

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 359 OF 2024

DISTRICT :- CHHATRAPATI SAMBHAJI NAGAR

Shubham S/o Ganesh Patil,
Age 23 years, Occ. Education.
R/o Karajgaon, Post.Pimpalgaon,
Tal Bhokardan, Dist. Jalna.

...APPLICANT

V E R S U S

1. **The State of Maharashtra.**
Through its Principal Secretary.
Department of Forest,
Mantralaya, Mumbai - 400032.
2. **The Principal Chief Conservator of Forest,**
(HOFF), 3rd Floor. Van Bhavan, Ramgiri Road,
Civil Lines, Nagpur - 440001.
3. **The Chief Conservator of Forest,**
(Territorial), Chatrapati Sambhajnagar.
Van Bhavan, Osmanpura,
Opp. S.S.C. Board,
Station Road,
Chatrapati Sambhajnagar-431001.
4. **The Deputy Conservator of Forest (Territorial),**
Nanded, Near Mahatma Gandhi Statue,
Vazirabad, Nanded-431601.
5. **Jayshri Jagannath Agale,**
Age 23 years, Occ.Education,
To be Served Through
The Chief Conservator of Forest,
(Territorial), Chatrapati Sambhajnagar,
Van Bhavan, Osmanpura,
Opp. S.S.C. Board, Station Road,
Chatrapati Sambhajnagar - 431001.
6. **Gajanan Mukinda Padghan,**
Age 24 years, Occ.Education,
R/o Incha, Tal. & Dist. Hingoli.

..RESPONDENTS

APPEARANCE : Shri S.B. Solanke, learned counsel for the
applicant.

: Shri S.S. Dambe, learned Presenting Officer
for the respondent authorities.

**CORAM : HON'BLE JUSTICE V.K. JADHAV, VICE CHAIRMAN
AND
: HON'BLE VINAY KARGAONKAR, MEMBER (A)**

Reserved on : 25.02.2025

Pronounced on : 27.02.2025

ORDER

[Per : Shri Vinay Kargaonkar, Member (A)]

1. Heard Shri S.B. Solanke, learned counsel for the applicant and
Shri S.S. Dambe, learned Presenting Officer for the respondent
authorities.

2. Brief Facts:

This Original Application under Section 19 of the
Maharashtra Administrative Tribunals Act has been filed by the
applicant, Shubham S/o Ganesh Patil, seeking directions to the
respondent authorities to consider his claim for appointment to the
post of Forest Guard (Group-C) from the Orphan-EWS category. The
applicant has also challenged the appointments of respondent nos. 5
and 6 who were appointed from EWS and Orphan categories
respectively. The grievance of the applicant stems from the fact that
despite securing 138 marks in the selection process (comprising an

online examination and a running test), his name was not included in the select list, while respondent no. 6, who secured only 98 marks, was selected from the SC (Orphan-Institutional) category. The applicant contends that he was wrongfully disqualified, with the respondents claiming that his EWS certificate was not valid on the date of publication of the advertisement.

2. Pleadings and Arguments by the Applicant:

(i) The applicant submits that the respondent authorities published an advertisement on 08.06.2023 for filling up various posts in the Forest Department, including 73 posts of Forest Guard (Group-C). According to the advertisement, one post was reserved for the Orphan Institutional category. As per Clause 9.7 of the advertisement, candidates belonging to the EWS category were required to submit a valid EWS certificate at the time of verification of documents.

(ii) The applicant, who belongs to the Maratha caste and falls under the EWS category, applied for the post of Forest Guard (Group-C) from the Orphan Institutional (EWS) category. He possesses an Orphan Certificate issued by the Competent Authority on 27.06.2023 and submitted his online application within the stipulated time period (10.06.2023 to 30.06.2023).

(iii) Following his application, the applicant was called for a computer-based written examination held on 09.08.2023. He appeared for the examination and secured 88 out of 120 marks, with his name appearing at Sr. No. 1469 in the merit list published by the respondent authorities.

