

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.842 OF 2017

**DISTRICT : NASHIK
SUBJECT : APPOINTMENT**

- 1) Shri Bhaskar Ashraba Dane,)
Age : 46 years, Occ. Nil,)
Address: At Post Rawkhani, Tal. Yeola,)
Dist. Nashik.)
- 2) Shri Vishnu Nivrutti Pagare,)
Age : 44 years, Occ. Nil,)
Address: At Post Vani, Tal. Dindori,)
Dist. Nashik. **(Deleted)**)
- 3) Shri Parasharam Chandar Bhoje,)
Age : 46 years, Occ. Nil,)
Address: At Autale, Post Mavadi, Tal. Dindori,)
Dist. Nashik. **(Deleted)**)
- 4) Shri Param Nathu Tandale,)
Age : 47 years, Occ. Nil,)
Address: At Autale, Post Mavadi, Tal. Dindori,)
Dist. Nashik. **(Deleted)**)
- 5) Shri Amabadas Shankar Bhagawat,)
Age : 47 years, Occ. Nil,)
Address: At Gavandgaon, P. Rasteguregaon,)
Tal. Yeola, Dist. Nashik. **(Deleted)**) ... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through)
Secretary (Forest),)
Revenue and Forest Department,)
Mantralaya, Mumbai - 400 032.)
- 2) Principal Chief Conservator of Forest,)
Maharashtra State,)
Van Bhavan, Ramgiri Road, Civil Lines,)

Nagpur - 440 001.)

- 3) Deputy Conservator of Forest,)
 Tryamak Road, Opp. Hotel Green View,)
 Nashik - 422 002.)...**Respondents**

Shri Chandrakant T. Chandratre, learned Advocate for the Applicant.

Smt. Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : A.P. KURHEKAR, MEMBER (J)
 DEBASHISH CHAKRABARTY, MEMBER (A)**

DATE : 25.08.2023.

PER : DEBASHISH CHAKRABARTY, MEMBER (A)

JUDGMENT

1. The O.A. has been filed by the Shri B.A. Dane & 4 Other Applicants invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985. The Applicant Nos.1 to 5 were earlier working as 'Van-Majors' under the Deputy Conservator of Forest, Nashik East Division and were denied appointment on Supernumerary Posts of Group 'D' in accordance with the decision of the State Government vide Forest and Revenue Department G.R. क्र. बैठक - २०२०/प्र. क्र. ७/क-९ dated 16.10.2012.

2. The names of Applicant Nos.2 to 4 were allowed to be deleted from O.A. as per orders dated 21.06.2018, 09.10.2018 & 25.07.2023. The O.A was therefore finally heard only in respect of Applicant No.1 - Shri B.A. Dane as the Applicant.

3. The Applicant was represented by Shri C.T. Chandratre, learned Advocate and while the Respondents Nos.1 to 3 were represented by Smt. K.S. Gaikwad, learned Presenting Officer.

4. The learned Advocate for the Applicant argued that the Applicant was fulfilling all the eligibility criteria mentioned in Forest & Revenue Department G.R. क्र. बैठक - २०२०/प्र.क्र. ७/क-९ dated 16.10.2012 including the primary condition of having worked for atleast 240 days in any 5 years from 01.11.1994 to 30.03.2004 for which total of 5089 Supernumerary Posts of Group 'D' were created for absorption of 6546 'Van-Majoors' working in Forest Department, Social Forestry Department and Forest Development Corporation. The learned Advocate for the Applicant in his submission stated that the Applicant had worked as 'Van-Majoor' in Yevla Range under the office of the Deputy Conservator of Forest, Nashik East Division.

5. The learned Advocate for the Applicant further stated that the Deputy Conservator of Forest, Nashik East Division had given Public Notice on 22.11.2011 in Local Newspaper calling for withdrawal of cases in Courts of Law filed by eligible 'Van-Majoors' in order to consider their absorption on Supernumerary Posts for Group 'D' as per Revenue & Forest Department G.R. क्र. बैठक - २०२०/प्र.क्र. ७/क-९ dated 16.10.2012. The Applicant had thereafter submitted an Affidavit in this regard to the Deputy Conservator of Forest, Nashik East Division. Further the Applicant was also referred to the Civil Surgeon Nashik for Medical Examination and thereupon Medical Certificate was given to Applicant on 07.01.2013.

