

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**BENCH AT AURANGABAD****ORIGINAL APPLICATION NO. 660/2011****DIST.: NANDED**

1. Shri Uttam S/o Rodba Turi,
Age: Major, Occu. Service,
R/o : Islampur, Dist. Nanded.
2. Shri Mukund S/o Mariba Dhotare,
Age: Major, Occu. Service,
R/o : Apparao Peth Tq. & Dist. Nanded.
3. Shri Maruti S/o Vitthal Hire,
Age: Major, Occu. Service,
R/o : Mahur, Tq. Mahur, Dist. Nanded.
4. Shri Madhukar S/o Shankarrao Potdar,
Age: Major, Occu. Service,
R/o : Mahur, Tq. Mahur, Dist. Nanded.
5. Shri Ashok S/o Chandu Kolate,
Age: Major, Occu. Service,
R/o : Bodhadi, Tq. & Dist. Nanded.
6. Shri Mukund Ramji Sonkamble,
Age: Major, Occu. Service,
R/o : Apparao Peth, Tq. & Dist. Nanded.
7. Shri Laxman S/o Vitthal,
Age: Major, Occu. Service,
R/o : Bhokar, Tq. Bhokar, Dist. Nanded.
8. Shaikh Shabbir Pasha Nanhesab Chaudhari,
Age: Major, Occu. Service,
R/o : Shrirampur, Tq. Shrirampur, Dist. Nanded.
9. Purbha Narayan Kokare,
Age: Major, Occu. Service,
R/o : Bhokar, Tq. Bhokar, Dist. Nanded.
10. Shri Vishwambhar S/o Kishan Kasabe,
Age: Major, Occu. Service,
R/o : Mandavi, Tq. Mandavi, Dist. Nanded.

11. Shri Ambadas S/o Dattaram Thete,
Age: Major, Occu. Service,
R/o : Mahur, Tq. Mahur, Dist. Nanded.
12. Shri Mariba S/o Nagorao Kamble,
Age: Major, Occu. Service,
R/o : Apparao Peth, Tq. & Dist. Nanded.
13. Shri Baburao S/o Datta Mane,
Age: Major, Occu. Service,
R/o : Apparao Peth, Tq. & Dist. Nanded.

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APPLICANTS**VERSUS**

1. The State of Maharashtra,

(Copy to be served on the office of C.P.O.
M.A.T. at Aurangabad)
2. The Chief Conservator of Forests (Territorial),
Aurangabad, Van Bhavan, Opp. H.S.C. Board,
Osmanabad, Aurangabad.
3. The Deputy Conservator of Forests,
Forest Division, Nanded,
District Nanded.

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RESPONDENTS

APPEARANCE : Shri A.S. Shelke, learned Advocate for the Applicants.

: Shri V.R. Bhumkar, Learned Presenting Officer for the Respondents.

**CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 20.10.2016.

J U D G M E N T

[PER- HON'BLE SHRI J.D. KULKARNI, MEMBER (J)]

The applicants in this Original Application are working as Van Majoor in Group-D category. All the applicants were initially appointed on daily wages and their services came to be regularized in view of the Government Resolution dated 31.04.1996 and they were appointed in the regular pay scale of Rs. 750-940 w.e.f. 1.11.1994. Thus, they are serving on the post of Van Majoor under the control of respondent no. 3 i.e. the Deputy Conservator of Forests, Forest Division, Nanded.

2. From time to time, the applicants requested for promotion to the post of Class-3 post of Forest Guard, Clerk-cum-Typist, etc. As per the policy of the Government, the posts of the Forest Guards are to be filled from the Van Majoor, Group-D but the applicants are not yet promoted.

3. Initially the applicants claimed relief as per prayer cause XI(B),(C) & (D) and thereafter, the relief clause was amended by adding prayer D-1 as stated at paper book page no. 9. However, Learned Advocate for the applicant submits that he is insisting only for relief under prayer Clause-C and the said relief as per the Cause-C is as under:-

“C. By appropriate order or direction, the respondents be directed to issue order of promotion to the applicants on the post of Forests Guard, Clerk include ‘C’ Category.”

