

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.401/2013

DISTRICT - AURANGABAD

Anita Mangilal Chavan,
Age : 21 years, Occ : Nil,
R/o. At Pultanda, Jatwada,
Tq. & Dist. Aurangabad.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through: Secretary,
Forest Department,
Mantralaya, Mumbai-32.
2. The President,
Regional Selection Committee,
Forest Department,
Aurangabad.
3. Shri Iyer,
Chief Conservator of Forest,
Aurangabad.
4. Shri S.M.Rathod,
Divisional Forest Officer,
Aurangabad.
5. Shrimati Dhanorkar Madam,
Member Secretary & Collector,
Aurangabad.
6. Shri Garad, D.F.O.,
Aurangabad.
7. Shri Chandramore, D.F.O.,
Aurangabad.

...RESPONDENTS

APPEARANCE : Shri S.D.Dhongde learned Advocate for
the applicant.

Shri M.S.Mahajan, learned Chief
Presenting Officer for the respondents.

CORAM: Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)
A N D
Hon'ble Shri B. P. Patil, Member (J)

DATE: 4th August, 2017.

ORDER

[PER: MEMBER (J)]

The applicant is seeking directions to respondents to appoint her as Forest Guard in pursuance of her selection by filing the present O.A. The applicant has passed SSC in the year 2010 by securing 62.91% marks. She has passed HCS in 2012 securing 51% marks. She belongs to Banjara caste which is recognized as Vimukta Jati (VJNT) category. She is not belonging to Creamy Layer.

2. Respondents had issued advertisement calling applications for the post of Forest Guards from eligible candidates. The applicant has filed an application for the post of Forest Guard in the prescribed format. She had appeared for the physical and written test. She passed physical and written tests successfully. She thereafter

appeared for oral interview. After oral interview, selection Committee declared her as passed and mentioned her name at Sr. No.18 of the waiting list. She secured 52.13% marks. In the list published by the respondents, Anita Baban Jadhav has been shown at Sr. No.16 against the category of VJNT Female. In fact, name of Anita Baban Jadhav was not mentioned in the earlier list published by the respondents. It is contention of the applicant that in one more list name of one Baby Shankarrao Rathod is mentioned at Sr. No.17 against the category of VJ(A) Female. Thereafter, respondents had issued corrigendum dated Nil-01-2013 signed by the Member Secretary of the selection Committee contending that some errors found in the list of the selected candidates dated 21-01-2012. Correction had been carried out accordingly. It has been mentioned in the list of the year 2012-2013 name of one Avinash Vitthal Jaybhay has been shown in the waiting list from the Open category and one Suresh Munjaji Bobade was selected from OBC category. It has been mentioned in the said corrigendum that Baby Shankar Rathod is selected from Female VJ(A) category. It has been further mentioned that names of one Ashvini Namdev Fartale and applicant

Anita Mangilal Chavan were on the waiting list though they were shown as selected candidate in the earlier list. It is her contention that she has been selected on merit when the selection process was conducted by one Shri Chandramore. Subsequently, one Shri Rathod took over the charge of the process, and thereafter, select list has been changed and her name has been mentioned in the waiting list. It is her contention that action of Shri Rathod is unilateral and arbitrary. It is her further contention that corrigendum was signed by only one member of the selection Committee though it consists of 5 members. There was no reason for cancellation of earlier select list. Therefore, action on the part of Shri Rathod is illegal, objectionable, malafide and arbitrary. Therefore, it is liable to be quashed and set aside.

3. It is further contention of the applicant that 2 posts are earmarked for VJ(A) category as per advertisement. But in the final select list only one person is shown as selected against that category and one post is available, and therefore, she prayed to accommodate her against the said

vacant post. Therefore, she sought direction from the Tribunal in that regard. On this ground, she prayed to allow the O.A. and appoint her on the post of Forest Guard.