6. The learned Advocate for the Applicant then brought to the knowledge of the Tribunal information obtained under the provisions RTI Act; 2005 by one Shri Ambadas Shankar Bhagat resident of Yevla Tahsil of Nasik District in which the status of appointment on Supernumerary Post of 'Van Majoors' under the office of the Deputy Conservator of Forest, Nashik East Division had been sought. Information provided on 31.07.2013 by the Public Information Officer indicated that total of 121 'Van-Majoor' had been found to be eligible and out of them 70 'Van-Majoors' had been appointed on Supernumerary Posts and another 7

'Van-Majors' were appointed on Supernumerary Posts on the orders of the Hon'ble High Court dated 01.06.2012. In respect of the remaining 44 'Van-Majors' who had worked under the the office of Deputy Conservator of Forest, Nashik East Division proposal to demand sanction of additional Supernumerary Posts for them had been submitted and for this reason it had not been possible to give them appointment to these 44 'Van-Majors'. Separate Lists as Annexure-1 to Annexure-4 were also attached to this information received by Shri Ambadas Shankar Bhagat resident of Yevla Tahsil of Nasik District under the R.T.I. Act, 2005. In Annexure-1, which is list of the total 121 Van-Majors has the name of the Applicant at Sr. No.78 while in 'Annexure-4' which is the list of 44 'Van-Majoor' who could not be given appointment on the Supernumerary Post of Group 'D' for want of sanction of posts has the name of the Applicant at Sr. No.23.

7. The learned Advocate for the Applicant further stated that the Applicant continued thereafter to make representations to the concerned authorities including to Deputy Conservator of Forest, Nashik East Division to give him appointment on Supernumerary Post of Group 'D' as per Revenue and Forest Department G.R. क्र. बैठक - २०२०/प्र.क्र. ७/क-९ dated 16.10.2012. However it was to no avail. The Applicant later on came to know that his case had been referred to the Scrutiny Committee constituted vide Revenue and Forest Department Order dated 22.08.2014 under Divisional Commissioner, Nagpur to consider all cases which required sanction of about additional 700 'Supernumerary Posts' of Group D and included those of 44 'Van-Majors' under the office of Deputy Conservator of Forest, Nashik East Division. The Scrutiny Committee had found the Applicant not to be eligible for appointment on Supernumerary Posts of Group 'D' resulting in him seeking redressal of grievance by filing this O.A.

8. The contents of the Affidavit-in-Reply affirmed on 22.02.2018 on behalf of the Respondents Nos.1 to 3 shows that the case of the

Applicant had infact been included along with that of all other eligible 'Van Majoors' from the initial stage itself culminating in the sanction of 5089 Supernumerary Posts of 'Class D' vide G.R. क्र. बैठक - २०२०/प्र.क्र. ७/क-९ dated 16.10.2012. The extract of the Affidavit-in-Reply filed by Respondents No.1 to 3 affirmed on 22.02.2018 is reproduced below.

Para "14)... the service of the daily wage labourers were regularized as per G.R. dated 31/01/1996,16/03/1998 and 29/01/2000 issued by the Government of Maharashtra, Revenue and Forest Department. Similarly taking into consideration the long span of work done by the majoors and the majoors who fulfilled the terms and conditions of the Government G.R., their proposal were submitted to the Government vide its letter No. Desk10/2/Est/2/P.C.6/187/2011-12, dated 24/10/2011 to the Principal Secretary (Forest) Revenue and Forest Department, Mantralaya, Mumbai, which list includes 5 Applicants in the present application.

Considering the proposal the Government of Maharashtra vide GR dt. 16/10/2012 created 5089 supernumerary posts for regularisation of 5089 vanmajoor in Forest Department. Accordingly instructions were issued to the field offices the do the needful vide Additional Principal Chief Conservator of Forest, letter dated 18/10/2012."

