

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.284/2010

Baban Dagduji Wagh,
Aged about 55 years,
Divisional Manager, FDCM Limited,
West Chanda Forest Project Division,
Chandrapur, Distt. Chandrapur.

2. Satish Pandurang Wadaskar,
Aged about 48 years, Principal,
Central Forest Rangers College,
Chandrapur.

3. Uddhav Pandurang Patil,
Aged about 54 years,
Divisional Forest Officer (Vigilance),
South Chandrapur Circle,
Chandrapur. -----

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Forest Department,
Mantralaya, Mumbai-440 032.
 - 2) The Principal Chief Conservator of Forests,
M.S. Van Bhawan, Telangkhedi Road,
Civil Lines, Nagpur.
 - 3) The Managing Director, Forest Development,
Corporation of Maharashtra, Kamptee Road,
Kadbi Chowk, Bezonbagh, Nagpur.
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1. Shri G.K. Bhusari, Advocate for the applicant.
 2. Shri A.M. Ghogare, Presenting Officer for respondents No. 1 and 2.
 3. None for Respondent No. 3.
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Coram:- J.D. Kulkarni : Vice-Chairman (J)

Dated : - 22/03/2017

ORDER

The applicants in this O.A. are Divisional Forest Officer and have challenged the order dtd. 4/3/2010 issued by the Respondent No. 1 and have claimed that the said order be quashed and set aside. In view of the said order, the salary of the applicants is being reduced and therefore, they have requested for stay to the said effect and operation of the said communication and direct the respondents to pay salary to the applicants in accordance with the G.R. dtd. 6/8/2002.

2. According to the applicants they were appointed as Assistant Conservator of Forests and have been promoted to the post of Divisional Forest Officer. The Applicant No.1 was appointed on 4/1/1988 and was promoted as Divisional Forest Officer(Senior Class-I) on 24/9/2005. The Applicant No.

2 was appointed as Assistant Conservator of Forests on 4/1/1988 and has been promoted as Divisional Forest Officer (Senior Class-I) on 3/10/2006, whereas the Applicant No. 3 was appointed as an Assistant Conservator of Forests on 7/1/1985 and was promoted to the post of Divisional Forest Officer (Senior Class-I) in 1997. All the applicants were posted at Chandrapur.

3. The applicants were posted at Chandrapur and at that time they were getting the pay scale of Rs.10,000-325,200/-. The Chandrapur District is a Naxalite affected area. Vide G.R. dtd. 14/12/1987, the post of Divisional Forest Officer and Dy. Conservator of Forest are declared equivalent.

4. According to the applicants, the Govt. of Maharashtra has issued a G.R. dtd. 6/8/2002 and this G.R. makes it crystal clear that the officials belonging to category 'A' to 'D' are entitled to get higher pay scale of the next promotional post and pay fixation in higher post i.e. promotional post if they are appointed in the Naxalite affected

area. The Department accordingly fixed the pay of the applicants in the pay scale of Rs. 12,000-325-16,500/- vide the order dtd. 22/12/2006. Though the applicants were entitled to the promotional pay scale, i.e. for the post of Conservator of Forests in the pay scale of Rs.16,400-20,000/-, vide the impugned order dtd. 3/7/2008, the Desk Officer of the Department of the Govt. Of Maharashtra issued a letter to the Principal Chief Conservator of Forests, Maharashtra State, Nagpur and directed to reduce the pay scale of the officers like the applicants i.e. from Rs.12,000-16,500 to Rs. 10,000-15,200/- and to recover the excess amount paid. The said action was challenged by the various officers by filing O.A. No. 328/2009. In the said O.A., the Hon'ble Tribunal was pleased to pass the order on 25/11/2009 and directed the Respondent No.1 to take decision about applicability of the higher promotional pay scale (Lower Administrative pay Scale) of the cadre of Indian Forest Services to the applicant and similarly situated officers within a period of three months from the date of communication of this order. However, the

Respondent No.1 was pleased to issue the order dtd. 4/3/2010 whereby the pay scales of the applicants have been reduced from Rs.12,000-375-16,500/- to Rs.10,000-325-15,200/-. In view of the said directions, the Chief Conservator of Forests, Nagpur was pleased to issue the order dtd. 6/4/2010 and hence this O.A.

5. The Respondent Nos. 1 and 2 have filed reply-in-affidavit and admitted that as per the G.R. dtd. 6/8/2002, the officers serving in the Naxalite affected areas are entitled to the next higher pay scale and accordingly the pay scale was given to the applicants. It is stated that the order of pay fixation dtd. 22/12/2006 was required to be rectified in view of the pay fixation. It is stated that the Divisional Forest Officer is a last cadre in the Maharashtra Forest Service of the Divisional Forest Officer in the Indian Forest Service and their pay fixation is made as per the provisions of the Indian Forest Service (Pay) Rules, 1968 in the scale of Rs.10,000-15,200/- (I.F.S. Senior Time Scale).Though the induction in the Indian Forest Service cadre is based on one's seniority in the cadre

of Assistant Conservator of Forests, mostly Officers who were promoted in the Indian Forest Service cadre were Divisional Forest Officers. As there is no cadre above the Divisional Forest Officer in Maharashtra Forest Service and those Divisional Forest Officers who are promoted in the Indian Forest Service Cadre, their pay scale is fixed same as per the scale of Divisional Forest Officer and not on the scale of Rs.12000-375-16500 of the Deputy Conservator of Forests (Junior Administrative Grade) nor the scale of Rs.16,400-450-20,000/- of the Conservator of Forests is applicable as per provision of one step promotion granted in the G.A.D.'s G.R. dated 6/8/2002. Hence before issuing the clarification vide Government's letter dated 3/7/2008 those Officers got payment as per pay scale of Rs.12,000-375-16500/- which they were not eligible to get and therefore, it was necessary to recover the amount paid to the officers.

