

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.916 OF 2019

DISTRICT : MUMBAI

1. Smt. Smita Dattatraya Haral,)
Aged 27 years, Taxation & Administrative Officer,))
R/o. L-9/A, Room No.303, Service Quarters,))
Pratiksha Nagar, Sion, Mumbai))

2. Shri Umakant Keshav Nanaware,))
Age 29 years, Sales Tax Inspector,))
R/o Building No.5-D, Flat No.1610, New Hind,))
MHADA Colony, Cotton Green, Mumbai))
Address for service of Notice:))
Shri B.A. Bandiwadekar, Advocate,))
9, Ram Kripa, Lt. Dilip Gupte Marg,))
Mahim, Mumbai 400016)..Applicants

Versus

1. The Secretary,))
Maharashtra Public Service Commission,))
Cooperage Telephone Nigam Building,))
M.K. Road, Cooperage, Mumbai-21))

2. The State of Maharashtra,))
Through Principal Secretary (Forest),))
Revenue & Forest Department,))
Mantralaya, Mumbai))

3. The Principal Chief Conservator of Forest,)
(Chief of Forest Service), Vanbhavan,)
Ramgiri Road, Civil Lines, Nagpur-1)..Respondents

Mr. B.A. Bandiwadekar – Advocate for the Applicant

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

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)
DATE : 15th February, 2022
PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. Heard Mr. B.A. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. Before passing the order, we clarify that we pass this order in continuation of our earlier order dated 1.12.2021 in this OA. Therefore, it is appropriate to reproduce the said order before we pass further order:

“1. Applicants seek relief that the order dated 17.07.2019 and 24.07.2019 are to be set aside qua the Petitioners informing that they are not eligible to compete with the post of Range Forest Officer by way of direct recruitment since their educational qualification of B.E. (Information Technology) is not provided in paragraph 5.4.2 of the Examination Notification. Both the applicants had appeared for the examination for the post of Range Forest Officer (RFO) in the year 2019 examination.

2. *The Advertisement date for Preliminary Examination is 15.03.2018 and the Advertisement date for the main Examination is 12.09.2018 and the names of the Applicants appeared in the select list dated 24.05.2019.*

3. *For Range Forest Officer, Applicant No.1, who appeared in Open Female Category secured 228 marks, while the candidate from Open Female who secured 224 was recommended. Applicant No.2 who appeared in S.C. (General) category had secured 211 marks, while the candidate from S.C. (General) category who secured 208 marks was recommended.*

4. *Though there was a common examination for the post of Assistant Conservator Forest, Applicant No.1 had secured 228 marks against the cut-off marks of 243. Hence, she was not eligible and does not claim appointment for the post of Assistant Conservator of Forest. Applicant No.2 has secured 211 marks against the cut-off marks of 240 and therefore he also does not claim appointment for the post of Assistant Conservator of Forest. Hence both the applicants never claim of Assistant Conservator Forest in their respective categories.*

5. *In the judgment of M.A.T. Nagpur Bench dated 13.04.2020 passed by the Division Bench in O.A.No.466/2019, Gaurav Gulbarao Ganvir Versus State of Maharashtra, through its Secretary Ministry for Revenue and Forest, Department. There is a G.R. of equivalence of the education dated 18.10.2016 (page 35) wherein the Government has taken on policy decision to treat the degree in the Engineering Department as equivalent to some degrees. As per Clause 6 of the G.R. in the table under the discipline of Computer Engineering /*

Information Technology, the equivalence discipline are shown under the Computer Science and Engineering Degree Information Technology is shown equivalent and both the applicants hold the degree in Engineering in the discipline of Information Technology.

6. *The main advertisement, paragraph 5.4.2 for Range Forest Officer wherein the computer application and computer science and engineering is mentioned. In the case of O.A.No.466/2019 he applied for Automobile Engineering of B.E. and as per the advertisement, Engineering in discipline of Chemical/ Structural/ Civil/ Computer/ Electrical/ Electronics / Mechanical / Computer Science Engineering etc. it was held that in the case of Mr. Ganvir, the Respondent-State has taken stand that the Mechanical Engineering is different from Automobile Engineering. However, G.R. dated 18.10.2016 was relied by the Division Bench of Nagpur where the State of Maharashtra has taken policy decision and clarified that the degree in Automobile Engineering is equivalent to Mechanical Engineering and thus based on the said G.R. O.A.No.466/2019 was allowed.*

