

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.779 OF 2020**

DISTRICT : NANDED

Shri Kantrao Pagoji Dhumale)
Age 57 years, Assistant Conservator of Forest,)
R/at Dhruv Building, Bajaj Nagar,)
Behind Datta Mandir, Nanded)..Applicant

Versus

1. State of Maharashtra,)
Through Principal Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400032)

2. Additional Chief Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400032)..Respondents

Smt. Punam Mahajan – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula R. Bhatkar (Chairperson)
Shri P.N. Dixit, Vice-Chairman (A)

DATE : 23rd July, 2021

J U D G M E N T

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. The grievance of the applicant is that his promotion from the rank of Assistant Conservator of Forest (ACF) to Divisional Forest Officer (DFO) has not been considered. The applicant belongs to reserved category and joined the services in the rank of Range Forest Officer (RFO) on 2.11.1989. On 26.8.2013, as he belongs to reserved category, he was given jumping promotion as ACF. Following the judgment given by the Hon'ble Bombay High Court, the Government had issued a letter on 29.12.2017 to fill up the vacancies in open category by seniority on temporary basis. In a separate development in **W.P. No.2026 of 2019 Ramesh M. Sontakke & Ors. Vs. The State of Maharashtra & Ors. decided on 23.4.2021**, the Hon'ble Bombay High Court, Bench at Aurangabad observed in para 37 as under :

“..... the seniority of the persons selected for the post of ACF by nomination shall be counted from the date of issuance of appointment order after successful completion of training qua a person appointed as ACF by promotion.”

3. The respondents accordingly had prepared the seniority list in which persons like the applicant who were promoted were considered first and the persons appointed by nomination were pushed down. However, the persons appointed by nomination approached the **Hon'ble Supreme Court in Petition for Special Leave to Appeal (C) No.7282 of 2021 Ashok Ram Parhad & Ors. The State of Maharashtra & Ors.**, and the

Hon'ble Supreme Court in its order dated 30.6.2021 has ordered as under:

"IA No.64886 of 2021 is dismissed as not pressed for.

Issue notice.

It is directed that till the next date of hearing, the position as was prevalent prior to the impugned judgment should continue to operate in the time being."

4. In view of the above developments the position prior to the decision of the Hon'ble High Court dated 23.4.2021 continue to prevail. As a result of this the persons who were nominated remained on the top while the persons who were promoted were pushed down in the list of seniority. The applicant who was at Sr. No.147 in the list of seniority of 2018-19 continues to remain at Sr. No.147. The respondents submit that exercise to prepare the select list on the basis of the ACR and other relevant documents has not been yet completed. The respondents submitted that the exercise will not be able to be completed as it involves the procedure of checking the validity of caste certificate, vigilance clearance, property returns etc. Therefore, it will require a period of 10 days.

5. Meanwhile the applicant is due to retire on 31.7.2021 and his services would be coming to an end.

6. The respondents should have shown more sincerity to the application filed by the applicant and completed this exercise immediately after 31.3.2020 when the year came to an end instead the matter has remained lingering till today and not yet completed.

7. In view of the paucity of time this Tribunal is not in a position to grant any relief to the applicant as per his prayer in the short period of

next seven days. Therefore, this OA seeking orders of promotion for applicant is disposed of. However, once the orders of promotion are issued by the respondents after completing the exercise, the applicant would be at liberty to approach the appropriate forum praying for his deemed date of promotion on the basis of legal provisions. OA disposed off accordingly. No orders as to cost.

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
23.7.2021

Sd/-

(Mridula R. Bhatkar, J.)
Chairperson
23.7.2021

Dictation taken by: S.G. Jawalkar.

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