

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 282 / 2013 (D.B.)**

1. Shantaram S/o Damodar Pande,  
Aged about 74 years, Occ. – Retired,  
Govt. Servant,  
R/o Bajaj Nagar, Nagpur.
2. Shivam Sakharam Mane,  
Aged 74 years, Occ. Retired,  
Govt. Servant, R/o 89 Pathan Layout,  
Shambhaji Nagar, Nagpur-22.

**Applicants.**

**Versus**

- 1) The State of Maharashtra, through its Secretary,  
Through its Secretary,  
Public Works Department,  
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,  
Through its Principal Secretary,  
(Forest), Revenue and Forest Department,  
Mantralaya, Mumbai-32.
- 3) Additional Principal Chief  
Conservator of Forest,  
(Administration – Duyyam Savarg),  
Maharashtra State, Nagpur.

**Respondents**

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**Shri S.P.Palshikar, Id. Advocate for the applicant.**

**Shri A.M.Ghogre, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni, Vice-Chairman (J) &  
Hon'ble Shri Shree Bhagwan, Member (A).**

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**JUDGMENT****PER : MEMBER (A)****(Delivered on this 26<sup>th</sup> day of September, 2018)**

Heard Shri S.P.Palshikar, learned counsel for the applicants and Shri A.M.Ghogre, learned P.O. for the respondents.

2. As pleaded by Id. counsel for the applicant, the applicant's were government employees initially working with the Forest Department in its Engineering Wing. The applicant No. 1 i.e. Shri Santaram Damodar Pande was initially selected through Maharashtra Public Service Commission and recruited in the service of the Forest Department as a Deputy Forest Engineer. He joined the post after his appointment at Chandrapur on 05/10/1967.

3. The applicant no. 2 i.e. Shri Shivram Sakharam Mane was also selected through the Maharashtra Public Service Commission and joined the service in the Forest Department on 02/08/1966 as Deputy Forest Engineer and was posted at Amravati.

4. At present, both the applicants have retired after attaining the age of superannuation. Shri S.D.Pande superannuated on 31/07/1997 and Shri S.S.Mane superannuated on 31/12/1997. Considering the facts, that there was no promotional avenue for the Forest Engineers in the Forest Department, the Government of Maharashtra vide its G.R. at P.B., Pg. No. 20 and bearing no. - 'कल u fu.क

dated I dh. 1089@i d t & 85@v/M d Yi & 19] dated 09/01/1990 (Annexure-A-1) will be here in after referred as "A", and vide Finance Department, G.R. at P.B., Pg. No. 23 and bearing no. I dh. 1089@i d t & 85@v/M d Yi & 19] dated 26/10/1990 (Annexure-A-2) will be here in after referred as "B", vide these orders Government of Maharashtra, decided to merge the Civil Engineers Units working under various departments for eg:- Home Department, Rural Development Department, Agriculture Department, Animal Husbandry Department, Dairy & Fishery Department, Medical Education Department & Forest Department with the Public Works Department.

5. After such merger considering the workload in the concerned department, necessary staffs were also to be reallocated from such departments. It was also made clear that the said staffs will get merged permanently in the cadre strength of specific cadre of Public Works Department. That means after such merger, Public Works Department was supposed to be the controlling Department of such civil units.

6. However, merger of Civil Engineering Wing of Forest Department was awaited. The petitioners, approached the Maharashtra Administrative Tribunal vide O.A. No. 346/1997. The Maharashtra Administrative Tribunal, vide order dated 22/03/2002 in said O.A. No. 346/1997, directed the respondent i.e. Forest Department to take

appropriate decision regarding the amalgamation of Civil Engineering Wing within six months. Accordingly, Forest Department had issued Government Resolution at P.B., Pg. No. 24, bearing no. 124/Q&4] dated 22/03/2005 (Annexure-A-3) here in after referred as "C" and fixed the criteria for merging Civil Engineering Wing of the Forest Department. The said G.R. of 2005 had certain conditions which are explained in following paras:-

- i) Those officers/ employees in the Engineering Cadre of Forest Department working at present places, will continue to work at the same place and the procedure of work shall be the same being adopted as of now. This establishment will be amalgamated in the Public Works Department, on the principle of "as is where is". However, if it is necessary to take some crucial/ important, decision, then the same may be taken in consultation with the Chief Conservator of Forest/ Conservator of Forest, and the Chief Engineer, Public Works Department.*
- ii) The said establishment of Forest Department may be treated as additional increase temporarily in the respective cadres of Public Works Department.*
- iii) After absorption of Engineers from the Forest Department, responsibility of administrative matters regarding construction*

