

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 965 OF 1996**

**DISTRICT: - JALGAON.**

**Shri Shivdas S/o Khandu Mangle,**

Age : - 57 years, Occu: Service  
R/o. Forest Colony, Ring Road,  
Jalgaon .

**.. APPLICANT.**

**V E R S U S**

- 1. The State of Maharashtra,**  
Through its Secretary,  
Revenue & Forest Department  
Mantralaya, Bombay.  
(Copy to be served on the P.O.  
M.A.T. Bench at Aurangabad.)
- 2. The Principal Chief Conservator of  
Forests, Maharashtra State,**  
Nagpur.
- 3. The Chief Conservator of Forests,**  
Maharashtra State, Nagpur.
- 4. The Conservator of Forests,**  
Dhule Forest Circle, Dhule.
- 5. The Dy. Conservator of Forests,**  
Jalgaon Division,  
Jalgaon.
- 6. Smt. A.P. Randive,**  
Desk Officer,  
Revenue & Forest Department,  
Mantralaya, Bombay

**.. RESPONDENTS**

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**APPEARANCE** : Shri Kakasaheb B. Jadhav – learned Advocate for the applicant.

: Smt. Sanjivani Deshmukh-Ghate – learned Presenting Officer for the respondents.

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**CORAM** : **HON'BLE SHRI J.D. KULKARNI,  
VICE CHAIRMAN (J)**

**DATE** : **24<sup>TH</sup> AUGUST, 2017.**

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### **ORDER**

1. Heard Shri Kakasaheb B. Jadhav – learned Advocate for the applicant and Smt. Sanjivani Deshmukh-Ghate – learned Presenting Officer for the respondents.

2. This Original Application was initially dismissed in default and even record was destroyed. However, the Hon'ble Bombay High Court Bench at Aurangabad remanded this case back and the record was reconstructed, as per the availability of the documents.

3. In the Original Application the applicant prayed for direction to the respondents to pay him salary in the pay scale of Rs. 1350-2200 with increments calculated from his initial appointment w.e.f. 27.10.1967.

4. The applicant was initially appointed as Compounder under the scheme of Forest Labour Welfare vide order dated 22.9.1967 by the Divisional Forest Officer, Yawal Division. In the year 1981 the said scheme was abolished. Therefore, the applicant became surplus. He was absorbed in the cadre of Clerk in the pay scale of Rs. 260-495. In fact, it was on the lower pay scale as a Compounder he was getting pay scale of Rs. 290-540. The same pay scale was however, revised from 260-495 to 950-1500 and thereafter from 290-540 to 1350-2200. The applicant in fact, lost Rs. 450-650 per month on account of absorption in lower pay scale.

5. On 10.02.1985 the applicant was posted and absorbed in the cadre of Clerk by the Divisional Forest Officer, Jalgaon. He made several representations and requested that his service in the cadre of Compounder shall be considered for the purpose of fixation of seniority and also for granting deemed date of promotion.

6. The applicant was exempted from passing departmental examination vide communication dated

21.02.1989 issued by the Deputy Conservator of Forest, Jalgoan. On 1.1.1992 the Chief Conservator of Forest, Nagpur, recommended the applicant's case for proper fixation and continuity of service. Since the same was not considered, the applicant filed O.A. No. 1014/1994 before this Tribunal and this Tribunal vide order dated 17.4.1995 was pleased to direct the respondents to consider the applicant's case sympathetically.

7. On 17.10.1995 the respondent No. 1 passed a cryptic order informing the applicant that his claim of considering his service from 27.10.1967 in the cadre of Clerk and further consequential benefits cannot be considered. Being aggrieved by the said order, the present O.A. is filed.

8. The impugned order dated 17.10.1995 is not available with the applicant, as well as, the respondents, and therefore, statement of the said order is cryptic one is to be accepted.

9. The applicant has placed on record the order passed in O.A. No. 1014/1994 dated 17.4.1995. In the said order this Tribunal has observed in paragraph No. 2 as under: -

*“2. Consequent upon his acceptance of a lower post, his placement in the seniority list of the cadre of clerk was obviously regulated on the basis of the date of his entry in the said cadre of clerk. Naturally, his promotions are also required to be regulated in accordance with his placement in the gradation list of clerk and taking into consideration the fact that he is exempted from passing the departmental test required to be cleared by the clerks, aspiring for higher promotions. It appears that the position of the petitioner in the gradation list of clerk is much lower down and there may have been very little chance for him to get any promotion in reasonably near future. So it appears that department took a sympathetic view and applying the logic as to what pay the petitioner would have drawn had he been Continued as a compounder, a proposal was made to the Government to make a special case in case of the petitioner to give him a fortuitous increment/promotion in the cadre of clerk to save him from the agony of financial loss he had to suffer by reason of his reversion and placement in the cadre of clerk. This is absolutely a generous view*

***taken by the authorities and the proposal is said to be pending with the Government since from 1992. There was of course nothing wrong in the approach of the authorities to take a sympathetic view of the matter which should not be ignored by the Government. Accordingly, it is directed that the Government should take decision upon the proposal made by the department in the matter of giving one promotion / increment to the petitioner in the cadre of clerk as a gratuitous gesture by taking the case of the petitioner into consideration with at most sympathy. The said decision should be taken as far as possible within six months from today. Accordingly, the petition stands disposed of as withdrawn for the time being with a permission to approach, if required. Hamdast allowed.”***

10. Learned Advocate for the applicant has invited my attention to the proposal sent by the Chief Conservator of Forest, Nagpur on the basis of proposal submitted by the Forest Court, Dhule dated 24.10.1994. The copies of these proposals are at Exhibit 'F' and Exhibit 'G' respectively. From the proposal Exhibit 'F' dated

1.1.1992, it is clear that the Chief Conservator of Forest has given all the details as regards applicant's claim and requested to Government to consider the case of the applicant and to avoid financial loss to the applicant. In the absence of any documentary evidence and even considering the fact that the impugned communication dated 17.10.1995 is not available on record, it will be in the interest of justice and equity to direct the respondent authorities i.e. respondent No. 1 to reconsider the case of the applicant on the basis of proposal dated 1.1.1992 submitted by the Chief Conservator of Forest to the Government (Exhibit 'F').

11. In view of the discussions in foregoing paragraphs, I therefore, pass the following order: -

**ORDER**

- (i) The present Original Application is partly allowed.
- (ii) Respondent No. 1 is directed to consider the proposal dated 1.1.1992 (Exhibit 'F') submitted by the Chief Conservator of Forests in respect of the applicant's claim

and to take necessary decision sympathetically on the said proposal.

(iii) Such decision shall be taken within a period of three months from the date of this order and shall be communicated to the applicant in writing.

(iv) It is needless to say that, in case such proposal is sanctioned, the consequential financial benefits be granted to the applicant.

(v) There shall be no order as to costs.

**VICE CHAIRMAN (J)**

O.A.NO.965-2016(SB)-HDD-2017