on their own request, and therefore, they shall lose their seniority as per the said G.R.

[b] Respondents have submitted that, in view of the policy of the respondents the applicants' seniority is counted from the date of transfer from one forest division to another forest division. Therefore, the respondents have submitted that they have rightly published the final seniority list on 10-06-2020. Respondents have, therefore, prayed for dismissing the O.A.

6. Analysis of facts and conclusions:-

[a] We have heard the learned Counsel for the applicants as well as learned Presenting Officer for respondent authorities and learned Counsel for other respondents. We have also gone through the documents placed on record by the parties. The Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 are perused. Rule 4 (1) of the said Rules reads as under:

**"4. General principles of seniority:-** (1) *Subject to the other provisions of these rules, the seniority of a Govt. servant in any post, cadre or service shall ordinarily be determined on the length of his continuous service therein:*

*Provided that, for the purpose of computing such service, any period of absence from the post, cadre or service due to leave, deputation for training or otherwise or on foreign service or temporary officiating in any other post shall be taken into account, if the competent authority certifies that the Govt. servant concerned would have continued in the said post, cadre or service during such period, had he not proceeded on leave or deputation or been appointed temporarily to such other post:*

*Provided further that, the service, if any, rendered by him as result of a fortuitous appointment (except in a case where the competent authority certifies that it was not expedient / possible or practicable to make a regular appointment strictly in accordance with the ratio of recruitment as prescribed in relevant recruitment rules, with the brief reasons recorded therefor), shall be excluded in computing the length of service and for the purpose of seniority he shall be deemed to have been appointed to the post or in the cadre or service on the date on which his regular appointment is made in accordance with the provisions rules."*

[b] The Hon'ble Apex Court in the case of **Ashok Gulati V/s B.S. Jain** reported in [**AIR 1987 SCC 424**] has laid down the following proposition relating to determination of seniority:

*"The date from which seniority is to be reckoned may be laid down by rules or instructions:*

*(a) on the basis of date of appointment.*

*(b) on the basis of confirmation.*

*(c) on the basis of regularization of service.*

*(d) on the basis of length of service, or*

*(e) on any other reasonable basis.*

*It is well settled proposition that in the absence of any rule, the length of continuous officiation is a valid principle of determining the seniority."*

[c] Hon'ble Apex Court in the case of **Scientific Advisor to the Defence Minister V/s V.M. Joseph** reported in [**AIR 1998 SC 2318**], held that even if an employee is transferred at his own request from one place to another on the same post, the period of service rendered by him at earlier place where he held the post on permanent basis and had acquired permanent status, cannot be excluded from consideration for determining his eligibility for promotion, though he may have been placed at the bottom in the seniority list at a transferred place.

[d] The Hon'ble Apex Court in case of **Union of India and others V/s C.N. Punnappam** reported in [**AIR 1996 SC 764**] has held that the transferred employee from one Unit to another on compassionate ground and employee resultantly placed at the bottom of seniority of service done by such an employee at the place from where he has been transferred, being regular service, is to be counted as experience for purposes of eligibility for promotion at a transferred place. Rule 4 (2) (c) of the MCS Regulation of Seniority Rules, 1982 reads as below:

*"(c) the seniority of a transferred Govt. servant vis-à-vis the Govt. servants in the post, cadre or service to which he is transferred shall be determined by the competent authority with due regard to the class and pay scale of the post cadre or service from which he is transferred, the length of his service therein and the circumstances leading to his transfer."*

[e] It is clear that, length of service of an employee is a relevant factor while deciding his seniority when he is transferred from one division to another division. He cannot be asked to forego his earlier service even when the transfer is on his own request. In O.A.No.785/2014 Nagpur Bench of the Tribunal by judgment dated 13-02-2017 has held that, paragraph 3(8) of the G.R. dated 03-06-2011 is not in consonance with Rule 4(2)(c) of the MCS Regulation of Seniority Rules, 1982 and the Rules will prevail over the G.R. This issue has been covered in O.A. No.749/2015 decided by the Nagpur Bench of the Tribunal. Relevant part of the said judgment reads thus: -

*"This Rule 4(2)(c) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 provides that past service is a relevant factor for determining seniority in the new cadre when a person is transferred from one cadre of post to another cadre or post. Respondents are relying on G.R. dated 20.9.1990, and another G.R. dated 3.6.2011, which has been issued after the order of transfer of the Applicant was issued, and therefore, may not be relevant in the present Original Application. Obviously, any G.R. cannot be issued in contravention of the statutory rules.*

*In the present case, statutory rules clearly provide that if an employee is transferred from one cadre or post to another cadre or post, he does not lose his past service. In fact, his past service is to be considered while determining his seniority in the new cadre/post. Any undertaking given by the Applicant contrary to the rules will not be binding on him. In fact, the Government should seriously give a rethink to the G.Rs. dated 20.9.1990 and 3.6.2011 to bring them in consonance with the provisions of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982.”*

[f] In the present case GR dated 6/08/2015 is contrary to the statutory MCS Regulation of Seniority Rules, 1982. These rules have been framed under article 309 of the constitution of India and will prevail over the provisions of any G.R./Circular. Applicants cannot be made to lose their seniority merely on the ground of request transfer from one division to another division even if the applicants have given undertaking to that effect. Any undertaking given by the applicant contrary to the statutory rules will not be binding on him. To protect the interest of Forest Guards at transferred division, the applicants can be placed at the bottom of the seniority of the forest guards in the transferred division, who were recruited in the year in which the transferred Forest Guards were also recruited. For example, if applicant in O.A.No.246/2020 was appointed as a Forest Guard in the year 2006 in Sawantwadi, Kolhapur Division and he was

transferred in 2008 to Nashik Forest Division, then he will be placed at the bottom of Forest Guards in Nashik Division who were appointed in the year 2006. Said applicant therefore loses seniority to those Forest Guards who are appointed in the year 2006 or to those who were appointed before 2006.

[g] On conspectus of discussion in foregoing paragraphs, seniority gained by the applicants in earlier forest division before their transfer cannot be ignored. We, therefore, find merit in these O.As. and hence pass the following order:

ORDER

[I] Respondents are directed to make necessary corrections in the seniority list as on 01-01-2020 published on 20-06-2020 and place the applicants at appropriate places in the light of directions contained in the previous paragraphs of this order.

[II] Corrections in the seniority list should be done within 3 months from the date of this order.

[III] The Original Applications are allowed in the aforesaid terms, however, without any order as to costs.

**(VINAY KARGAONKAR)**  
**MEMBER (A)**

**(P.R.BORA)**  
**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 15-03-2024.**