

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.758/2009.**

Diwakar Rambhau Korewar,  
Aged about yrs.,  
Occ- Service,  
R/o Durgadi Bit, Wansali,  
Vanparikshetra Office, Madhya Chanda  
Forest Division, Chandrapur.

**Applicant**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Revenue and Forests,  
Mantralaya, Mumbai-440 001.
- 2) The Principal Chief Conservator of Forests,  
Van Bhavan, Civil Lines, Nagpur.
- 3) The Chief Conservator of Forests,  
Civil Lines, Nagpur.
- 4) The Conservator of Forests,  
South Forest Circle, Chandrapur.

**Respondents**

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Shri N.R. Saboo, Ld. Counsel for the applicant.  
Shri A.P. Potnis, learned P.O. for the respondents.

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

**Dated: - 3<sup>rd</sup> March 2017.**

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**Order**

The applicant was initially appointed as Forest Guard  
belongs to N.T(C) category. He was due for promotion to the post of

Forester. However, his claim was not considered. The applicant, therefore, filed representation for promotion to the post of Forester and subsequently filed O.A. No. 19/2009, since his claim was not considered.

2. In O.A. No. 19/2009, this Tribunal was pleased to pass the order on 29.4.2009 whereby the applicant was given liberty to make fresh representation to respondent No.2 for grant of deemed date of promotion w.e.f. 14.8.2001. Respondent No.2 was directed to take decision on such representation within a period of eight weeks. The applicant was also given opportunity to file fresh O.A. in case his representation was not considered.

3. In response to the order passed by this Tribunal, respondent No.2 took decision on the representation filed by the applicant and granted deemed date of promotion to the applicant as Forester w.e.f. 22.8.2002 instead from 14.8.2001. Being aggrieved by the said order, this O.A. is filed. The is claiming deemed date of promotion to the post of Forester w.e.f. 14.8.2001 with consequential financial benefits.

4. The respondents resisted the claim and submitted that the applicant's claim has been considered properly. It is stated that in the D.P.C. meeting dated 10.8.2001, name of the applicant was under

consideration. However, as per G.R. dated 6.6.2002, only seniors were to be promoted. One Shri M.N. Modak who belongs to Dhangar community from N.T.(C) category, was promoted. It is further stated that three posts were reserved for N.T.(C) category and it was found that one Shri B.V. Bhoyar belongs to Dhiwar community, N.T.(B) category was promoted prior to the applicant w.e.f. 22.8.2002. It was, therefore, decided to give deemed date of promotion to the appellant w.e.f. 22.8.2002. Shri Modak is senior to the applicant and, therefore, the applicant is not entitled to claim deemed date of promotion w.e.f. 14.8.2001.

5. The applicant filed rejoinder and submitted that only three posts were kept reserved for N.T.(C) category candidates. However, only one post was filled up from the said category and it was given to Shri Modak. It is further stated that two posts were filled up from N.T.(B) category, though the applicant was available from N.T.(C) category and, therefore, the deemed date should have been from 14.8.2001.

6. Heard Shri N.R. Saboo, the learned counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondents.

7. The learned counsel for the applicant has invited my attention to the minutes of the meeting of D.P.C. dated 10.8.2001 in

which the Committee considered in all 47 posts for promotion. It is material to note that out of 47, 3 posts were available for N.T.(C) category. The applicant was very much available from N.T.(C) category. But he was not considered for promotion and the posts were filled up from other categories, that is to say, one post was filled up from N.T.(C) category and two posts were filled up from N.T.(B) category. In other words, it means that even though the posts of N.T.(C) category were available and even the candidates were available from the said category which includes the applicant, he was not considered.

7. From the reply affidavit and documents placed on record, it seems that the competent authority considered the representation of the applicant in view of order passed by this Tribunal in O.A. No. 19/2009 and then came to the conclusion that Shri Bhoyar was wrongly promoted from N.T.(C) category, though Shri Bhoyar belongs to N.T.(B) category. It seems that Shri Bhoyar has been promoted w.e.f. 22.8.2002 and, therefore, deemed date of promotion has been granted to the applicant w.e.f. 22.8.2002.

8. The learned counsel for the applicant has invited my attention to the documents placed before this Tribunal alongwith rejoinder. It was stated in the reply affidavit that all the three posts of

N.T.(C) category were filled up and that there was no vacancy available. The applicant, therefore, called for information under the Right to Information Act as to who were the persons belonging to N.T.(C) category. In reply to the said information application, the competent authority informed the applicant that there were in fact four posts available, out of which three posts were filled up and one post was kept vacant. The names of those officers as disclosed by the respondents are S/s M.M. Bhoyar, N.L. Nanhe, and M.M. Modak. The applicant also filed an appeal, since information submitted was false and in the appeal, the appellate authority under the Right to Information Act directed the respondents to supply proper information to the applicant within ten days. It is stated that till today such information has not been provided.

9. From the aforesaid circumstances, it is clear that even though three posts of N.T.(C) category were available on the date of consideration of promotion of Foresters i.e. 10.8.2001, only one post was filled up from N.T.(C) category out of three posts reserved. Two posts were filled up from the category other than N.T.(C) category. Since the applicant was available for being considered on the date of meeting of D.P.C., his name ought to have been considered for promotion on 10.8.2001. It seems that subsequently on

representation filed by the applicant as well as in view of directions given by this Tribunal, the respondents tried to rectify the mistake, but half-heartedly. They have granted deemed date of promotion to the applicant w.e.f. 22.8.2002 i.e. the date on which Shri Bhoyar, a candidate from N.T.(B) category was promoted. In fact, the applicant ought to have been considered for promotion on the initial date of promotion i.e. 10.8.2001, since at that time three posts from N.T.(C) category were available and the applicant was very much in the fray. The submissions made by the learned counsel for the applicant are well supported with counter-affidavit as well as documents filed alongwith the affidavit. I am, therefore, satisfied that the applicant ought to have been given deemed date of promotion w.e.f. 14.8.2001 i.e. the date on which Shri Modak was promoted, since two posts from N.T.(C) category were also available on that date. Hence, the following order:-

- (1) The O.A. is allowed in terms of prayer clause 9 (i) and (ii).
- (2) No order as to costs.

(J.D.Kulkarni)  
Member (J)