

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
C.A. No.42/2016 in Cont.Ptn.St. No.186/2016
in
ORIGINAL APPLICATION NO. 641/2013

Mohan Kashinath Hatwar,
Aged about 45 years,
R/o Bhawani Ward,
Brahmapuri, Distt. Chandrapur -----**Applicant.**

Versus

1. Shri Vikas Kharge Principal Secretary,
State of Maharashtra through its Revenue
And Forest Department, Mantralaya,
Mumbai.
2. Dr. P.N. Munde,
The Principal Chief Conservator of Forests,
Civil Lines, Nagpur.
3. Shri S.P. Thakre, Chief Conservator of Forests,
Chandrapur.
4. Shri P. Kalyankumar, Chief Conservator
Of Forest, Gadchiroli(Deleted)----- **Respondents.**

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1. Shri Bharat Kulkarni, Advocate for the applicant.
 2. Shri D.M.Kakani, Id. Special counsel for the Respondents.
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CORAM : **B. Majumdar : Vice Chairman**
and
R.B. Malik : Member (J)

DATE : **29th April, 2016**

ORDER

PER VICE-CHAIRMAN

The applicant is a Forest Guard. This is a C.A. for filing a Contempt Petition against the respondents for non-compliance with the Tribunal's order dtd. 16/6/2015 in O.A. No.641/2013, which reads as follows :-

“ Shri Bharat Kulkarni, Id. Counsel for the applicant and Shri D.M. Kakani, Id. Counsel for the respondents. He files additional submission of the respondents. The same is taken on record and a copy thereof is given to the Id. Counsel for the applicant. In the said submission , it is stated thus :-

“ It is submitted here that, the Respondents are taking appropriate steps to correct the discrepancies , came to their notice during the course of hearing of the matter. The Respondents further undertakes that, they will correct the seniority list and will take necessary steps in accordance with law and will show the proper placement

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of the individual employee i.e. Forest Guard in the seniority list considering the effect of request transfer made by the Forest Guard from one circle to another circle.

The Respondents further undertake that they will not given any discriminatory treatment while preparing the fresh seniority list of the Forest Guard.

After the preparation of the fresh seniority list, the Respondents will take further necessary steps to rectify the mistake occurred on earlier occasions and all these process will be carried out within a period of 6 months from the date of order of this Hon'be Tribunal.

In view of the aforesaid undertaking, this Hon'ble Tribunal will find that, the issue involved in the present original application has been resolved and therefore the Original Application filed by the applicant is liable to be disposed of."

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The Id. Counsel for the applicant has no objection for passing the order accordingly.

In view of the above, the O.A. stands disposed of. It is expected that the respondents shall abide by the undertaking given as above. No order as to costs."

2. In compliance with the above order of the Tribunal, the Chief Conservator of Forests, Chandrapur(R/3) on 3/10/2015 issued a provisional seniority list of Forest Guards of his Circle as on 1/1/2015, inviting objections, if any, from the concerned employees. The final seniority list was published on 7/11/2015.

3. The applicant has filed this C.A. as he is aggrieved that the above seniority list of 7/11/2015 is not in the spirit of the prayer that he had made in the O.A., which was to remove the reduction in seniority on transfer to another Circle on request and also that the issue of seniority should be decided as per the provisions of the Maharashtra Civil Services

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(Regulations of Seniority) Rules. The applicant therefore submits as follows :-

“Therefore disparity and discrimination was challenged in the O.A. and prayed to equally treat by giving seniority to applicants and not prayed to being down the seniority given to many of Forest Guard in the negative sense. Compliance is not made in its spirit of undertaking. Therefore the applicant is constrained to file the present Contempt petition to meet justice. ”

4. The applicant also relies on the order of the Principle Bench at Mumbai dtd. 22/12/2015 in O.A. No.571/2015 where an observation was made that in case of a transfer to another Circle on request it will not entail any loss in seniority and the employee can be placed at the bottom of the seniority list below those who were recruited in the same year working in the Circle/Division to which the employee was transferred. According to him, the seniority list

of 7/11/2015 was not prepared on the principles laid down as above.

5. Shri Bharat Kulkarni, Id. Counsel for the applicant submitted that the respondents have failed to appropriately implement the Tribunal's order dtd. 16/6/2015 as the seniority list of 7/11/2015 does not reflect that the directions given by the Tribunal in the above order have been followed properly. He further submitted that the draft seniority list was finalized without considering the objections raised by a number of Forest Guards.


6. Shri D.M. Kakani, Id. Special counsel for the respondents submitted that the seniority list dtd. 7/11/2015 was published after due consideration of the directions of the Tribunal dtd. 16/6/2015. He further stated that the list has been challenged by ~~a number of~~ ^{another} Forest Guards by filing a separate O.A. in which Shri Kulkarni is the Counsel. Hence the present applicants can also challenge the seniority list by joining ~~these~~ ^{this} Forest Guards, if necessary.

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7. We have perused the submission of the applicant in the C.A. as also the order of the Tribunal dtd. 16/6/2015, the non-compliance of which is the subject matter of the Contempt Application. We find that the Tribunal had accepted the submissions of the respondents that the seniority list will be properly revised in the light of the discrepancies brought out in the O.A. and in accordance with law. After the Id. Counsel for the applicant had concurred with the above stand of the respondents, the Tribunal had disposed of the O.A. vide its order dtd. 16/6/2015.

8. The issue before us therefore is whether by notifying the seniority list on 7/11/2015 the respondents have committed a contempt of the Tribunal. We find that vide the Tribunal's order liberty was granted to the respondents to revise the seniority list after taking into consideration various issue raised by the applicants in the O.A. We are satisfied that the respondents have complied with the Tribunal's order by publishing the final seniority list of 7/11/2015 after circulating the draft list and inviting objections from the concerned



employees. In the Review Application the applicant in fact is challenging the above seniority list of 7/11/2015. We cannot ignore the fact that every time a seniority list is notified, a number of employees are bound to be unsatisfied with the seniority that is assigned to them as per the list. As the applicants are dissatisfied with the above seniority list, they are at liberty to challenge the same in the appropriate forum. Hence, the C.A. as well as the Contempt Petition stand rejected.

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(R.B. Malik)
Member (J)

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(B. Majumdar)
Vice-Chairman.

Skt.