4. Respondents have filed affidavit in reply and additional affidavit in reply and resisted contentions of the applicant. They have denied that the corrigendum has been issued against the provisions of rules at the instance of Shri Rathod and it was not approved by the selection Committee. It is their contention that Government of Maharashtra through the Chief Conservator of Forest (Territorial), Aurangabad notified 36 vacancies of Forest Guard for the recruitment for the year 2012 and 39 vacancies for the recruitment for the year 2013. The Committee comprising of Chief Conservator of Forest (Territorial), Aurangabad as Chairman, Deputy Director General of Social Forestry, Aurangabad as Member, Deputy Conservator of Forest (Wild Life) Aurangabad as Member and Deputy Conservator of Forest Nanded, Forest Division, Nanded as Member Secretary, was constituted for conducting recruitment process. Said Regional Selection Committee invited applications in pursuance of the

advertisement dated 01-10-2012 for the post of Forest Guard. In the advertisement allocation and reservation of seats to various categories had been mentioned. Accordingly, for the recruitment of year 2012, out of 36 vacancies, 2 vacancies were reserved for VJ(A) category and out of these 2 vacancies, one was reserved for VJ(A) General category and another was reserved for VJ(A) Female category. For the recruitment process of the year 2013, out of 39 vacancies, 2 vacancies were reserved for VJ(A) category and out of these 2 vacancies, one was earmarked for VJ(A) General whereas another was earmarked for VJ(A) Female category.

5. It is contention of the respondents that, after considering the merits of the candidates and by applying 87.5% weightage to their HSC i.e. 12th Standard Examination Certificate marks plus marks obtained by them in oral performance out of 12.5%, the categoriwise select list has been prepared as per the merits of the candidates. The members of the Regional Selection Committee have given marks to all the candidates including the applicant considering their performance. On the basis

of marks secured by the candidates the Regional Selection Committee prepared separate merit list for the year 2012 and 2013 on 21-11-2012 and common merit list of 2012 and 2013 was also separately published on 21-11-2012. In the merit list of the year 2013, applicant's name is at Sr.No.38. Common waiting list has been prepared on 21-11-2012 in which name of the applicant has not been shown.

6. Selection Committee had initially selected Manisha Shivilal Pawar from VJ(A) (General) category as she secured 71.77% marks whereas one Baby Shankarrao Rathod came to be selected as VJ(A) Female candidate, who had secured 58.63% marks. The selection Committee selected one Anita Baban Jadhav Female VJ(A) category candidate as Open General candidate who had secured 71.00% marks for filling vacancies in 2013. It is further contention of the respondents that respondent no.2 Chief Conservator of Forests (Territorial), Aurangabad and Chairman of the Regional Selection Committee by his office order dated 20-12-2012 constituted a Steering Committee (Sukanu Committee) headed by Deputy Conservator of Forest,

Nanded to verify the final select list prepared for the year 2012 and 2013 as well as the waiting list. Accordingly, the Steering Committee verified final select list of the candidates, their categories, percentages and marks obtained by them. After verifying the same, Steering Committee took decision in the meeting dated 28-12-2012 and recommended for certain corrections in the select list, and accordingly, sent its report to the selection Committee. The Steering Committee found that one Anita Baban Jadhav secured 71.00% marks, and therefore, she ought to have been selected as VJ(A) Female for filling vacancies of the year 2012 in place of candidate, viz. Baby Shankarrao Rathod. On the basis of recommendation of the Steering Committee, Regional Selection Committee held its meeting on 09-01-2013 and took decision to revise select list, and accordingly, a corrigendum was issued on 19-01-2013. It is their contention that Regional Selection Committee prepared revised select list for the year 2012 and 2013 and common waiting list for the year 2012 and 2013. As per the revised select list, Anita Baban Jadhav who was earlier selected as Open General candidate for the year 2013 came to be figured as VJ(A) Female candidate for the year 2012 in

place of Baby Shankarrao Rathod, as she secured 71.00% marks while Baby Shankarrao Rathod secured 58.65% marks.

