

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 891 OF 2012**

DIST. : AURANGABAD

Arshad Ayubkhan,  
Age 22 years, Occ. Nil,  
R/o Pakija Hotel, Sadiq Chowk, Kannad,  
Tq. Kannad, Dist. Aurangabad. --

**APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through its Deputy Conservator  
Of Forest, Aurangabad Division,  
Aurangabad / Regional Selection  
Committee Forest, Aurangabad,  
Railway Station Road, Aurangabad.
2. Dhammasagar Haribhau Kamble,  
Age. 23 years, Occ. Service,  
C/o through respondent no. 1.
3. Mahesh Yedba Pawar,  
Age. 24 years, Occ. Service,  
C/o through Respondent no. 1. --

**RESPONDENTS**

APPEARANCE : Shri Kiran M. Nagarkar, learned Advocate  
for the applicant.

: Shri M.P. Gude, learned Presenting Officer  
for respondents.

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**CORAM : HON'BLE SHRI RAJIV AGARWAL,**  
**VICE CHAIRMAN**  
**AND**  
**HON'BLE SHRI B.P. PATIL, MEMBER (J)**

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**ORDER****(Passed on 4<sup>th</sup> August, 2017)****(PER :- Shri Rajiv Agarwal, Vice Chairman)**

1. Heard Shri Kiran M. Nagarkar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. This Original Application has been filed by the Applicant challenging appointment of the Respondents no. 2 & 3 to the post of Forest Guard from Open – Home Guard category as per the selection list dated 21.11.2012 issued by the Respondent no.1.

3. Learned Counsel for the Applicant argued that the Respondent no. 1 had issued an advertisement on 10.9.2012 to fill up 36 vacancies of 2012 and 39 vacancies of 2013 for the post of Forest Guards. Horizontal reservation for Home Guards is 5% and for 75 posts (36 + 39), a minimum of 3 posts should have been reserved for Home Guards horizontally. However, the Respondent no. 1 selected only two candidates from Home Guards category viz. the Respondents no. 2 & 3. Though the Applicant fulfils all the requirements for selection to the post of Forest Guard viz. physical measurement, educational qualifications etc. and he also completed running of 5 Kms. within 30 minutes, he was not selected. The Applicant was

fastest in running test as he completed running from Open Home Guard category in 23 minutes and 31.70 seconds. The Respondents no. 2 & 3 completed the running test in more than that time. The Applicant was more qualified and eligible than the Respondents no. 2 & 3 as per the selection list dated 21.11.2012. He should have been selected. Learned Counsel for the Applicant argued that the Applicant can be accommodated without disturbing the Respondents no. 2 & 3 as one post from Home Guards category was not filled by the Respondent no. 1.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondent no. 1 that the present O.A. is completely misconceived. The Applicant is relying on his being fastest in running test. However, the running test is a qualifying test and a candidate has to run for 5 Kms. in 30 minutes or less. No marks are allotted for running test. For selection to the post of Forest Guard, 87.5 marks are given on the basis of marks in 12<sup>th</sup> standard and 12.5% marks are allotted for oral interview. The marks obtained by the Applicant and the Respondents no. 2 & 3 are as follows :-

	<b>Percentile of 12<sup>th</sup> standard</b>	<b>Oral Test marks</b>	<b>Total</b>
Applicant	35.73	4	39.73

Respondent no. 2	51.4	8	59.04
Respondent no. 3	43.46	6.50	49.96

All three are from Open Home Guard category. The Applicant has not obtained better marks than the Respondents no. 2 & 3 in the selection process.

5. Learned P.O. further argued that 5% horizontal reservation for Home Guards is compartmentalized. This means that for different vertical reservation categories, separate horizontal reservation is worked out. There were 14 Open posts for 2012 and 19 for 2013. Two posts could be reserved for Open – Home Guards category. The Applicant’s claim that a minimum of 3 posts should have been reserved for Open Home Guards category is untenable.

6. We find that para 4.5 to 4.8 of the advertisement dated 10.9.2012 make it clear that the selection to the post of Forest Guard was to be on the basis of marks in 12<sup>th</sup> standard (87.5 and oral interview (12.5). It is clear that the Respondents no. 2 & 3 were higher in rank from Open - Home Guard category than the Applicant. Running test was only a qualifying test and the Applicant cannot claim any advantage over the Respondents no.

2 & 3 on that count. The Applicant is not eligible to be preferred over the Respondents no. 2 & 3.

7. Now coming to the number of vacancies for Home Guard category, it is seen that 5% posts were reserved horizontally for that category. It is an admitted fact that horizontal reservation in the State is compartmentalized. It has to be calculated separately for Open, S.C., S.T. etc. For Open category, there were 33 posts and horizontal reservation could not exceed 2. The claim of the Applicant that a minimum of 3 posts should have been reserved for Open – Home Guard category is wrong and cannot be accepted.

8. The Applicant has failed to make out any case requiring interference by this Tribunal in the selection process for the post of Forest Guard pursuant to the advertisement issued by the Respondent no. 1 on 10.9.2012. This O.A. is dismissed with no order as to costs.

**MEMBER (J)**

**VICE CHAIRMAN**