

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH, NAGPUR**

ORIGINAL APPLICATION NO 432 OF 2009

DISTRICT : BULDHANA

Shri Pralhad Mahadeorao Kedar)
Occ : Retd, R/o: Jijamata Nagar,)
Circular Road, Buldhana.)...**Applicant**

Versus

1. The State of Maharashtra)
Revenue & Forest Department,))
Through Chief Secretary)
[Forest], Mantralaya,)
Mumbai.)
2. The Principal Chief Conservator)
of Forest, Maharashtra State,)
Ramgiri Road, Civil Lines,)
Van Bhavan, Nagpur.)
3. The Additional Chief)
Conservator of Forest,)
Maharashtra State,)
Ramgiri Road, Civil Lines,)
Van Bhavan, Nagpur.)

4. The Chief Conservator of)
Forest, Amravati Forest)
Circle, Camp Road, Amravati.)
5. The Deputy Conservator of)
Forest, Buldhaa Forest)
Division, Buldhana.)...**Respondents**

None for the Applicant.

Shri A.M Khadatkar, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman) (A)
Shri J.D Kulkarni (Vice-Chairman) (J)

DATE : 06.07.2017

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. None for the Applicant. Heard Shri A.M Khadatkar, learned Presenting Officer for the Respondents

2. This Original Application has been filed by the Applicant seeking deemed date of promotion to the post of Office Superintendent w.e.f 3.6.2001.

3. The Applicant was appointed as Junior Clerk in the office of Deputy Conservator of Forests, Buldhana on 9.10.1972. He belongs to NT-D category. He was promoted as Accountant in 1984 and Chief Accountant on 3.6.1998. After completion of three years as Chief Accountant, the Applicant was eligible to be promoted as 'Office Superintendent' w.e.f 3.6.2001, which is the deemed date he is seeking in this Original Application. The Applicant was not promoted as 'Office Superintendent' till his retirement. The Applicant's case is that the Respondents did not promote him as Office Superintendent from NT-D category, when the roster point for NT-D category become available to promote him as per G.R dated 18.10.1997.

4. The Respondents in the affidavit in reply dated 29.10.2009 have given the details as to the dates of the Departmental Promotion Committee (D.P.C) meetings in which the Applicant was considered for promotion to the post of Office Superintendent from NT-D category and the reason for not considering him for promotion. It is stated that the Applicant was not considered for promotion as Office-Superintended (O.S) in the D.P.C meeting held on 18.5.2001, as on that date the Applicant had not completed 3 years of service as Chief Accountant. Though the Applicant claims that he completed 3 years as Chief Accountant on 3.6.2001, the Respondents claim that he completed three years in the said post on

3.10.2001. Both these dates are after the date of meeting of D.P.C on 18.5.2001, and the Applicant was rightly not considered for promotion to the post of Office Superintendent.

5. D.P.C meeting was next held on 21.10.2002 on the basis of seniority list of 1997, and the name of the Applicant was not included, as he was promoted as Chief Accountant only in the year 1998. The name of the Applicant was considered for promotion to the post of Office Superintendent in the D.P.C meeting held on 26.9.2003. The Applicant was asked to submit the Caste Validity Certificate on 30.7.2003, but he did not produce the same till the date of D.P.C meeting, viz. 26.9.2003. The Applicant was, therefore, not considered for promotion. The Applicant had not denied this fact, but has claimed that he should have been promoted subject to production of Caste Validity Certificate (para 7.6 of O.A). D.P.C meetings were thereafter held on 25.6.2004 and 29.6.2005. A Departmental Enquiry (D.E) was started against the Applicant under Rule 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 on 12.5.2004, which resulted in order of punishment on 22.1.2008.

6. It is seen that the Applicant has not mentioned his date of birth in this Original Application. However, in para 7.8 of the Original Application, he had stated that:-

"the Respondents fails to grant the benefit of the post of Office Superintendent w.e.f 3.6.2001 not only this the Respondents even after superannuation is also being deprived from the said benefit."

On the date of order, viz. 22.1.2008, the Applicant has already retired as the order clearly mentions Shri P.M Kedar, Chief Accountant (Retired) Buldhana. So, it is clear that the Applicant was not promoted as a D.E was pending against him till the date of his retirement. Contrary to the claim of the Applicant in para 7.15 of the O.A that he was exonerated from the allegations for which the enquiry was held, the order dated 22.1.2008 mentions that:

"vi pkjh ; kauh 'kkI ukP; k eKU; rf'kok; oGkoGh ekBh vpy I i Rrh tek d#u egkj k"V^aukxjh I ok ¼orZkd½ fu; e]1979 e/khy fu; e 19 ¼2½] ¼5½ pk Hkx dsyk vkgS "

Penalty of censure was imposed on him. Considering these facts, there is no ground to hold that the Respondents were at fault by not promoting the Applicant to the post of Office Superintendent from N.T-D category.

7. The Applicant in para 7.13 of the O.A has claimed discrimination as S/Shri Salunke, Shiralkar and Lale were promoted without production of Caste Validity Certificate. In para 11 of the affidavit in reply, the Respondents have stated that these persons from NT-D category were promoted from open category based on seniority, so Caste Validity Certificate was not asked for before promotion. The Applicant has admitted that there were 39 posts of Office Superintendent. The roster point for NT-D category is at Sr.No. 11 as per G.R dated 18.10.1997. It appears that three persons senior to the Applicant from NT-D category were promoted against open vacancies. However, for reservation in promotion, a backward class candidate could be promoted against an open vacancy, but he has to be adjusted against roster point as and when the same is available. Whether S/Shri Salunke, Shiralkar and Lale from NT-D category subsequently submitted Caste Validity Certificate is not clear. However, one thing is crystal clear that the Applicant was not the senior most person from NT-D category who was eligible to be promoted as Office Superintendent.

8. We have concluded that the Applicant was not considered for promotion to the post of Office Superintendent for valid reasons. There is some material on record to suggest that the Applicant was not the senior most person from NT-D category, from amongst

those eligible for promotion to the post of Office Superintendent. We, therefore, decline to give any relief to the Applicant.

9. This Original Application is accordingly dismissed with no order as to costs.

(J.D Kulkarni)
Vice-Chairman (J)

(Rajiv Agarwal)
Vice-Chairman (A)

Place : Nagpur
Date : 06.07.2017
Dictation taken by : A.K. Nair.