4. From the aforesaid circumstances, the only material point to be considered in this case is whether, the Van Majoor is entitled to promotion to the post of Forest Guard, Clerk-cum-Typist, etc.

5. The respondent nos. 2 and 3 have filed resisted the applicants claim by filing affidavit in reply. They accepted that the applicants were serving as Van Majoor and also that they were regularized in the said post. It is also admitted that the applicants have filed representation on 21.06.2010, 20.5.2011 and 2.8.2011 for their promotion to the post of Forest Guard/Clerk-cum-Typist and that their cases were recommended for promotion to the competent authority. It is further stated that the said letter of recommendation was however, withdrawn as per letter dated 12.10.2007.

6. According to the respondents, there is no provision to consider the Van Majoor for the post of Forest Guard as per notification dated 30.06.2011 and therefore, the applicants cannot be considered for promotion to the post of Forest Guard/

Clerk-cum-Typist. It is further stated that the Recruitment Rules vide Government notification dated 30.06.2011 and guidelines issued by the Government of Maharashtra vide letter dated 30.07.2011 does not mention any thing regarding promotion of Van Majoor (D) to the post of Forest Guard.

7. We have heard Shri A.S. Shelke, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the Respondents. We have also perused the application, affidavit, affidavit in reply and various documents placed on record by the respective parties.

8. Learned Advocate for the applicants has invited our attention to the Recruitment Rules, copy of which has been filed at paper book page nos. 144 to 151 (both inclusive). These rules are called "The Range Surveyor, Group-B (Non Gazetted) Chief Accountant, Accountant, Surveyor, Forester, Clerk-cum-Typist and Forest Guard Group- C(Recruitment) Rules, 2011" and shall herein after be referred as "Rules".

9. Rule 8-1 of the said Rules reads as under:-

"8. (1) Appointment to the post of Clerk-cum-Typist in the Forest Department shall be made either:-

(a) by nomination of suitable person in Group D post in the Forest Department on the basis of seniority subject to fitness and having not less than three years regular service in Group D post and possesses qualification for appointment by nomination mentioned in sub clauses (ii) and (iii), of clause (b) of this rule.

or

(b) by nomination from amongst the candidates who:-

(i) are not below eighteen years and not more than thirty three years of age,

*(ii) have passed the Secondary School Certificate Examination
and*

(iii) possesses a certificate in typewriting of the Government commercial institute of 40 words per minute in English typewriting and 30 words per minutes in Marathi typewriting.”

10. From the aforesaid Rule it will be clear that the persons in Group-D, if they are otherwise fit, are entitled to be appointed to the post of Clerk-cum-Typist in the Forest Department by promotion. The applicants are claiming that their services as Van Majoor which is admittedly a Group-D post and therefore, they should have been considered for promotion to the post of Clerk-cum-Typist. Rule 8 (2) states that

the appointment to the post of Clerk-cum-Typist by nomination and promotion shall be in the ratio of 75-25, provided that, in case suitable and qualified candidates are not available to fill up the vacancies through promotion quota in any year, such vacancies may be filled in by nomination.

11. From the aforesaid circumstances, we are therefore, satisfied that since there is a provision in the Service Rules for promotion to the post of Clerk-cum-Typist from the Group-D employees, representations submitted by the applicants should have been considered. In view thereof, we are pass following order:-

ORDER

1. The Original Application is partly allowed.
2. The respondents are directed to consider the cases of the applicants for the promotion to the post of Clerk-cum-Typist as per Rule 8(1) of the Service Rules, if the applicants are otherwise eligible and fit for promotion.
3. Necessary decision shall be taken within three months from the date of this order and shall be communicated to the applicant in writing.

There shall be no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)