

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 917/2018 (S.B.)

Sanjay S/o Panjabrao Thakre,
Aged 60 years, Occ. Retired,
R/o 25 Sneh Nagar,
Near Akashwani Wadgaon Road,
Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department, Mantralaya,
Mumbai.
- 2) The State of Maharashtra,
through its Secretary,
General Administration Department, Mantralaya,
Mumbai-440 032.
- 3) Principal Chief Conservator of Forest,
Maharashtra State, Civil Lines,
Nagpur.

Respondents.

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

Shri P.N. Warjurkar, P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.**

Date of Reserving for Judgment : 6th August,2021

Date of Pronouncement of Judgment : 11th August,2021

JUDGMENT

(Delivered on this 11th day of August,2021)

Heard Shri S.P. Palshikar, Id. Counsel for the applicant and Shri P.N. Warjurkar, learned P.O. for the respondents.

2. The matter was first filed in the Hon'ble High Court, Bench at Nagpur in the form of Writ Petition No. 743/1990. Subsequently, it was transferred to MAT. In the MAT it was heard as Transfer Application No. 1275/1992 (A-2,P-9) and the Judgment was delivered on 28/10/1994. In the said Judgment the operative order in para-27 on page no.69 is reproduced below –

“ (27) In the result, this petition has to be allowed. The Govt. Circular in Revenue and Forests Deptt.No.85/CR/275/85/F-8, dated 29/9/1987 and the Govt. Resolution in Revenue and Forests Department bearing No. FS 1585/CR 275/85/F-8, dated 6/2/1990 are hereby quashed. The respondent nos.1&2 are directed to consider the objections put in by the petitioners to the provisional seniority list of 6/2/1990 and to republish the seniority list between the direct recruits and the promotees to the posts of Assistant Conservator of Forests Class-II following the quota rule and in the light of what is held above. All this process shall be completed within a period of six months from the date of this order. The Rule is accordingly made absolute with no order as to costs”.

3. The matter was filed before Hon'ble Supreme Court ***in State of Maharashtra & Ano., A.W. Dhope & Ors as appellant Vs. Shri Sanjay Thakre & Ors as respondents in Appeal (Civil) No.***

3364-3365 of 1995 (arising out of SLP (C) Nos. 4880/95 & 5642/95) (A-3,P-71). The Hon'ble Supreme court vide order dated 7/3/1995 as per para 9 & 10 on page no.75 dismissed the appeal and following observations are made –

“ (9) It was also faintly submitted on behalf of the appellants that the promotes in the present cases had not been appointed fortuitously. This submission has to be made to be rejected, because of what has been stated by the Tribunal in paragraph 17 of the Judgment which is to the following effect-

“..... we are constrained to mention that neither the petitioners nor any of these respondents have produced the relevant promotion orders on the basis of which it could have been possible to discern whether they were promoted fortuitously to the said posts of not. Thus, we are left in dark.”

The Tribunal has further mentioned in paragraph 18 that even the State Government was silent as to whether the promotions were fortuitous. So, the material placed on record of the Tribunal would not permit us to accept the contention on behalf of the promotes that their promotions were not fortuitous.

10. *The result is that there is no force in these appeals which stand dismissed. On the facts and circumstances of the case, we, however, make no order as to costs”.*

4. Hence the order of MAT was continued. Again the matter was heard in Writ Petition NO.6368/2016 before the Hon'ble Bombay High Court Bench at Nagpur and order was passed on 26/10/2016 (A-5,P-81) and directions were given to the respondents **to decide the representation made by the petitioner as expeditiously as**

possible and preferably within a period of eight weeks from the date of order. In between the Principal, Central Forest Rangers College, Chandrapur has made correspondence dated 21/8/1996 to the Principal Secretary, Revenue & Forest Department (Forest), Mantralaya, Mumbai (A-4,P-76) and giving reference of Judgment of Transfer Application No. 1275/1992 (A-2,P-9) of M.A.T., Bench at Nagpur and other orders of Govt. and in last para he has requested to pay difference amount of Rs.2,72,700/- as arrears of pay and allowances. The matter was again heard before Hon'ble High Court in Writ Petition No.4418/2018 (A-6,P-82) and Hon'ble High Court has remanded back as disposed of Writ Petition with liberty to approach to the M.A.T. With this background, the applicant has approached to this Tribunal.

5. As pointed out by the Id. P.O., the impugned order was passed on 21/7/2017 (A-1,P-17) and in first para it has been made clear by the respondents that the applicant joined on 7/2/1983 on the post of Assistant Conservator of Forests (ACF) and after three years of completion i.e. on 6/2/1986 he became eligible to be promoted as Divisional Forest Officer (DFO). As per para-4, on 12/2/1996 he was promoted as DFO and he was confirmed on the post of DFO on 3/2/1996. In para-5, it is mentioned that the applicant has made applications dated 21/8/1996 & 6/1/2016 in which it has been

mentioned that between 1984-1994, 62 junior officers than applicant were promoted before him. However, names of those officers have not been given. The seniority list has also not been filed on record and it is not pointed out by the Id. Counsel that who was junior officer than the applicant in the seniority list, but he was promoted before applicant. The respondents have also clarified in para-8 that as per G.R. 6/6/2002 if deemed date has to be given, it has to be given while considering its effect on other aspects also.

6. As per para-4 on page no.3 of the O.A. the applicant stood retired as Chief Conservator of Forest on 30/6/2017 from Nagpur. The applicant has made representation to the respondent no.1 on 6/1/2016 which is almost at his fag end of career and the Government replied vide impugned order dated 21/7/2017 (A-1,P-17) within one month after his retirement. In para-3 of the order the Govt. has also mentioned the names of officers who have been promoted between 1984 to 1985 which are as under –

(1) C.G. Singam (2) S.R. Madam (3) D.V. Ramteke (4) D.C. Bhalerao (5) G.J. Kamble, (6) S.G. Raut (7) A.R. Bharati & (8) D.B. Bharti The Govt. has clarified its position in para-3 itself.

7. In para-4 it is mentioned that after MAT order and it's confirmation by the Hon'ble Supreme Court, seniority list was published on 7/9/1995 of ACFs considering 1:1 ratio which was not

challenged by the applicant either to respondent no.1 or before this Tribunal till his retirement on 30/6/2017. Unless the seniority list is proved wrong relief cannot be granted to the applicant.

8. In view of discussions in above paras, this Bench does not require to interfere with the impugned order dated 21/7/2017 (A-1, P-17) of the respondent no.1. So, the O.A. requires to be dismissed. Hence, the following order –

ORDER

- (i) The O.A. stands dismissed.
- (ii) However, the applicant is at liberty to challenge seniority list published by the respondent no.1 dated 7/9/1995 of the ACFs.
- (iii) No order as to costs.

Dated :- 11/08/2021.

dnk.

**(Shree Bhagwan)
Vice-Chairman.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice-Chairman.

Judgment signed on : 11/08/2021.
and pronounced on

Uploaded on : 11/08/2021.