

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH AT AURANGABAD
ORIGINAL APPLICATION NO 3 OF 2013**

DIST : JALGAON

Pramod S/o Chindhu Sisode,)
Occ : Labour,)
R/o: Pimpalgaon, Post-Takli,)
Tal-Jamner, Dist-Jalgaon.) **APPLICANT**

Versus

1. The State of Maharashtra)
(copy to be served on Principal)
Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai, to be served)
Through learned Chief Presiding)
Officer, M.A.T, Aurangabad.)
2. Deputy Forest Conservator,)
Jalgaon, Forest Division,)
Admn Bldg, Stage-3, Ground floor)
Near Akashwani Bldg, Jalgaon,)
Dist-Jalgaon.) **RESPONDENTS**

Shri S.D Hiwrekar, learned advocate for the Applicant.

Smt P.R Bharaswadkar, learned Presenting Officer for the Respondents.

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

DATE : 13.12.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri S.D Hiwrekar, learned advocate for the Applicant and Smt P.R Bharaswadkar, learned Presenting Officer for the Respondents.
2. This Original Application has been filed by the Applicant seeking appointment to the post of 'Rakhwadar' as per the selection / wait list pursuant to advertisement dated 18.11.2011.
3. Learned Counsel for the Applicant argued that the Respondent no. 2 had issued an advertisement on 18.11.2011 to fill up, inter alia 2 posts of Rakhwadar from open category, one each reserved horizontally for PAP and Ex-servicemen category. The Applicant has applied from open-PAP category. The Applicant was allowed to participate in the selection ^{process} and was placed at no. 1 in the waiting list from Open-PAP category. One Shri Vinod Dagdu Kale was selected for the post from that category. Shri Kale, however, resigned within one

month after joining and the post fell vacant. The waiting list was valid when Shri Kale resigned on 24.7.2012. Learned Counsel for the Applicant argued that the Applicant is eligible to be selected from Open PAP category.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that once Shri Kale was appointed from Open-PAP category in the only post for that category on 10.2.2012, that select list was exhausted and there was no question of any person being appointed from waiting list. In any case, the Applicant never applied to the Respondent no. 2 for appointment till next advertisement was issued on 10.9.2012. He applied to the Chief Conservator of Forest, Dhule, on 15.12.2012, when the waiting list was no longer valid.

5. We find that in this Original Application, the Applicant is seeking appointment to the post of 'Rakhwaddar' by operationalizing the waiting list. It is an admitted fact that one Shri Vinod Dagadu Kale secured more marks than the Applicant and was selected for the post of Rakhwaddar from Open-PAP category. He joined his duties and subsequently resigned. The Principal Bench of this Tribunal has held that once the person on the 'Select Panel' are appointed, the waiting list becomes invalid in O.A no 895/2015 by judgment dated 21.11.2006. This is based on the judgment of Hon'ble

Supreme Court in the case of RAKHI RAY & ORS. Vs. HIGH COURT OF DELHI & ORS : (2010) 2 SCC 637. We are bound to take the same view in the present Original Application. As a result, it has to be held that once Shri Kale was appointed as 'Rakhwaldar' and he joined the post, the waiting list became inoperational.

6. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

(J.D. Kulkarni)
Member (J)

(Rajiv Agarwal)
Vice-Chairman

Place : Aurangabad
Date : 00.11.2016
Dictation taken by : A.K. Nair.