

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI, BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.360 OF 2013
(Subject : Grant Time Scale)**

DISTRICT : AURANGABAD

1. Ramrao Madhavrao Chatre,)
R/o. C/o. Office of Range Forest Officer (T),)
Kannad Tq. Kannad, District Aurangabad.)
2. Janardhan Pannalal Mohariya,)
R/o. C/o. Range Forest Division (T),)
Kannad, District Aurangabad.)
3. Wahedkhan Sher Khan Pathan,)
R/o. C/o. Range Forest Officer,)
Wild Life, Kannad, Dist. Aurangabad.)
4. Vaijinath Radhakisan Gawandar,)
R/o. C/o. Office of Social Forestry Division,)
(Rural), Aurangabad.)
5. Tarachand Kashinath Narwade,)
R/o. C/o. Range Forest Division,)
Control Room (T), Aurangabad.)
6. Manik Magan Rathod,)
R/o. Girnar Tanda, Tq. Aurangabad,)
District Aurangabad.)

7. Bhanudas Dhondiba Mote,)
 R.o. C/. Range Forest Officer,)
 Wild Life, Gautala Abhayranya,)
 Kannad, Tq. Kannad, Dist. Aurangabad.)
8. Nivrutti Fakirrao Gadwe,)
 R/o. Shivnagar, Kumbharwada,)
 Chalisgaon Road, Kannad, Tq. Kannad,)
 Dist. Aurangabad.)
9. Prakash Nandlal Patel,)
 R/o. C/o. Social Forestry,)
 Kannad, Tq. Kannad, Dist. Aurangabad.)

...APPLICANTS

VERSUS

1. The State of Maharashtra,)
 Through Chief Presenting Officer,)
 M.A.T. Aurangabad.)
2. The Chief Conservator of Forest (T),)
 Aurangabad Division, Aurangabad.)

.....RESPONDENTS.

Shri V.B. Wagh, learned Advocate for the Applicants.

Shri M.P. Gude, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN
SHRI B.P. PATIL, MEMBER(J)

DATE : 08.03.2017.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

J U D G M E N T

1. Heard Shri V.B. Wagh, learned Advocate for the Applicants and Shri M.P. Gude, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicants challenging the order dated 08.03.2011 issued by the Respondent No.2 denying second benefit of Assured Career Progression (A.C.P.) Scheme to the Applicants.

3. Learned Counsel for the Applicants argued that the Applicants are Forest Guards who are eligible for second benefit of A.C.P. Scheme in terms of G.R. dated 01.04.2010. However, the Respondent No.2 has by impugned order dated 08.03.2011 has held the Applicants ineligible for grant of second benefit of A.C.P. scheme. As per Government Resolution (G.R.) dated 01.04.2010, an employee is entitled to second benefit of A.C.P. scheme after 24 years of continuous service. All the applicants fulfill the conditions of the aforementioned G.R.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the G.R. dated does not provide for granting second benefit under A.C.P. scheme merely on completion of 24 years of service. An employee should be eligible for promotion to the post of which he is seeking pay scale and he is not promoted to that post for want of vacancies. In the present O.A., the Applicant's do not fulfill the requirement of educations qualification even for first Time Bound Promotion. The question of granting them second Time Bound Promotion / second benefit of A.C.P. Scheme, therefore, does not arise.

5. We find that Mumbai Bench of this Tribunal by judgment dated 14.10.2013 in O.A.No.882 of 2012 has already decided this issue. It was held that clause (D)(i) of G.R. dated 01.04.2010 makes it very clear that if benefit of A.C.P. scheme was to be granted to an employee he should be fulfill the terms and conditions for promotion to that post. The Applicants in that O.A. did not have education qualification of S.S.C. and were held to be ineligible for getting Time Bound Promotion / benefit of A.C.P. scheme. It was also held that no relaxation of this condition was permissible. This Tribunal in paragraph 10 of the aforesaid judgment held that :

“10. The only argument provided by the said Applicants is that they may be given second benefit under A.C.P. as other similarly placed employees have got that benefit. It is seen that if second benefit of A.C.P. is provided to Forest Guards who do not have S.S.C. qualifications, it is in violation of Government policy and statutory rules. Such order, if passed by an authority cannot be cited as a precedent. Getting

second benefit under A.C.P. by employees is not a right. It can be given only if he fulfills the terms and conditions required for getting this benefit. Once a condition is relaxed for one ground of employees, there may be demands for relaxation of other conditions also. Demands may also be made by other group of employees for relaxation of one or another condition. The proposition of the said employees that they are entitled for relaxation in education qualification is totally devoid of merit.”

6. The facts are exactly similar in this O.A. and the Applicants are not entitled to any relief. As a result, this O.A. is dismissed with no order as to costs.

(B.P. PATIL)
MEMBER(J)

(RAJIV AGARWAL)
VICE-CHAIRMAN

Place : Aurangabad
Date : 08.03.2017
Typed by : PRK