

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 381 of 2011**

Pradeep Mahadeo Kulsange,  
Age about : 35 Yrs., Occ. – Junior Engineer (Mechanical),  
Deputy Engineer-Lift Irrigation (Mechanical), Sub-Division 2, Ambadi,  
Bhandara and resident of  
Gosekhurd Colony, Ambadi, Bhandara.

**Applicant.**

**Versus**

1) The State of Maharashtra  
through its Secretary,  
Department of Revenue and Forest,  
Secretariat, Bombay-32.

2) Conservator of Forest, North Chandrapur Division,  
Civil Lines, Nagpur Road, Chandrapur 442 401.

**Respondents**

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**Shri S.Borkar, Id. Advocate for the applicant.**

**Smt. S.V.Kolhe, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGMENT****(Delivered on 26<sup>th</sup> day of September, 2017)**

Heard Shri S. Borkar, Id. counsel for the applicant and Smt. S.V.Kolhe, Id. P.O. for the respondents.

2. The applicant belongs to S.T. community and was appointed as Forest Guard (Class III) by Deputy Conservator of Forests (Central), Chandrapur on 27/05/2004. He was posted at Rajura Forest Range and was relieved to join his post w.e.f. 29/05/2004 and joined his duties accordingly on 02/06/2004.

3. The applicant applied vide advertisement issued in Marathi daily "Lokmat" dated 16/01/2005 for the post of Forester. He sent his application on 28/01/2005 through the office of the Range Forest Officer, Rajura and the same was forwarded by R.F.O., Rajura with positive remarks i.e. "no objection".

4. The applicant was appointed as a Forester by direct recruitment on 15/04/2006. Prior to that, he tendered his resignation as a Forest Guard on 12/04/2006 which was accepted w.e.f. 15/04/2006 by surrendering his one month salary.

5. The applicant completed his one month probation and requisite training and was posted as Assistant Plantation officer at Chimur from 01/04/2007.

6. On 02/04/2007 the applicant applied through proper channel seeking permission to apply for the post of Junior Engineer and sought such permission on 06/06/2007. His application was forwarded to Deputy Director, Social Forestry Division, Chandrapur on 13/06/2007. Since the applicant was to join as a Junior Engineer (Mechanical), he tendered his resignation with one month salary on 16/01/2008. On 12/01/2007, the applicant applied to regularise his entire service period for the purpose of pension, but vide letter dated 03/05/2010, the Respondent no. 2 informed him that earlier service rendered by him as Forest Guard and Forester cannot be considered for regularization. The applicant has therefore, prayed that the said communication dated 03/05/2010 where by the Respondent rejected his request to regularize his earlier service as Forest Guard and Forester be quashed and set aside. The said services shall be considered for the purposes of his retiral/ monetary benefit and pension.

7. The Respondent no. 2 has filed reply affidavit and admitted almost all the facts except that the service of the applicant as Forest

Guard and Forester can be considered as continuous service. According to Respondents, the applicant did not apply for the post of Forester by following due procedure and therefore, his services as Forest Guard w.e.f. 27/05/2004 and as Forester w.e.f. 15/04/2006 cannot be taken into consideration for the purpose of pension.

8. The Ld. counsel for the applicant has invited my attention to the impugned communication dated 03/05/2010 by Respondent no. 2, the said four lines communication is as under:-

उपरोक्त संदर्भित निवेदनाचे अवलोकन केले असता आपण वनपाल पदाकरीत आवेदन भरले आहे व तसे वरिष्ठांना कळविण्यात आल्याचे दिसून येते. परंतु सदर पदाकरीता आवेदन भरतांना वरिष्ठांची परवानगी मागविण्यात आल्याचे दिसून येत नाही. सबब पुर्वीची सेवा नियमित करण्याचा उपक्रम नाही.

From the aforesaid communication, it seems that the Respondents are coming with a case that the applicant has not opted permission while he applied for the post of Forester. The application filed by the applicant for the post of Forester is dated 28/01/2005. The copy of which is placed on record at (Annexure-A-4), the said application clearly says that it was submitted to the Deputy Conservator of Forests, Chandrapur through Range Forest Officer (R.F.O.), not only that the same was forwarded by the R.F.O. to the competent authority with an

endorsement that since the applicant has acquired qualification for the post of Forester (Vanpal), there is no objection for giving him opportunity. This clearly shows that the application was duly forwarded by the applicant and not only that, the Respondent authorities have also endorsed it and recommended his case.

9. After getting appointment to the post, the applicant has immediately resigned and he was directed to deposit one month salary, and it seems that the applicant has accordingly deposited the amount and communication in this regard is at (Annexure-A-5) at paper book page no. 30 – 31 (both inclusive) which is signed by Deputy Conservator of Forests, Chandrapur and thereafter the applicant was appointed vide order dated 15/04/2006.

10. In the said letter of appointment (which is at paper book, pg. no. 32 & 33, Annexure-A-6) it has been clearly mentioned that the competent authority has given recognition to the selection of the applicant. In view thereof he was given a posting at Chimur as per Annexure-A-7.

11. The Id. counsel for the applicant also invited my attention to applicant's application for the post of Junior Engineer (Mechanical) dated

02/04/2007 which is at (Annexure-A-8), the said application was submitted by the Lagwad Adhikari (Plantation Officer) to Deputy Director, Social Forestry, Chandrapur. It was also therefore submitted through proper channel, in which he sought permission to apply for the post of Junior Engineer (Annexure-A-9) dated 13/06/2007 which is a communication from Deputy Director, Social Forestry, Chandrapur, vide which the communication was acknowledged accordingly. The applicant was appointed and thereafter he resigned the post of Assistant Plantation Officer on 16/01/2008 and it was immediately accepted alongwith one month salary and immediately on the same date he was relieved and joined the service. All the facts clearly show that from time to time the applicant applied through proper channel and his application was not only forwarded, but acknowledged and recommended by the competent authorities and therefore, the impugned communication to the effect that the applicant has not sought permission for applying through Forest office issued by Chief Conservator of Forest, North Chandrapur Circle i.e. dated 03/05/2010 is not legal. There was definitely on implied permission.

12. It is an admitted fact that the applicant was firstly serving as a Forest Guard and thereafter as a Forester continuously before he was

appointed as a Junior Engineer (Mechanical). Rule 30 of the Maharashtra Civil Services (Pension Rule), 1982, states as under :-

*Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointment either substantively or in an officiating or temporary capacity:*

*Provided that at the time of retirement he shall hold substantively a permanent post in Government service.*

13. In the present case the applicant is admittedly on the substantive post at present and admittedly his earlier services were continuous services. It therefore, makes no difference as to whether the earlier service was temporary or permanent. His abovesaid services should have been taken into consideration as qualifying services for the purpose of pension, if permissible.

14. In view of the discussion in foregoing paras, I am satisfied that the impugned communication dated 03/05/2010 issued by the Respondent no. 2 i.e. Annexure-A-1 is required to be quashed and set aside. Hence the following order :-

**ORDER**

1. The O.A. is allowed, the impugned communication dated 03/05/2010 is quashed and set aside.
2. The Respondents are directed to consider the earlier services of the applicant as Forest Guard and Forester i.e. w.e.f. 27/05/2004 for the purpose of pension and other retiral benefits as per Rule 30 of Maharashtra Civil Services (Pension) Rules, 1982.
3. No order as to costs.

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

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