

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 829/2014.

Kanhaiyya Babulal Bhade,
Aged about 62 years,
R/o Plot No. 42, Gawande Layout,
Baba Farid Nagar,
Zingabai Takli, Nagpur.

----- **Applicant.**

Versus

The State of Maharashtra,
Through its Principal Secretary,
Revenue and Forest Department ,
Mantralaya, Mumbai

2. The Principal Chief Conservator of Forest,
Maharashtra State, Van Bhavan,
Ramgiri Road, Civil Lines, Nagpur.
3. The Additional Chief Conservator of Forest,
Human Resource Management and Administration,
Maharashtra State, Van Bhavan,
Ramgiri Road, Civil Lines, Nagpur.
4. The Chief Conservator of Forest,
Nagpur Circle, Nagpur.
5. The Dy. Conservator of Forest, Nagpur Division,
Nagpur (M.S.)
6. The Dy. Conservator of Social Forestry,
Wardha Division, Wardha. ----- **Respondents.**

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1. Shri Swapnil Pathak, Advocate for the applicant.

2. Smt. S.V. Kolhe, Presenting Officer for the Respondents.
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CORAM : R.B. Malik : Member (J)
DATE : 13th February, 2017

ORDER

A retired Range Forest Officer is agitating his claim for grant of first time bound promotion from 1/10/1994 while he has been given the same from 2/5/2000. His application came to be rejected by the order of 13/3/2013 passed by the Chief Conservator of Forests (Regional), Nagpur, Annexure-A-1, page-19 of the paper book and was confirmed in appeal by the Additional Chief Conservator of Forests by the order dtd. 7th April, 2014, Annexure-A-2, page-20 of the paper book.

2. I have perused the record and proceedings and heard Shri Swapnil Pathak, Id. counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the respondents.

3. It is the case of the respondents that in considering the entitlement of the applicant for time bound promotion from

1/10/1994 it was taken into consideration that during 1985 to 1991 he was placed under suspension pending prosecution under Section 279 of the Indian Penal Code. It is a common ground that the order of suspension was revoked in 1991.

4. The cause assigned for having not considered him fit for promotion in order to deal with his request for time bound promotion was that during the period of suspension his ACRs were not written and for some period subsequent to 1991 they were not up to the mark. In my opinion the whole thing is not so simple as that. If there were no ACRs for the post 1985 period up to 1991 then equal number of ACRS for earlier period could have been taken into consideration. The adverse ACRs were admittedly not communicated to the applicant and going by the law laid down by the Hon'ble Supreme Court in **Dev Dutt-vs. Union of India (2008) 8 SCC 725** and **Sukhdev Singh –vs. Union of India (2013) 9 SCC 566**, the Govt. could not have acted against the applicant for the un-communicated adverse remarks. In that view of the matter therefore, in my opinion the authorities whose orders

are impugned herein were not justified nor were they accurate in declining to grant the applicant the time bound promotion from 1/10/1994. The Chief Conservator of Forests (Regional), Nagpur is therefore directed to reconsider the case of the applicant in the light of the observations herein made and more particularly in view of the law laid down by the Hon'ble Supreme Court in **Dev Dutt** (supra) and **Sukhdev Singh** (supra) and make an appropriate order with regard to grant of time bound promotion to the applicant within a period of 6 weeks from today and they are also directed to grant reliefs consequent to the grant of such Time bound promotion. Both the impugned orders are therefore quashed and set aside. The O.A. is therefore allowed in these terms with no order as to costs.

(R.B. Malik)
Member (J)

Skt.