

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 376/2007**

- 1) Ashok S/o Sukhdayal Shemla,  
Aged about 56 years, Occ. Service,  
Presently working as Divisional Forest Officer Class-I,  
R/o FDCM Colony, Gorakshan Ward, Ballarsha, Dist. Chandrapur.
  
- 2) Wasudeo S/o Vishram Kulmethe,  
Aged about 56 years, Occ. Service,  
Presently working as Divisional Forest Officer Class-I,  
R/o Forest Ranger Colony, Chandrapur, Dist. Chandrapur.

**Applicants.**

**Versus**

- 1) State of Maharashtra  
through its Secretary,  
Department of Revenue and Forest,  
Mantralaya, Mumbai-32.
  
- 2) The Principal Chief Conservator of Forests,  
Maharashtra State, Civil Lines, Nagpur.
  
- 3) The Divisional Manager,  
Central Chanda FDCM, Ballarsha,  
Dist. Chandrapur.
  
- 4) The Dy. Director,  
Social Forestry Division,  
Chandrapur, Dist. Chandrapur.

**Respondents.**

---

**Shri N.R. Saboo, Advocate for the applicant.**

**Shri H.K. Pande, P.O. for the respondents.**

---

**Coram :- Hon'ble Shri J.D. Kulkarni, Member (J).**

**Dated :- 30/03/2017.**

---

**ORDER -**

Heard Shri N.R.Saboo, Id. counsel for the applicants and Shri H.K. Pande, Id. P.O. for the respondents.

2. The applicants are direct recruits for the post of Assistant Conservator of Forests of the batch of 1983-84 and they entered in the services of Forest Department w.e.f. 3-1-1985 and 7-1-1985 respectively.

3. One Shri Sanjay Thakare & Another filed petition before the Hon'ble Tribunal vide T.A.No.1275/1992. In the said petition an order was passed on 28-10-1994 and the said order passed by the Tribunal was maintained by the Hon'ble Supreme Court in the SLP Nos. 4380/1995 and 5642/1995. The respondents were directed to publish revised seniority list of the cadre of Assistant Conservator of Forests by applying proper ratio of the direct recruits and promotees. According to the applicants the Forest Department did not consider the case of the applicants for proper placement in the cadre of Divisional Forest Officer particularly when in the cadre of Divisional

Forest Officer the respondents are duty bound to fill roster point earmarked for Scheduled Tribe. Several juniors to the applicants have been given benefit of promotion but the applicants' claim was not considered.

4. The applicants have prayed that the communication dated 19-10-2006 issued by the R-1, whereby the applicants' claim have been rejected, be quashed and set aside and respondents be directed to grant proper placement to the applicants in the cadre of Divisional Forest Officer by granting deemed date promotion from the date on having backlog of Scheduled Tribe category in the said cadre.

5. During pendency of the application, the O.A. was amended. The applicants' case is that on perusal of seniority list published by R/1 at Annex-C shows that the name of the applicant no.1 is at sr.no.117, whereas, the applicant no.2 is at sr.no.110 in the cadre of Assistant Conservator of Forests, an assuming but not admitting that the applicants are eligible for promotion as per the Recruitment Rules w.e.f. 1-1-1990, the respondents / department should have granted promotion to the applicants as several juniors Assistant Conservator of Forests are promoted in between 1990-1996. This amendment was carried out in view of the reply-affidavit filed by the respondents in which the respondents referred to the Rules of Recruitments.

6. The applicants further submitted that on perusal of the seniority at Annex-C makes it apparent that the some Assistant Conservator of Forests who were shown to be listed below the applicants after the decision of the Tribunal as well as Supreme Court are still availing benefits of promotion and in this regard the table shows as follows :-

<b>Sr. No.</b>	<b>Names</b>	<b>Placement in seniority list</b>	<b>Category</b>	<b>Date of Promotion</b>
1	S.R. Desai	112	Open	21.08.93
2	M.T. Lalmunde	115	Open	01.06.92
3	G.I. Choudhari	124	Open	10.09.92
4	P.S. Danekar	146		18.02.90
5	J.H. Khan	130		21.01.92
6	Y.R.Patil	131		17.08.92
7	K.K.Bajaj	132		31.08.93
8	M.P.Kesari	135		11.01.92
9	S.V.Mohite			

