

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.457 of 2020**

Shri Ayaz Shahbuddin Shaikh )  
Aged about 56 years, )  
Working as Forester, )  
Residing at Bhoreshwar Nagar, )  
Pircha Mala, At Post Bhor, Tal Bhor, )  
Dist. Pune 412 206 ) **...APPLICANT**

**VERSUS**

1. State of Maharashtra, )  
Through Principal Secretary, )  
Forest Department, )  
Mantralaya, Mumbai 400 032. )
2. Chief Conservator of Forest (Territorial) Pune,)  
Vanbhawan, Bhanbhurda Vanvihar, )  
Gokhale Nagar, Pune 411 016 )
3. Sub Divisional Forest Officer, )  
Sub Divisional Office, )  
Smarat Chowk, Near Jijamata School, )  
Bhor : 412 206 )
4. Shri Sandeep Ramchandra Khatte, )  
Working as Forester, )  
Current Address : Kikvi Beat, )  
Nasrapur Range, Bhor Division. ) **..RESPONDENTS**

Smt. Punam Mahajan, learned Advocate for the Applicant.

Shri A.J. Chougule, learned Presenting Officer for the Respondents.

Shri S.S. Dere, learned Advocate for the Respondent No.4.

**CORAM** : **JUSTICE MRS. MRIDULA BHATKAR, CHAIRPERSON**

**DATE** : 22.12.2020.

### **J U D G M E N T**

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant, Shri A.J. Chougule, learned Presenting Officer for the Respondents and Shri S.S. Dere, learned Advocate for the Respondent No.4.

2. The learned Counsel submits the Applicant Forest Guard is transferred from Kikvi Beat, Nasrapur Range, Bhor Division to Forester, Khodap, Otur Range, Junnar Division by order dated 20.07.2020.

3. In this matter no prior approval of next higher authority was obtained. Similarly, special reasons are recorded before transferring the applicant. Though the matter was placed before the Civil Service Board, the applicant is transferred on the ground that he was due for transfer. However, the post of Forester is Group-C and tenure of Government servant of Group-C as per Section 3 of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as ROT Act 2005 for brevity) is two tenure of 3 years each i.e. total 6 years. The applicant has not completed 6 years and therefore this is the mid-tenure transfer.

4. Under such circumstances, the respondent authority needs to give the special reasons or make out an exceptional case for the transfer in compliance with Section 4(4) and 4(5) of ROT Act 2005, the approval of the immediate higher authority was also not taken.

5. The learned P.O. has relied on the affidavit filed by Smt. Asha G. Bhong, Sub Divisional Officer, on 09.10.2020. In the said affidavit, it is stated that the applicant has completed 14 years of service as Forest Guard and Forester in Bhor Division and so he was transferred.

6. Respondent no.4 is transferred to the place of applicant and applicant is transferred in the place of Respondent no.4 vis-à-vis. The learned Counsel for Respondent No.4 Shri S.S. Dere submits that the two posts of Forester are available in Bhor Division. One post is occupied by Respondent no.4 against the post of applicant. However other post is vacant from last 7 months as nobody has joined the said post.

7. The learned Counsel Shri Dere submits that he may be allowed to continue at Bhor Division. He relied on the order passed in O.A. of this Bench in O.A.Nos.352, 387, 436 and 448 of 2020 dated 24.11.2020 of the similarly transferred other Foresters.

8. In view of the present facts and circumstances and also the order in O.A.Nos.352, 387, 436 and 448 of 2020, it appears that for want of proper compliance of 4(4) and 4(5) of ROT Act 2005 the order of transfer of the applicant is not sustainable. Hence, O.A. is allowed

**O R D E R**

- (a) Transfer order 20.07.2020 is hereby quashed and set aside.
- (b) The applicant to be posted on the earlier posting at Bhor Division and start working.
- (c) Now the Respondent no.4 may continue in Bhor Division. Respondent No.4 may move the representation of his transfer to another vacant post of Forester in Bhor Division and if such representation is made, the Respondent to consider and decide the same within four weeks thereafter.
- (d) No order as to costs.

Sd/-  
**(MRIDULA BHATKAR, J.)**  
**CHAIRPERSON**

prk