

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 364/2015 (D.B.)**

Ku. Dileshwari d/o Dewaji Katre,  
(Now Smt. Dileshwari w/o Ramkumar Rahangdale)  
a/a 31 yrs., Occ. Service as Forest Guard,  
Presently Posted At Khoba,  
Tah. Sadak-Arjuni, Dist. Gondia.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-32.
- 2) The Principal Chief Conservator of Forest,  
Maharashtra State, Office at Van Bhavan,  
Ram Giri Road, Civil Line, Nagpur,  
Tah. & Dist. Nagpur.
- 3) The Chief Conservator of Forest (Regional),  
Office Near Govt. Printing Press,  
Zero Miles, Nagpur,  
Near Tah. & Dist. Nagpur.
- 4) The Asst. Conservator of Forest,  
Office at Jaistambh Chowk,  
Gondia, Dist. Gondia.

**Respondents**

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**Shri V.R.Borkar, Id. Advocate for the applicant.**

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

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J) &  
Hon'ble Shri Vinay Kargaonkar, Member (A)**

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**JUDGMENT**

**Judgment is reserved on 18<sup>th</sup> Jan., 2024.**

**Judgment is pronounced on 23<sup>rd</sup> Feb., 2024.**

**[Per:-Member (J)]**

Heard Shri V.R.Borkar, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the Respondents.

2. The applicant was appointed as Forest Guard on 12.10.2007. By letter dated 17.05.2014 (A-1) she was shortlisted to appear for examination for filling 25% quota of promotion to the post of Forester. She succeeded in the examination and her name was included in Selection/Waiting List (A-2). By communication dated 12.06.2015 (A-4) it was informed:-

त्या अनुषंगाने कळविण्यात येते की, अपर प्रधान वनसंरक्षक (प्रशासन-दुय्यम) नागपूर कार्यालाचे पत्र क्र.११९१ दि.१८.११.२०१४ अन्वये या कार्यालयास कळविले आहे की, मर्यादीत विभागीय स्पर्धा परिक्षेबाबत कार्यप्रणालीतील अटी व शर्तीनुसार कु. डी.डी. कटरे वनरक्षक हया स्पर्धा परिक्षेच्या वेळी प्रशिक्षित नसल्यामुळे मर्यादीत विभागीय स्पर्धा परिक्षेसाठी पात्र ठरत नसल्यामुळे त्यांची नेमणूक वनपाल पदी होऊ शकत नाही. जर नेमणूक केली असेल तर ती तात्काळ रद्द करावी असे स्पष्ट निर्देश आहेत.

त्यामुळे कु.डी.डी.कटरे, वनरक्षक या सदर स्पर्धापरिक्षेच्या वेळी प्रशिक्षित नसल्यामुळे त्यांची वनपाल पदावरील कालवर्धीत पदोन्नतीची निवड उपरोक्त नमुद निर्देशान्वये रद्द करण्यात आलेली आहे.

Hence, this Original Application for following relief:-

*That, by issue of suitable writ, order or direction, it be declared that the applicant is eligible candidate to the promotion as a forester and, by further order, the respondent no. 3 may kindly be directed to promote the applicant to the post of Forester from the date, on which, the candidates*

*with less merit were promoted by quashing the impugned communication/order produced at Annexure- D.*

3. It is admitted position on record that the applicant completed training as Forest Guard in August, 2014.

4. It was submitted by Id. P.O. for the respondents that the State of Maharashtra vide Resolution dated 27/01/2014 had constituted a committee to make the procedural rules for conducting Limited Departmental Competitive Examination and the said committee after deliberations among the members of the committee and discussions with the senior officers had framed the procedural rules and those procedural rules were circulated to all Chief Conservators of Forests (Territorial) vide Additional Principal Chief Conservator of Forests (Administration - Subordinate Cadre), Nagpur's letter No. 160 dated 12/5/2014 for further action. Certain conditions were prescribed to appear in the Limited Departmental Competitive Examination vide these procedural rules. One of the basic conditions mentioned at serial number 2(F) was that the Forest Guard should have completed the six months' training course prescribed for them from the Forest Guard Training School. The Letter /Resolution on the basis of which this submission is made is at A-R-3.

5. The respondents have relied on Recruitment Rules of 2011 and Recruitment Rules of 2013 (amended) which are at Annexures-R-1

& 2, respectively. Rule 9 (2) of Recruitment Rules of 2011 reads as under:-

*A candidate appointed to the post of Forest Guard, after executing indemnity bond with two sureties, shall be required to undergo an induction training course of one year at any of the State Forest Guards' Training School conducted by the Forest Department and pass a final examination in the said training course within the specified period. In case of failure to complete the specified training course or pass the final examination during first attempt, the candidate shall be given one more chance to complete the training course and pass the final examination at his own cost. If the candidate is unable to complete the training course or pass the final examination in second chance, he shall be liable to be discharged from service and shall be liable to repay the training cost and the salary paid to him as per the indemnity bond so executed.*

Rule 7 of Recruitment Rules of 2011 reads as under:-

*Appointment to the post of Forester in the Forest Department shall be made by promotion of a suitable person from the Circle gradation list of the Forest Guards, on the basis of seniority subject to fitness from amongst the persons holding the post of Forest Guard having not less than three years regular service in that post.*

Recruitment Rules of 2013 amended Rules 7 & 9 (2) of Recruitment Rules of 2011.