7. I have perused the reply-affidavit filed by R-1. It is the case of the applicants that one Shri S.G. Raut was promoted earlier to the applicant. In this regard it is pointed by the respondents that Shri Raut was appointed on the post of Assistant Conservator of Forests from Range Forests Officer on 26-11-1980 and was promoted to the post of Divisional Forest Officer in the departmental promotion committee meeting held on 5-11-1984. As against this, service of the applicant no.1 Shri Shemla commenced as regular Assistant

Conservator of Forests after completion of probation period on 1-1-1987 and at that time Shri Raut was already on the post which belongs to Scheduled Caste category and therefore the applicant no.1 was not recommended. The applicant did not fulfil minimum length of service criteria at that time. The applicant no.2 Shri Kulmethe also demanded the deemed date of promotion as of Shri Raut since 1985 but the same has been rightly rejected.

8. According to respondents the applicants are claiming the reservation for promotion. However there was no provision for reservation from first stage in Class-I to higher stages prior to 25-05-2004 and the applicants were not considered for promotion from reservation category. The respondents also referred to the Recruitment Rules for promotion.

9. From the admitted facts on record it seems that the seniority list for the post of Assistant Conservator of Forests was challenged in W.P.No.743/1990 which was subsequently transferred to this Tribunal vide T.A.No.1275/1992. In the said matter this Tribunal was pleased to direct to prepare fresh list of seniority as per the order dated 28-10-1994. This Judgment was confirmed upto the Hon'ble Supreme Court. Accordingly the seniority list was published as per the Article-C in which the applicant no.1 stands at sr.no.117 whereas the applicant no.2 stands at sr.no.110. The applicants are

claiming promotion on the basis of reservation on account of their caste however there was no reservation in respect of promotion earlier. It is admitted facts that the applicants have been promoted w.e.f. 1-8-1996 but they are claiming reservation from the date on which Shri Raut was promoted in 1986.

10. The impugned letter is challenged in this O.A. is at P.B. of P-52 in (Annex-K) dated 19-10-2006. It reads as under :-

^i fr] Jh, -, l -'keyk] foHkkxh; 0; oLFkki d] oufodkl egkeMG e; kfnr]  
e/; pkmk ou i dYi foHkkx] cYykj 'kkg-

fo"k; & egkj"V<sup>a</sup> ekfgrhpk vf/kdkj vf/kfu; e 2005 varxh ekfgrh  
feG.kckcr-

egkn; ] egkj"V<sup>a</sup> ekfgrhpk vf/kdkj vf/kfu; e 2005 varxh  
dsy; kvki Y; k vt kP; k vuqkxkus vki .kka [kkyhi i ek.ks ekfgrh l knj  
dj.; kr ; r vkgs

1- 'kkl u vkns k dz egl ny o ou foHkkx dekad , e, Q, l & 18&2000 izdz  
180@Q&8] fnukad 25@06@2007 vto; sf nukad 01@08@1996 i kl u i nkph  
mi yC/krk fopkjkr ?kou vki ysLFkk; hdj .k dj.; kr vkysvkgs

2- vki yhf; Prh egkj"V<sup>a</sup> ykd l ok vk; kxkekQr l jG l sustkuskjh 1985  
e/; sl gk; d oul j {kd ; k i nkoj dj.; kr vkyh vkgs rj Jh, l -th- jkmr gs  
l gk; d oul j {kd i nkoj fnukad 26@11@1980 jksth #tw>kysvl u R; kkk  
foHkkxh; ou vf/kdkjh ; k l dxh foHkkxh; fuoM l fertP; k fnukad  
05@11@1984 jksth >ky; k cBdhp; k vuqkxkus i nkburh ns; kr vkyh vkgs  
R; keiGs Jh-jkmr ; kP; k i nkburhP; k ekuho fnukad feG.; kckcrph vki yhf fourth  
ekU; dsyh ul Y; kpsfnl u ; r s\*\*

11. From the said letter it seems that the case of Shri Raut was considered in the DPC meeting dated 5-11-1984 and it was considered as per the availability of the post for promotion. At that time there was no reservation policy in respect of the promotion of Class-I Officers.

