

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.346/2017. (D.B.)

Ganesh Sudhakar Hajare,
Aged about 43 years,
Occ-Forest Guard,
R/o In front of Govt. Tribal Girls' Hostel,
At-Nagapalli, Post-Allapalli,
Tehsil Aheri, Distt. Gadchiroli.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Revenue & Forests,
Mantralaya, Mumbai-32.
2. The Chief Conservator of Forests,
Gadchiroli Circle, Gadchiroli,
3. The Dy. Conservator of Forests,
Allapalli, Distt. Gadchiroli,

Respondents

Shri Bharat Kulkarni, the Ld. Advocate for the applicant.

Shri S.A. Sainis, the Ld. P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shri Shee Bhagwan, Member (A)

ORAL ORDER

(Passed on this 11th day of September 2018.)

Per:Vice-Chairman (J)

Heard Shri Bharat Kulkarni, the learned counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents.

2. In this O.A., the applicant a Forest Guard has claimed for directions to respondent No. 2 to consider his name in the Departmental Promotion Committee (D.P.C.) for promotion to the post of Forester and to add his name in the impugned select list dated 13.10.2016. He is also requesting for quashing and setting aside the proposed departmental enquiry memorandum dated 12.2.2016 and 25.4.2017. The learned counsel for the applicant submits that he is not insisting for prayer clause-II i.e. for quashing and setting aside the departmental enquiry memorandum and, therefore, only directions that are sought is that his name may be considered.

3. The minutes of D.P.C. are placed on record, copies of which are at Annexure A-1, page 12. The name of the applicant is at Sr. No.11 of the list of candidates who were not at all considered and it shows that the applicant's case was not considered, because the departmental enquiry was initiated against him.

4. The learned counsel for the applicant pointed out to the reply affidavit filed by respondent No.2 and particularly last sentence of para No.2 at page No.26, in which it is stated that no departmental enquiry was initiated against him on the date of D.P.C. meeting, but the same was proposed against the applicant on that date. Thus admittedly, on the date of D.P.C. meeting, no charge-sheet was served on the applicant. Even for the sake of argument, it is accepted that the departmental enquiry is to be initiated against the applicant, there was no hurdle for considering his name for promotion, if he was otherwise fit for promotion and his name should have been kept in a sealed cover and promotion should have been granted, subject to decision in the departmental enquiry. The learned counsel for the applicant has placed reliance on the judgment in **O.A. No. 833/2016 passed by this Tribunal at Mumbai on 13.4.2016 in case of Pralhad D. Yasatkar V/s State of Maharashtra and one another.** In the said judgment, the procedure to follow sealed cover proceedings in case of pendency of departmental enquiry is narrated. We are of the view that similar procedure should have been followed in respect of the applicant. In view thereof, we proceed to pass the following order:-

ORDER

- (i) The O.A. stands allowed in terms of prayer clause 11 (I).
- (ii) The respondent No.2 is directed to consider the name of the applicant in the meeting of D.P.C. for promotion to the post of Forester and suitably applicant's name shall be kept in the select list dated 13.10.2016, subject to outcome of the departmental enquiry.

(Shree Bhagwan)
Member (A)

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

Dated:- 11.9.2018.