(iv) Subsequently, the applicant was called for document verification on 22.01.2024 at the New Administrative Building, Osmanpura, Chatrapati Sambhajinagar. After verification of his documents, he was deemed qualified for the Running Test. His name appeared as Chest No. 01469 in the list of male candidates qualified for the Running Test published by respondent no. 4.

(v) The applicant appeared for the Running Test on 06.02.2024 and secured 50 marks. On 11.03.2024, the respondent authorities published a list of ineligible candidates, in which the applicant's name was not included. On 13.03.2024, the final and consolidated merit list combining the online examination and Running Test results was published, with the applicant's name appearing at Sr. No. 211 with a total of 138 marks.

(vi) On the same day (13.03.2024), the respondent authorities published a list of selected candidates, which included respondent no. 5 who secured 152 marks and was selected from the EWS category, and respondent no. 6 who secured only 98 marks and was selected from the SC (Orphan-Institutional) category. The authorities also published a Waiting List that included one Ganesh Balu Kolhe in the wait list from Orphan-Institutional category (NT-Category) and one Baliram Vitthal Kharat from the Open Category.

(vii) Despite successfully passing both the Online Examination and Running Test with 138 marks, the applicant's name was not included in the select list, while a candidate with only 98 marks (respondent no. 6) was selected from the Orphan-Institutional Category. Moreover, the applicant was not called for the Walking Test scheduled on 15.03.2024.

(viii) In response, the applicant filed an application on 14.03.2024 to respondent no. 4, who is a Member Secretary of the Regional Selection Committee, Chatrapati Sambhajnagar. He submitted his EWS certificates dated 08.12.2022 and 20.01.2024, which certified his belonging to the EWS category during financial years 2022-2023 and 2023-2024. He also included relevant Government Resolutions concerning EWS reservation and reservation for Orphans. The applicant requested permission to participate in the physical test of walking for 25 km and consideration of his claim for the post of Forest Guard (Group-C).

(ix) The applicant contends that the respondent authorities had already verified his documents and found him qualified for the Running Test, and his name was included in the final merit list. Therefore, there was no justification for the respondents to claim at the final stage of the recruitment process that the applicant did not hold a valid EWS certificate. The applicant further argues that the advertisement did not specify any particular date for possessing the EWS certificate. Clause 9.7 merely required submission of the EWS certificate at the time of document verification, which the applicant duly complied with.

3. The applicant's grounds for challenging the respondents' action include:

1. The abrupt removal of the applicant from the recruitment process without assigning any reason is unjust, illegal, and against the law.
2. The advertisement did not contain any specific date for possession of the EWS certificate by candidates.

3. Clause 9.7 of the advertisement only required submission of EWS certificates at the time of document verification, which the applicant complied with.

4. Clause 8 of the advertisement outlined the selection process, stipulating that after the online examination (where candidates needed to secure at least 45% marks), document verification, physical checkup, and Running Test were to be conducted on the same day. However, this schedule was not adhered to by the authorities, with document verification taking place on 22.01.2024 and the Running Test on 06.02.2024. During document verification, the authorities accepted the applicant's EWS certificate for the financial year 2023-2024 as valid.

5. The applicant had successfully cleared all previous stages of the selection process (Online Examination, document verification, physical test, and Running Test) and was included in the merit list with 138 marks. Therefore, there was no justification for excluding him from the select list and the subsequent Walking Test.

6. Once the applicant was deemed eligible during document verification, the authorities should have adhered strictly to the selection procedure prescribed in Clause 8 of the advertisement.

7. The advertisement did not specify any date for securing relevant documents such as the EWS certificate, only requiring its production at the time of document verification. The applicant had produced his EWS certificate for the financial year 2023-2024 at the time of document verification in January 2024, which was accepted as valid, allowing him to participate in the Running Test.

8. The applicant possesses EWS certificates for both financial years 2022-2023 and 2023-2024, establishing his EWS status.

9. The applicant secured 138 marks while the candidate selected from the Orphan-Institutional Category (SC category) secured only 98 marks, demonstrating the injustice done to the applicant despite his higher marks.

10. The advertisement did not specify from which social reservation category the post reserved for the Orphan-Institutional Category would be filled. Given that the applicant secured the highest marks among candidates from the Orphan Category, he should have been included in the select list.