9. The Scrutiny Committee was expected to submit its report on basis of "Sample Checking" and verification of 'Payments Records'. However, the State Government had subsequently issued directions to Additional Principal Chief Conservator of Forest, Nagpur vide letter of 15.11.2016 to undertake 100% scrutiny of records of 'Van-Majoors' instead of 'Sample Checking' of records along with guidelines to complete the exercise on the basis of verification of 'E-Musters' and 'Payment of Wages' through RTGS to the 'Van-Majoors'.

10. The report of the Scrutiny Committee headed by Divisional Commissioner, Nagpur which was submitted to the State Government on 19.07.2017 indicates that cases of total 743 'Van- Majoors' had been subject to 100 % verification and thereafter 676 'Van-Majoors' were

found to be eligible for appointment to the 'Supernumerary Posts' of Class 'D' while cases of 67 Van Majoors were found to be ineligible. The report of the Scrutiny Committee includes Annexure 1 to Annexure 4. The name of the Applicant is included at St. No.25 of Annexure 4 which has names of the ineligible 67 'Van-Majoors'. The reasons for which the Applicant was found to be ineligible is mentioned as "दि.०१.११.१९९४ ते ३०.०६.२००४ दरम्यान सुलग किंवा तुटक-तुटक किमान ५ वर्ष काम केले नसल्याने."

11. The paragraph of the Affidavit-in-Reply affirmed on behalf of the Respondent No.1 to 3 on 22.02.2018 which mentions about the findings of the Scrutiny Committee in respect of the Applicant is reproduced as under:-

"Out of 738 cases the said Committee examined the 44 cases on sample basis. This committee recommended the regularization of 738 majoors. This report of the committee was sent to the Govt. vide this office letter no. 91 dt. 19/08/2015 by Additional Chief Conservator of Forest (Administration Subordinate Cadre), Maharashtra State, Nagpur. The name of 5 majoors who are applicants in present cases were included in the list of 738 vanmajor.

However Government vide latter dt.15.11.2016 informed the Additional Chief Conservator Of Forest, Nagpur to scrutinize the record of 100 % majoors. The said letter is annexed herewith as R.L.5.

As per the said directions record of all (100 %) daily wage labours were checked by the committee and a list of eligible and ineligible majors was prepared by the committee and the same was submitted to the Government by Additional Chief Conservator of Forest (Administration Sub Category), Maharashtra State, Nagpur on 19/07/2017, which includes the names of 5 Applicants in the present application. In the said list out of the five Applicants only one Applicant Shri Parasharam Chandar Bhoje at S.No. 250 in the list was found to be eligible candidate and the remaining four Applicants namely Shri. Bhaskar Ashruba Dane, Shri. Vishnu Nivrutti Pagare, Shri. Paman Nathu Tandale and Shri. Ambadas Shankar Bhagwat were found ineligible."

12. The Affidavit-in-Reply affirmed on behalf of the Respondent Nos.1 to 3 on 16.09.2019 gives individual details of 4 Applicants including Applicant who were found to be ineligible by the Scrutiny Committee. In respect of the Applicant it discloses the 'Number of Days of Work' and 'Verified Documents' for the period from 01.11.1994 to 30.10.2001 in a chart form as under:-

Period	Days of works	Verified Documents	Remarks
01.11.1994 to 31.10.1995	148	-	-
01.11.1995 to 31.10.1996	179	-	-
01.11.1996 to 31.10.1997	348	Cash Book attested copy	-
01.11.1997 to 31.10.1998	349	-“-	-
01.11.1998 to 31.10.1999	358	-“-	-
01.11.1999 to 31.10.2000	261	-“-	-
01.11.2000 to 31.10.2001	107	Working in EGS	-
01.11.2001 to 31.10.2002	130	-“-	-
01.11.2002 to 31.10.2003	Absent from work	-	-
01.11.2003 to 31.10.2004	Absent from work	-	-

13. The Applicant thereupon filed Affidavit-in-Reply on 16.11.2019 based on the “Certificate (प्रमाणक)” issued on 30.04.2015 by RFO, Nandgaon and challenged the contents of the Affidavit-in-Reply affirmed on behalf of Respondent Nos.1 to 3 on 16.09.2019 highlighting the 'Number of Work Days' he had actually worked as Van-Majoors. The

contents of Para 3 & Para 4 of this Affidavit-in-Reply filed by the Applicant on 16.11.2019 are as under:-

“The Respondents by filing above affidavit are stating that, I have not completed more than 240 days service in any 05 years. The following table would clear the idea.