12. The learned P.O. has invited my attention to the recruitment rules which are called "the Divisional Forest Officer (Maharashtra Forest Service, Class-I) (Recruitment) Rules,1984".

Relevant Rule-2 and its proviso rules as under :-

*"(2) Appointment to the post of Divisional Forest Officer in the Maharashtra Forest Service, Class I, shall be made by promotion from amongst the officers in the Maharashtra Forest Service, Class II, in the Forest Department of the Government of Maharashtra, who have put in not less than three years of service in the Maharashtra Forest Service Class II posts :*

*Provided that in the case of persons directly appointed as Assistant Conservator of Forests, the period spent on training at the Government Forest Colleges and the period of probation, including the extended period of probation, if any, shall not be counted towards the requisite period of service".*

13. From the aforesaid rules, it is clear that the in case of persons directly appointed as Assistant Conservator of Forests, the period spent on training at the Government Forest Colleges and the period of probation, including the extended period of probation, if any, shall not be counted towards the requisite period of service for appointment to the post of Divisional Forest Officer.

14. The respondent no.2 has given in details the date on which the applicants have completed the date of probation and also

the date of eligibility for being considered for the post of promotion.

The said is reproduced as under :-

*“(3) It is submitted that after selection the candidates were to undergo training in the Diploma Course in Forestry. A copy of said list is enclosed herewith and marked as **Annexure R-2**. Further relevant details in respect of the applicants are given below :-*

Sr. No.	Item	Name of applicants	
		Shri Shemla	Shri Kulmethe
1	Date of commencement of Training in Diploma in Forestry at SFS College, Comibatore	Actually reported on 10.2.1983	Actually reported on 20.2.1983
2	Date of completion of Training in Diploma course in Forestry at SFS College, Comibatore	31.12.1984	31.12.1984
3	Date of start of probation	3.1.1985	7.1.1985
4	Date of completion of probation	31.12.1986	31.12.1986
5	Date of commencement of service as regular ACF after completion of probation	1.1.1987	1.1.1987
6	Date of completion of 3 years service as ACF	31.12.1989	31.12.1989
7	Date from which becomes eligible for promotion as per recruitment rules.	1.1.1990	1.1.1990

15. From the aforesaid Chart it will be cleared that so far as the applicant no.1 is concerned, he has completed probation on 31-12-1986 and the date of commencement of his regular service in Assistant Conservator of Forests cadre is 1-1-1987 and as per the recruitment rules after completion of three years service he is eligible



for promotion on 1-1-1990. So far as the applicant no.2 Shri Kulmethe is concerned, he has also completed the probation on 31-12-1986, completed three years of regular service on 31-12-1989 and become eligible for promotion as per recruitment rules on 1-1-1990. In such circumstances, at the most it can be said that the applicants should have been considered for promotion in the cadre of Divisional Forest Officer from 1-1-1990 and therefore the applicants' claim that they be considered for promotion when Shri Raut was considered in 1986 cannot be considered legal and proper. However, the claim of the applicants is that they should have been considered eligible for promotion to the post from 1-1-1990 seems to be legal and valid and to that extent the claim in the O.A. can be considered.

16. In view of the aforesaid discussion, the impugned communication dated 19-10-2006 issued by respondent no.1 cannot be faulted or said to be illegal. Hence, the following order.

### **ORDER**

(i) The application is partly allowed. The respondents are directed to consider the claim of the applicants for deemed date of promotion in the cadre of Divisional Forest Officer as per the recruitment rules w.e.f.1-1-1990, the date on which the applicants have become eligible for promotion as per Recruitment Rules and as stated in para-3 of the reply-affidavit filed by R/2 on 14-3-2008.

(ii) The respondents are directed to grant consequential reliefs including monetary reliefs as per the said deemed date of promotion to the applicants w.e.f. 1-1-1990, if any. No order as to costs.

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

dnk.