Rule 7 was amended as follows:-

*7. (1) Appointment to the post of Forester in the Forest Department shall be made either-*

*(a) by promotion of a suitable person from amongst the persons holding the post of Forest Guard on the basis of seniority as per the circle gradation list and subject to fitness, having not less than three years regular service in that post; or*

*(b) by selection of a suitable person from amongst the persons holding the post of Forest Guard, on the basis of common merit list prepared by the Additional Principal Chief Conservator of Forests (Administration Subordinate*

*Cadre), Maharashtra State, Nagpur, on the basis of result of the "Limited Departmental Competitive Examination", conducted by the Chief Conservator of Forests (Education and Training), Pune, on the basis of rules made for the Limited Departmental Competitive Examination by the Government, from time to time.*

*(2) For appearing to the examination the candidates shall,-*

*(a) have completed five years of regular service as Forest Guard in the Forest Department;*

*(b) possess a degree of a statutory university or any other qualification declared by the Government to be equivalent thereto;*

*(c) not have any adverse entry duly communicated and confirmed in annual confidential record or should not have recorded doubtful integrity throughout the service period;*

*(d) not facing any Departmental Enquiry or not undergoing any punishment as the outcome of the Departmental Enquiry; and*

*(e) not facing any Anti-Corruption Bureau case or criminal case.*

Further amendment made by Rules of 2013 is as under:-

*4. In rule 9 of the principal Rules, in sub-rule (2), for the words "course of one year" the words "a training course for the period of six months or for the period as may be specified by the Government, from time to time," shall be substituted.*

6. On the basis of aforementioned Rules the respondents submitted as follows:-

*It is also submitted that, as per recruitment rules dated 30/6/2011 there is no direct recruitment on the post of Forester. The reason behind prescribing the condition of passing the basic training of Forest Guard is that as per the amended recruitment rules dated 22/10/2013, the posts of Forester are being filled by way of promotion/accelerated promotion only. Therefore, there is no provision of imparting 6 months basic training of Forestry to such promoted Foresters. Hence, it is essential that the Forest Guard must have completed the in service training before the promotion. To apply these rules equally to all the aspirant Forest Guards eligible to participate in the Limited Departmental Competitive*

*Examination, it was made mandatory for all aspirants to have completed the training before appearing in the said examination. To avoid any sort of discrimination in applying this condition, it was essential to fix a cutoff date. Hence, the committee has fixed the cutoff date as 30<sup>th</sup> April 2014 for passing the basic training of Forest Guard to become eligible for appearing in the said examination. It is apparent that, the applicant has not completed the training before appearing in the Limited Departmental Competitive Examination.*

*Bare perusal of the Rules framed under Article 309 of The Constitution of India, this Hon'ble Tribunal will find that certain conditions have been prescribed to appear in the Limited Departmental Competitive Examination for promotion to the post of Forester. The basic requirement of these Rules prescribes that the Forest Guard, who is in-service candidate wants a promotion out of turn to the post of Forester in 25% quota as fixed, has to fulfill the requisite conditions prescribed under the Recruitment Rules, i.e. Annexure-R-1 Annexure-R-2. & Annexure-R-3. One of the basic conditions is that the Forest Guard should have completed the six months training course prescribed from the Forest Guard Training Schools. In the light of above, this Hon'ble Tribunal will have to examine the case of applicant, whether she fulfills the requisite and mandatory criteria for appointment to the post of Forester at the relevant time, i.e. the Examination conducted on 1.6.2014. It is submitted here that, the applicant was wrongly permitted to appear in the said examination. Though at the relevant time she was permitted to appear in the said examination, she was not fulfilling the requisite criteria of six months training course as per the Recruitment Rules and she was not qualified to appear in the said examination.*

7. Rules quoted above fully support contention of the respondents that since the applicant had not completed training of six months on the cut off date or when she appeared for examination on 01.06.2014, she was not eligible to appear for the examination for promotion to the post of Forester. Erroneous shortlisting of her name could not have estopped the respondents from correcting the error. Thus, there is no merit in this Original Application. The O.A. is accordingly dismissed. However, the applicant's appearance for

examination held on 01.06.2014 shall not be counted as an attempt since she was erroneously shortlisted. No order as to costs.

**(V.Kargaonkar)**  
**Member(A)**

aps

Dated - 23/02/2024

**(M.A.Lovekar)**  
**Member (J)**

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J)  
& Hon'ble Member (A).

Judgment signed : 23/02/2024.  
on and pronounced on

Uploaded on : 24/02/2024.