Period	No. of days as per Respondents.	No. of days as per Applicant.
01.11.1994 to 31.10.1995	148	268
01.11.1995 to 31.10.1996	179	179
01.11.1996 to 31.10.1997	348	360
01.11.1997 to 31.10.1998	349	349
01.11.1998 to 31.10.1999	358	358
01.11.1999 to 31.10.2000	261	261
01.11.2000 to 31.10.2001	107	107
01.11.2001 to 31.10.2002	130	130

I (Shri Bhaskar Dane), states that, the above information supplied by me is based upon the certificate dated 30.04.2015 issued by Range Forest Officer, Nandgaon (Regional). It is based upon the entries of the payment made and recorded in cash book. Copy of the certificate and its enclosed is annexed hereto and marked as Exh.A.”

14. The Comparative Information extracted from the Affidavit-in-Reply of the Respondent Nos.1 to 3 affirmed on 16.09.2019 and the Affidavit-in-Reply of the Applicant affirmed on 16.11.2019 shows difference in the ‘Number of Work Days’ emerging in respect of the bracket of 3 years from 01.11.1994 to 31.10.1995 upto 01.11.1996 to 31.10.1997. The Respondents Nos.1 to 3 have accepted 348 days as ‘Number of Work Days’ for 01.11.1996 to 31.10.1997 which is more than 240 days. Thus the only period which remains disputed is from 01.11.1994 to 31.10.1995 for which the Applicant claims 268 days as the ‘Number of Work Days’ while the Respondents Nos.1 to 3 have stated it to be less than 240 and affirm that 148 were the Number of Work Days from

01.11.1994 to 30.10.1995. The Comparative Information about the ‘ Number of Work Days’ of the Applicant is as under:-

Period	No. of days as per Respondents.	No. of days as per Applicant,
01.11.1994 to 31.10.1995	148	268
01.11.1995 to 31.10.1996	179	179
01.11.1996 to 31.10.1997	348	360
01.11.1997 to 31.10.1998	349	349
01.11.1998 to 31.10.1999	358	358
01.11.1999 to 31.10.2000	261	261
01.11.2000 to 31.10.2001	107	107
01.11.2001 to 31.10.2002	130	130

15. The Certificate issued on 30.04.2015 by RFO, Nandgaon in respect of the Applicant in the light of the above observations becomes crucial document to consider for settlement of the claims of ‘ Number of Work Days’ made in the Affidavits-in-Reply of Respondents Nos.1 to 3 and of the Applicant in respect of the only period from 01.11.1994 to 31.10.1995. This Certificate is issued by the RFO Nandgaon on 30.04.2015 aggregates information on the basis of (i) Months/Year (ii) No. of Work Days/Month (iii) Wage Bill No. (iv) Remarks. The Certificate issued on 30.04.2015 by RFO Nandgaon has therefore significantly more evidential value than the affirmations made by the Respondent Nos.1 to 3 about whether Applicant fulfills the requirement of 240 days for the period from 01.11.1994 to 31.10.1995. Affidavit-in-Reply affirmed by the Respondent Nos.1 to 3 on 16.09.2019 starkly does not mention the type of ‘Verified Documents’ only for the periods of 01.11.1994 to 31.10.1995 and 01.11.1995 to 31.10.1996 in the relevant chart included in Para 4. The Respondent Nos.1 to 3 in the Affidavit-in-Reply affirmed on 16.09.2019 have for all the other periods done the verification about the ‘Number of Work Days’ of the Applicant based on entries from ‘Cash Book’. Further it is only in respect of the Applicant that it has been mentioned that he worked in EGS for 107 days 01.11.2000 to

31.10.2001 and 130 days from 01.11.2001 to 2002. However, no further details are made available in the Affidavit in Reply of Respondent Nos.1 to 3 affirmed on 16.09.2019 about how the period for which the Applicant worked only in EGS were ascertained by them and whether it was based on Muster Rolls maintained for EGS.