7. Therefore, Anita Baban Jadhav has been selected as VJ(A) Female candidate for the year 2012 and correction has been made accordingly in the select list. Name of Baby Shankarrao Rathod which was earlier shown as selected VJ(A) Female for the year 2012 has been deleted and it has been shown in the select list for the year 2013 as VJ(A) Female candidate in place of the present applicant Anita Mangilal Chavan as she secured more marks than the applicant Anita. It is their contention that Baby Shankarrao Rathod secured 58.65% marks while the applicant has secured 52.13% marks. Resultantly, name of the applicant has been deleted from the select list of the year 2013 and it has been included in the revised common waiting list for the year 2012 and 2013 for VJ(A) Female candidate. It is their contention that the selection Committee corrected the mistake occurred at the time of preparation of merit list, and therefore no injustice has been caused to the applicant as contended by the

applicant. Corrections have been made in the merit list as per the procedure. They have denied that the correction in the select list has been made for favoring other candidates. It is their contention that select list has been prepared on the basis of merit, and therefore, no question of accommodating the applicant in the select list arises as the selected candidates have secured more marks than the applicant. The applicant was kept on waiting list on the basis of marks secured by her and there is nothing illegal in it. Therefore, they have prayed to reject the O.A.

8. Heard Shri S.D.Dhongde learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents and perused documents placed on record by the parties.

9. Most of the facts are admitted to either of the parties. Admittedly, the applicant has applied for the post of Forest Guard. Admittedly, the applicant and others who passed physical test were called for oral interview. It is also an admittedly fact that candidates were interviewed by the Regional Selection Committee and there is no dispute about the fact that the members of the Regional Selection

Committee had given marks to the candidates appearing for the oral interview including the applicant on the basis of their performance. Copy of the chart of marks obtained by each of the candidates in oral interview is at Exhibit R-1 (page 93-122). Admittedly, a common merit list for the year 2012 and 2013 was prepared and in the said list name of the applicant is at Sr. No.120, and thereafter, yearwise final merit list was prepared on 21-11-2012 for the year 2012 and 2013. Admittedly, name of the applicant has been shown at Sr. No.38 in the list of 2013. On the same date the common waiting list has also been published. It is not much disputed that Chief Conservator of Forest (Territorial), Aurangabad and the Chairman of the Regional Selection Committee constituted a Steering Committee headed by the Deputy Conservator of Forest, Nanded to verify final list of 2012 and 2013 as well as the waiting list. Accordingly, Committee verified select list of the candidates, their categories and percentage of marks. The Committee found some mistake in the select list and accordingly Steering Committee recommended correction in the select list. On receiving the report of the Steering Committee, Regional Selection Committee held meeting and

after considering the recommendations of the Steering Committee corrected the select list for the year 2012 and 2013. Accordingly, corrigendum has been issued on 19-01-2013. As per the corrected list, name of the applicant has been deleted from the final select list for the year 2013 and it has been included in the common waiting list for the year 2012 and 2013 as VJ(A) Female candidate. Admittedly, the applicant had applied under the said category.

10. Learned Advocate for the applicant has submitted that initially, name of the applicant was figured in the final select list of the year 2013 as VJ(A) Female candidate. He has submitted that thereafter the respondents have made changes in the record with mala fide intention and issued corrigendum dated 19-01-2013 and deleted name of the applicant from the select list of the year 2012 and included it in the common waiting list for the year 2012 and 2013. He has submitted that the conduct of the members of the selection Committee is suspicious, and therefore, he prayed to cancel the new select list issued on the basis of corrigendum dated 19-01-2013. He has submitted that one

post is still vacant, and therefore, he prayed to accommodate the applicant on that post under VJ(A) Female category.

11. Learned P.O. has submitted that there is no illegality in the recruitment process conducted by the respondents. He has submitted that the recruitment process has been conducted in fair manner, transparently strictly on the merit, and therefore, contention of the applicant cannot be accepted. He has submitted that by corrigendum dated 19-01-2013, the mistakes occurred while preparing select list has been corrected on the basis of marks secured by the candidates. Therefore, no injustice has been caused to the applicant. Hence, he prayed to reject the O.A.