11. Respondent nos. 5 and 6 were selected for posts that the applicant is eligible for, with respondent no. 5 selected from the EWS category and respondent no. 6 selected for the Orphan-Institutional Category. If the Tribunal directs the respondents to appoint the applicant, he should be appointed to the post reserved for the Orphan-Institutional Category and placed in his original EWS category.

12. Since respondent nos. 5 and 6 are listed as selected candidates, the respondent authorities might issue appointment orders in their favor. Therefore, during the pendency of this application, the authorities should be restrained from issuing such orders, and if already issued, these should be quashed and set aside.

4. Pleadings and Arguments by the Respondents:

(i) The respondents, represented by Asha Eknath Chavan, Assistant Conservator of Forest, Chatrapati Sambhajinagar,

have filed an affidavit in reply on behalf of respondent nos. 1 to 4 based on information gathered from office records.

(ii) The respondents submit that as per the advertisement dated 08.06.2023, the applicant submitted an online application from the Orphan Institutional (EWS) Category. Along with his online application, the applicant submitted an EWS certificate dated 08.12.2022, valid for the year 2022-2023. According to Clause 9.12 of the advertisement, it was necessary to submit a certificate that was valid on the date of the advertisement. The respondents contend that it was mandatory for the applicant to submit an EWS Certificate for the year 2023-2024, but he failed to do so. Consequently, his name was not included in the Select List.

(iii) The respondents argue that this requirement was well within the applicant's knowledge, yet he did not comply by submitting an EWS Certificate valid at the time of the advertisement. In contrast, respondent nos. 5 and 6 submitted valid EWS Certificates as specified in the advertisement, which is why they were appointed from the EWS and Open Category, respectively.

(iv) The respondents further state that the applicant later submitted an EWS Certificate dated 20.01.2024 to the Selection Committee, which was also not in accordance with the advertisement. Subsequently, the applicant submitted applications dated 13.03.2024 and 14.03.2024 to the Complaint Redressal Committee. Upon reviewing these complaints, the duly constituted Complaint Redressal Committee consciously decided that since the applicant had not submitted a valid EWS Certificate prior to 30.06.2023, the EWS Certificate submitted with his online application did not

comply with Clause 9.12 of the Advertisement. Therefore, the applicant was not selected.

(v) Regarding the applicant's contentions about his participation in various stages of the selection process, the respondents maintain that as the applicant failed to submit the requisite EWS certificate with his online application form, he was not rightfully considered for selection. They assert that the applicant did not comply with Clause 9.12 of the advertisement and is therefore not entitled to any relief from the Tribunal. The respondents deny committing any illegality in holding the applicant ineligible and maintain that the selection of respondent nos. 5 and 6 is just and proper as they complied with all terms and conditions mentioned in the advertisement.

(vi) In conclusion, the respondents argue that there is no substance in the present original application, and the applicant is not entitled to any relief as prayed for. Therefore, they request that the application be dismissed with costs.

5. Analysis and Reasoning:

The primary issue before this Tribunal is whether the applicant, Shubham S/o Ganesh Patil, was wrongfully excluded from the selection process for the post of Forest Guard (Group-C) despite qualifying in various stages of selection and securing higher marks compared to other selected candidates.

1. Validity of EWS Certificate

The respondents have primarily based their rejection of the applicant on the ground that he failed to submit a valid EWS certificate for the year 2023-2024 at the time of submitting his online application. According to the respondents, Clause 9.12 of the advertisement required

candidates to submit certificates valid on the date of advertisement.

However, a careful reading of the advertisement and related clauses reveals the following:

(a) Clause 9.7 of the advertisement specifically states that candidates belonging to the EWS category were required to submit their valid EWS certificate "at the time of verification of documents," not at the time of application.

(b) The applicant did submit his EWS certificate for the financial year 2023-2024 during the document verification process held on 22.01.2024, which is evident from the fact that he was allowed to proceed to subsequent stages of selection.

(c) The respondents' belated rejection of the applicant after allowing him to participate in multiple stages of the selection process raises serious procedural concerns. The applicant had already been deemed eligible during document verification and had successfully cleared the Running Test.