16. The Affidavit-in-Reply of the Respondent Nos.1 to 3 affirmed on 03.01.2020 belatedly cites that because the Applicants had worked in EGS he had been found ineligible and that the RFO Nandgaon had wrongly calculated the work of EGS.

“5. It is further submitted that, in the G.R. dated 16/10/2012 it is clearly mentioned that while calculating the days the work done in the Employment Guarantee Scheme should not be calculated, but the Range Forest Officer, Nandgaon, has calculated the work of E.G.S. This fact was came to the knowledge of Scrutiny Committee, therefore the said committee has verified all the documents of the applicants, and they found irregularity in the said document.”

17. The series of the Affidavit-in-Reply filed on behalf of Respondent Nos.1 to 3 infact makes disclosures about the Applicant which are much like the ‘Shifting Sands’. As elaborated in the aforesaid paragraphs the case of the Applicant now rests entirely on the nugatory value appropriated by the chart in the Affidavit-in-Reply of Respondent Nos.1 to 3 affirmed on 16.09.2019 stating that Applicant had not done the required ‘Number of Work Days’ of 240 from 01.11.1994 to 31.10.1995 as there is no mention of any ‘Verified Documents’ relied upon leave alone reference to it being the attested copy of Cash Book. Further this period also does not pertain to work done by Applicant under EGS from 01.11.2000 to 31.10.2001 and 01.11.2001 to 31.10.2002. On the other hand as affirmed above in the Affidavit-in-Reply on 16.11.2019 the Applicant had worked for 268 days as per the Certificate issued by RFO Nandgaon on 30.04.2015. Further it will not be out of context to emphasize that the RFO, Nandgaon has in his Certificate specifically mentioned “प्रमाणपत्र प्रमाणित करणेत येते की, श्री भास्कर आश्रबा दाणे रोजंदारी मजुर यांची सन

१९९०-९१ ते १९९९-२००० पावेतोच्या हजर दिवसांची माहिती रोकडवही वरून तयार करण्यात आलेली असून सदरची माहिती स्वतः तपासून खात्री केलेली आहे.” Thus the RFO Nandgaon has certified the ‘Number of Work Days’ of the Applicant to be 268 days for the period of 01.11.1994 to 31.10.1995 based on ‘Personal Verification’ by him of entries in the Cash Book.

18. The Tribunal is therefore of the considered view that the Scrutiny Committee has failed to diligently verify the Cash Book for the periods from 01.11.1994 to 31.10.1995 which was available with RPO Nandgaon while arriving at the conclusion that Applicant was ineligible as he failed to fulfill the principal criteria of G.R. क्र. बैठक - २०२०/प्र.क्र. ७/फ-९ dated 16.10.2012 of having minimum No. of Working days of at least 240 in any 5 years during the period from 01.11.1994 to 30.03.2004. Hence, complete reliance can be placed on the information in Certificate issued by RFO Nandgaon on 30.04.2015 to arrive at the conclusion that the Applicant had infact worked for 268 days during the period from 01.11.1994 to 31.10.1995 and therefore the Applicant achieves the benchmark criteria of having ‘Number of Working Days’ of at least 240 days in any 5 years during the period from 01.11.1994 to 30.03.2004. Hence; the Applicant deservingly becomes eligible to be appointed on ‘Supernumerary Post’ of Class D as per provisions of Revenue and Forest Department G.R. क्र. बैठक - २०२०/प्र.क्र. ७/फ-९ dated 16.10.2012.

ORDER

- A) The Original Application is allowed.
- B) The Applicant Shri B.A. Dane who was ‘Van-Majoor’ working under the Deputy Conservator of Forest, Nashik East Division be appointed on ‘Supernumerary Post’ of ‘Class D’ within period of Two Months.

C) No order as to costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 25.08.2023
Dictation taken by: N.M. Naik.

Uploaded on: _____