6. It is stated that in the Indian Forest Service the applicants were promoted to a post carrying Senior Time Scale of Pay scale i.e. 15,600-39,100 + Rs.6600/- as Grade

Pay. (Rs.10,000-325-15200 – pre VI Pay Commission). On the completion of the stipulated years of service, a Senior Time Scale Officer is promoted to the Junior Administrative Grade (Rs.12,000-16,500 –pre-VI Pay Commission). It is submitted that the Junior Administrative Grade is Rs.12,000-16,500 (Pre-VI Pay Commission). The respondents tried to justify their order.

7. From the arguments put forth by the learned counsel for the respective parties so also the documents on record, it is clear that when the applicants were posted as Divisional Forest Officers at Chandrapur, earlier they were getting the pay scale of Rs.10,000-15,200/-. Admittedly, Chandrapur is declared as the Naxalite affected area. The Respondents are not denying applicability of the G.R. dated 6/8/2002. By virtue of this G.R., the officers, who are appointed in the Naxalite affected areas, have been given higher pay scale till they worked in such area. Clause No. 7 of the said G.R. makes this fact crystal clear and it reads as under :-

“ सर्व पदांसाठी एकस्तर पदोन्नती :-

आदिवासी व नक्षलग्रस्त क्षेत्रात काम करण्यासाठी प्रोत्साहन म्हणून गट अ ते ड मधील सर्व पदधारकांना संबंधित कर्मचारी/अधिकारी त्या क्षेत्रात कार्यरत असेपर्यंतच्या काळात त्यांनी धारण केलेल्या मूळ पदाच्या नजीकची वरिष्ठ/पदोन्नतीची वेतनक्षेत्री व त्या अनुषंगाने वेतनक्षेत्री निश्चितीचा लाभ देण्यात यावा. ज्या कर्मचारी/अधिका-यांना सेवांतर्गत आश्वासित प्रगती योजनेचा लाभ देण्यात आलेला आहे त्यांना आणखी वरिष्ठ पदाच्या वेतनक्षेत्रीचा लाभ अनुज्ञेय असेल. ही एकस्तर पदोन्नतीची योजना दि. १ जुलै, २००२ पासून अमलात येईल आणि ती संबंधित कर्मचारी/अधिकारी आदिवासी/नक्षलग्रस्त क्षेत्रात कार्यरत असेपर्यंतच अनुज्ञेय राहिल. त्या क्षेत्रातून कर्मचारी/अधिकारी बिगर आदिवासी क्षेत्रात परत आल्यावर तो त्याच्या मुळच्या संवर्गातील वेतनक्षेत्रीत पूर्वीच्या वेतनाच्या अनुषंगाने वेतन घेईल.

४. या आदेशाद्वारे अनुज्ञेय करण्यात आलेल्या विविध सुधारित व नवीन सवलती सदा आदेश निर्गमित केल्याच्या दिनांकापासून अंमलात येईल.”

8. The respondents have given hierarchy of pay scale in the Forest Department. As per the said hierarchy in the Indian Forest Services, designation of the officers with their pay scales are shown as below :-

Sr. No.	Designation	Pay Scales (5 th Pay Commission)
1	Principal Chief Conservator of Forests	24050-650-26000
2.	Additional Principal Chief Conservator of Forests	22400-525-24500
3.	Chief Conservator of Forests	18400-500-22400
4.	Conservator of Forests	16400-450-20000
5.	Dy. Conservator of Forests	14300-400-18300
6.	Dy. Conservator of Forests	12000-375-16500
7.	Dy. Conservator of Forests(Senior Time)	10000-325-15200
8.	Junior Time Scale (Appointed by Nomination	8000-275-13500

As per this hierarchy the Dy. Conservator of Forests (Junior Administrative Grade) is shown to get the pay scale of Rs.12,000-375-16,500/-.

9. When the applicants were posted at Chandrapur their pay scale was Rs.10,000-325-15,200/- as that of the Dy. Conservator of Forests. The next promotional higher pay scale in the said hierarchy is that of Dy. Conservator of

Forests (Senior Administrative Grade) which comes to Rs.12000-375-16500/- and therefore the respondents seem to have rightly granted that pay scale to the applicants. However, vide the impugned letters dtd. 4/3/2010 and 6/4/2010 the respondents are trying to reduce the pay scale granted to the applicants from Rs.12,000-16,500/- to Rs.10,000 to 15,200/-. The action on the part of the respondents is definitely not in accordance with the G.R. dated 6/8/2002 and it seems to be totally against the Clause 7 of the G.R., which has been reproduced in the earlier para.

10. In view of the discussion in the foregoing paras, I am therefore, satisfied that the action on the part of the Respondent No. 1 to reduce the pay scale of the applicants is illegal and consequently, the recovery is also illegal. Hence, the following order:-

- a) The application is partly allowed.
- b) The impugned communication dtd. 4/3/2010 issued by Respondent no. 1 and consequently the action on the basis of the said

communication vide letter dtd. 6/4/2010, are quashed and set aside.

- c) The respondents are directed to pay the salary of the applicants in accordance with the G.R. dtd. 6/8/2002 and pay the higher pay scale of the next promotional post i.e. in the pay scale of Rs.12000-16,500/- admissible to the Junior Administrative Grade till the applicants have worked in the Naxalite affected areas as per the provisions of the said G.R.
- d) The respondents are restrained from recovering the so called amount alleged to be paid to the applicants as stated in the impugned letter dtd. 4/3/2010.
- e) No order as to costs.

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

Skt.