*management of Forest Department will be with the Forest Department and responsibility and control in respect of service matters and also that of technical matters will be with the appropriate officer in the Public Works Department at the concerned level.*

*iv) Annual Confidential Reports of Engineers, working in the Forest Department regarding non-technical and administrative matters will be written by the Chief Conservator of Forest/ Conservator of Forest and Annual Confidential Reports regarding technical matters will be written by the appropriate officers in the Public Works Department and will review the same.*

*v) All the posts being handed over/ transferred in the Public Works Department have been identified/ fixed in the staffing pattern of the Forest Department.*

*vi) Public Works Department was to fix the seniority considering the seniority of the officers as on 1990.*

**7.** However, later on Government decided to demerge Civil Engineering Wing of Forest Department and issued G.R. at P.B., Pg. No. 38, no. , Q, I Vh&05@12@i z d t 229@Q&4] dated 04/03/2013, (Annexure-A-9) and cancelled the merger vide G.R. referred in para no. 6 as C.

**8.** In view of the discussion in foregoing paras, it is observed that as per Government Policy of merging cadres referred above vide G.Rs. A, B and C, decision were taken to amalgamate applicants Shri S.D.Pande and Shri S.S.Mane with P.W.D. Department.

**9.** Later on P.W.D. circular at P.B., Pg. No. 30, bearing no. T; §Brk 2006@147@vklFkiki uk&1 dated 01/03/2007 (Anexure-A-6) here in after referred as "D"] seniority of Shri S.D.Pande was fixed after his superannuation. Similarly, seniority of Shri S.S.Mane was fixed vide P.W.D. circular at P.B., Pg. No. 33, bearing no. T; §Brk 2006@148@vklFkiki uk&1] dated 07/03/2007 (Annexure-A-7) here in after referred as "E" was fixed after his superannuation.

**10.** However, Vide P.W.D. Circular at P.B., Pg. No. 36 bearing No. T; §Brk 2006@147@vklFkiki uk& 1] dated 12/09/2008 (Annexure-A-8) here in after referred as "F", cancelled the seniority given to Shri S.D.Pande and vide Government of Maharashtra, P.W.D. Department Circular at P.B., No. 53, bearing no. T; §Brk 2006@148@vklFkiki uk&1] dated 12/09/2008 (Annexure-A-11) here in after referred as "G", cancelled the seniority given to Shri S.S.Mane vide circular referred as "D" and "E" in para no. 9 respectively.

**11.** The reasons for cancelling seniority given to the applicants vide G.R. referred as D. & E. was that other staffs working with them, were never merged with P.W.D. They continued to work in their original positions only.

12. However, merging other staffs with P.W.D. was not in the hands of applicants, so cancelling their seniority vide G.R. referred as "F" and "G" does not seem to be appropriate.

13. It seems that, the seniority was granted to applicants vide communication dated 01/03/2007 and 07/03/2007 respectively and the applicants continued on the said seniority till those communications were cancelled vide G.R. dated 12/08/2008. The seniority revised after amalgamation is pertaining to the period from 01/05/1967 to 20/12/1970 and 21/12/1970 to 31/03/1970. No opportunity of hearing is given to applicants before cancelling such seniority and in the meantime applicant Shri Mane stood retired also. Now the other applicant also stood retired on superannuation. Hence, such ex-parte order is illegal.

14. So, it is in the interest of justice that applicant's deemed date of seniority should be required to be restored as per G.R. referred as "D" and "E" and at the same time **P.W.D. Circular No. T;Brk 2006@147@vklFkiuk& 1] dated 12/09/2008 and Circular no. T;Brk 2006@148@vklFkiuk&1] dated 12/09/2008 are required to be quashed and set aside.**

15. However, consequential benefits cannot be granted, since applicants did not work on senior level responsibilities post. In view of discussions in forgoing paras, following order is passed:-

**ORDER**

1. The O.A. is partly allowed with no order as to costs.
2. The Respondent no. 1 is directed to restore deemed date of Seniority of Shri S.D.Pande and Shri S.S.Mane as per their own orders of P.W.D., Circular bearing no. T; \$Brk 2006@147@vklFkiki uk&1] dated 01/03/2007 and Circular bearing no. T; \$Brk 2006@148@vklFkiki uk&1] dated 07/03/2007 (Annexure-A-7).

**(Shree Bhagwan)**  
**Member (A)**

**(J.D.Kulkarni)**  
**Vice Chairman (J)**

DATE:- 26/09/2018

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