2. Application Under Orphan Institutional Category:-

A crucial aspect that requires careful consideration is the applicant's status as an orphan candidate. The advertisement clearly reserved one post for the Orphan Institutional category, without specifying the social reservation category from which this post would be filled.

It is important to note that:

(a) The applicant possesses a valid Orphan Certificate issued by the Competent Authority on 27.06.2023.

(b) The applicant secured 138 marks in the selection process, significantly higher than the 98 marks obtained by

respondent no. 6, who was selected from the SC (Orphan-Institutional) category.

(c) There is no social reservation within the Orphan category as per the advertisement. The Orphan category stands as a horizontal reservation that cuts across vertical categories.

Even if the applicant's EWS certificate was deemed invalid (which this Tribunal does not concede), his candidature should have been considered under the Open-Orphan category based on merit. The applicant secured the highest marks among candidates from the Orphan Institutional category, and therefore, should have been given preference in selection.

3. Procedural Fairness and Merit-Based Selection:

This Tribunal is guided by the principle that recruitment processes must uphold the values of fairness, transparency, and merit. The applicant was allowed to participate in various stages of the selection process, including document verification, physical check-up, and Running Test. His name was included in the final merit list at Sr. No. 211 with a total of 138 marks. The sudden rejection of his candidature at the final stage, without proper communication or reasoning, undermines the principles of natural justice.

4. Judicial Precedents:

The High Court of Delhi, in Chand Suraj Vs Union Of India, has unequivocally stated that "Since the petitioner obtained the minimum marks, the petitioner should have been considered for State-II under the General Category as the

rejection of the petitioner is not based on his merit but only on account of document verification."

This principle is directly applicable to the present case. The applicant's rejection was not based on his merit but solely on technical grounds related to document verification, specifically the EWS certificate. When a candidate has demonstrated merit by securing qualifying marks in all stages of selection, their candidature should not be rejected on mere technical grounds, especially when they possess the requisite qualifications in substance.

5. Contradictions in Respondents' Stand:

There are several contradictions in the respondents' stand:

(a) The respondents initially accepted the applicant's documents during verification on 22.01.2024 and permitted him to appear for the Running Test.

(b) The applicant's name was not included in the list of ineligible candidates published on 11.03.2024.

(c) The applicant's name appeared in the final merit list published on 13.03.2024, indicating that he had successfully cleared all stages of selection up to that point.

These contradictions suggest that the respondents' decision to exclude the applicant from the final selection was arbitrary and not in consonance with the principles of fair and transparent recruitment.

Based on the above analysis, this Tribunal finds that:

1. The applicant, Shubham S/o Ganesh Patil, was wrongfully excluded from the selection process despite

qualifying in merit and meeting the essential criteria for the post.

2. The rejection of the applicant's candidature at the final stage of selection, after allowing him to participate in all previous stages, was procedurally improper and violative of the principles of natural justice.

3. As a qualified orphan-institutional candidate with the highest marks (138) in that category, the applicant should have been considered for selection under the Orphan Institutional category, regardless of the validity of his EWS certificate.

4. The selection of respondent no. 6, who secured only 98 marks, over the applicant who secured 138 marks, contradicts the merit-based selection principle that should govern public recruitment processes.

6. In light of the foregoing, we pass following order:

1. The original application is allowed.
2. The respondent authorities are directed to consider the candidature of the applicant, Shubham S/o Ganesh Patil, for appointment to the post of Forest Guard (Group-C) under the Orphan Institutional category based on his merit.
3. The respondent authorities shall allow the applicant to participate in the walking test for 25 kilometers, which is a mandatory part of the selection process within a period of four weeks from the date of this order.
4. If the applicant successfully qualifies in the walking test, the respondent authorities shall issue an appointment order to the applicant under the Orphan Institutional category within a period of Eight weeks from the date of declaration of the walking test result.
5. In the event that the applicant successfully qualifies in the walking test and is appointed, he shall be entitled to all

consequential benefits, including seniority except salary, from the date when the similarly situated candidates were appointed.

6. No order as to costs.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 27.02.2025

O.A.NO. 359-2024-DB-HDD-selection processs