7. *The learned C.P.O. relies on the affidavit-in-reply dated 22.01.2020 on behalf of Respondents No.2 & 3 through Mr. Sopan Rambhaji Girhe, Administrative Officer, office of Chief Conservator of Forest. She further relies on point No.8, Educational Qualification of Entrance and Training Rules (Revised) 2004, for Forest Range Officers, Notification, Published in Part II, Section 3, Sub-Section (i) of the Extraordinary Gazette of India Vide GSR No.466(E), dated 22.07.2004. She further relies on the affidavit-in-sur-rejoinder dated 29.06.2021 on behalf of Respondents No.2 & 3 through Mr. Sopan Rambhaji Girhe, Administrative Officer, office of Chief Conservator of Forest.*

8. *During the course of arguments learned Advocate referred to G.R. dated 18.10.2016 about regarding equivalence of the syllabus of Engineering and Technology. He argued that the said G.R. while it was referred by the Nagpur Bench in O.A.No.466/2019, was not applicable for the teaching faculty, could be extended to all other Department in matters of recruitment. We request the Director, Higher and Technology Education to clarify whether the said G.R. of equivalence could be extended to the other Departments of the State with regard to equivalence for the recruitment.”*

3. However, before clarification was issued by the Department on the issue of equivalence, Ld. Advocate for the applicant produced a copy of Publication dated 15.9.2021 issued by MPSC to Advertisement No.4/2019 & notification No.12/2019 for Maharashtra Forest Services Main Examination, 2019. Para 2 of the said Publication reads as follows:

“२. प्रस्तुत तक्रारीच्या अनुषंगाने आयोगाच्या कार्यालयाकडून वनक्षेत्रपाल, गट-ब संवर्गाकरीताच्या शैक्षणिक अर्हतेच्या तरतुदीसंदर्भात शासनाकडे अभिप्राय मागविण्यात आले होते. त्यानुसार शासनाकडून दिनांक ८ सप्टेंबर, २०२१ च्या पत्रान्वये “वनक्षेत्रपाल, गट- ब संवर्गाच्या सेवा प्रवेश नियमातील नियम ५(ii) नुसार विज्ञान शाखेव्यतिरिक्त अन्य शाखेतील गणित विषयासह पदवी धारण करणारे व विज्ञान शाखेतील उच्च माध्यमिक शालांत प्रमाणपत्र परीक्षा उत्तीर्ण असणारे उमेदवार वनक्षेत्रपाल पदासाठी पात्र ठरतील.”, असे आयोगास कळविण्यात आले आहे.”

4. We had asked the Ld. CPO to enquire about whether there are vacant posts qua the selection process of 2018. In reply Shri Sopan Rambhaji Girhe, Administrative Officer in the office of Chief Conservator of Forest (T), Thane has filed short affidavit dated 4.2.2022 on behalf of respondents no.2 & 3, wherein he has enclosed chart regarding availability of posts, which is reproduced below:

Information related to Maharashtra Forest Service Examination, 2018
Total posts 53

Particulars	SC	ST	VJ- A	NT- B	NT- C	NT- D	OBC	Open	Total
MPSC recommended the names of candidates vide letter dated 12/07/2019	10	3	3	2	-	2	15	18	53
MPSC recommended the names of candidates vide letter dated 22/09/2020 as per Court's order.	1	-	-	-	-	-	-	-	1
Candidates joined for training	8	2	3	2	-	2	11	11	39
Not sent for training	3	1	-	-	-	-	4	7	15
Vacant posts with reference to advertisement	2	1	-	-	-	-	4	4	11

(Quoted from page 149 of OA)

5. We have carefully considered the submissions of both the sides. In view of said Publication dated 15.9.2021, it is clear that eligibility criteria for the post of Range Forest Officer, Group B have been relaxed. Considering the fact that department itself has relaxed the condition, both the applicants meet the criteria.

6. In view of the above, we recommend both the applicants for the post of Range Forest Officer. The issue of deemed date may be decided later as per rules, if they clear physical test. OA is disposed off accordingly.

Sd/-

(Medha Gadgil)
Member (A)
15.2.2022

Sd/-

(Mridula Bhatkar, J.)
Chairperson
15.2.2022

Dictation taken by: S.G. Jawalkar.

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