12. On perusing documents on record, it reveals that the selection Committee comprises of 6 members was constituted for recruitment of the Forest Guards under the Chairmanship of Chief Conservator of Forests (Territorial), Aurangabad. It has called the eligible candidates for oral interview. Oral interviews have been conducted by the members of the Committee. They have assessed performance of each of the candidate and awarded marks

to them accordingly. The chart of the marks awarded to each of the candidate by each Committee member of the Committee is produced on record, which at Exhibit-R-1 (page 91-122). Marks were given to each candidate on the basis of marks secured in 12th Standard and marks secured by each of the candidate in oral interview. Common merit list has been prepared, which is at Exhibit R-2 (page 123-129). Name of the applicant is at Sr. No.120. She has secured 52.13 marks. Yearwise selection list was prepared on 21-11-2012 for the year 2012 and 2013 by the Regional Selection Committee. Copies of which are at Page 130 and 134, respectively. In the final select list for the year 2013 name of the applicant had been shown at Sr. No.38 and she was shown as selected candidate from VJ(A) Female category. Not only this, but at the same time, the common waiting list for year 2012 and 2013 has been prepared which is at paper book page 138-141.

13. The Chief Conservator of Forest (Territorial) and the Chairman of the Regional Selection Committee by office dated 20-12-2012 constituted a Steering Committee headed by the Deputy Conservator of Forest, Nanded to

verify the final list prepared for the year 2012 and 2013 as well as the waiting list. Accordingly, the Steering Committee verified the final list of the candidates, their categories, percentage of marks obtained by them in the meeting held on 28-12-2013 and recommended some corrections in the select list and submitted its report alongwith minutes of the meeting to the Regional Selection Committee. Report and minutes of the meeting dated 28-12-2012 are at page 143-148. Report sent by the Steering Committee was placed before the Regional Selection Committee in a meeting dated 09-01-2013. Regional Selection Committee considered the recommendations of the Steering Committee and accordingly accepted the recommendations and corrected the select list for the year 2012 and 2013 and accordingly, issued corrigendum dated 19-01-2013 which is at page 149.

14. On going through the said documents, it reveals that one Anita Baban Jadhav who had secured 71.00% marks was shown as selected from Open General category in the select list of 2013. Her name ought to have figured as a

selected candidate from VJ(A) Female category for the year 2012 but mistakenly name of Baby Shankarrao Rathod who secured 58.65% marks was shown as selected candidate from the category of VJ(A) Female in the select list of the year 2012. Said mistake has been corrected and accordingly name of Anita has been removed from the select list of the year 2012 and included in the select list for the year 2013 in place of Baby Shankarrao Rathod. Resultantly, name of Baby Shankarrao Rathod has been shown as selected candidate for the year 2013 as VJ(A) Female candidate. Consequently, name of the applicant has been removed from the select for the year 2013 and included in the revised common waiting list for the year 2012 and 2013 from VJ (A) Female category as she secured 52.13% marks which are less than Baby Shankarrao Rathod who secured 58.65% marks. Said fact shows that there was no change in the marks allotted to each of the candidates including the applicant. Only meritorious candidates have been included in the select list of the year 2012 and 2013. So also mistake by which name of Anita Baban Jadhav been included in the select list of the year 2013 as Open General candidate has been corrected by the

corrigendum. Therefore, in our view, there is no illegality or irregularity in the recruitment process conducted by the respondents. Therefore, we do not find substance in the submissions advanced by the learned Advocate for the applicant that name of the applicant has been intentionally removed from the select list of the year 2013.

15. All the posts from the categories of VJ(A) Female category have been filled and no vacancy is available. Therefore, no question of accommodating the applicant in the vacant post arises. Respondents have rightly included her name in the common waiting list of the year 2012 and 2013. Therefore, request of the applicant to appoint her on the post of Forest Guard cannot be considered.

16. In view of the above discussion, there is no merit in the O.A. Resultantly, O.A. stands dismissed with no order as to costs.

(B. P. Patil)
Member (J)

(Rajiv Agarwal)
Vice-Chairman (A)

Place : Aurangabad
Date : 04-08-2017.