

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.312/2018 (S.B.)**

Shri. Shobharam S/o Govinda Sawalakhe,
Age 65 years, Occu. Retired,
R/o Sahakar Nagar,
Pandharabodi Road, Bhandara.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Forest,
Mantralaya, Mumbai.
- 2) Chief Conservator of Forest (Territorial),
Nagpur. Near Government press,
Zero Miles, Civil Lines, Nagpur.
- 3) Dy. Conservator of Forest,
Department of Forest,
Bhandara, Tah. and Dist. Bhandara.
- 4) The Range Forest Officer,
Department of Forest, Bhandara,
Tah. and Dist. Bhandara.

Respondents

Shri S.N.Gaikwad, Ld. Counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 29th November, 2024.

JUDGMENT

Judgment is reserved on 12th November, 2024.

Judgment is pronounced on 29th November, 2024.

Heard Shri S.N.Gaikwad, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the respondents.

2. The applicant was appointed as Forest Guard on 20.06.1974. First time bound promotion was given to him w.e.f. 01.10.1994. He was promoted as Forester on 01.04.2004. He retired on superannuation on 31.10.2010. He then made a representation for grant of second time bound promotion to him. It was rejected. To reconsider his claim for second time bound promotion his case was placed before the Committee on 29.12.2012. By order dated 12.03.2013 the Committee withdrew the order of granting first time bound promotion w.e.f. 01.10.1994 on the ground that he had not completed requisite training on that day. Said benefit was made applicable by the Committee w.e.f. 31.12.2002. Second time bound promotion was refused on the ground that he had retired before completing 12 years from the (revised) date of first time bound promotion. By order dated 15.07.2013 his pay was re-fixed. In Complaint (ULP) No.126/2013 filed by the applicant Industrial Court, Bhandara quashed and set aside orders dated 12.03.2013 and 15.07.2013 and directed the respondents to give

him an opportunity of hearing and consider his case afresh. By the impugned orders dated 06.02.2018 pay of the applicant was re-fixed and excess payment made during the period from 01.10.1994 to 31.10.2010 quantified at Rs.01,64,295/- was directed to be recovered. Hence, this O.A. for following reliefs-

1. *Quash and set aside the orders dated 06.02.18 passed by the respondent no.3.*
2. *direct the respondents to consider the case of the petitioner as per the directions issued by the Hon'ble Industrial Court vide order dated 15/07/16.*

3. In his reply respondent no.3 has reiterated that on 01.10.1994 the applicant was not fulfilling the criterion of having undergone the training, therefore, by correcting the error the date of first time bound promotion was postponed to 31.12.2002.

4. One of the grievances raised by the applicant is that on attaining the age of 45 years he became entitled to get exemption from passing the examination and from this date first time bound promotion ought to have been given to him and since he served for more than 12 years thereafter, before his retirement on superannuation, he was also entitled to get second time bound promotion. There is merit in this contention. So far as recovery was concerned, the Industrial Court referred to the Judgment of Hon'ble Supreme Court in the case of **State**

Of Punjab & Ors vs. Rafiq Masih (White Washer) and observed that case of the applicant was covered by Clauses (ii) and (iii) of said Judgment. While passing the impugned orders this aspect also does not appear to have been taken into account. For all these reasons the impugned orders dated 06.02.2018 are quashed and set aside. The respondents are directed to reconsider case of the applicant for grant of first and second time bound promotions afresh in the light of observations made in this para, and pass necessary orders. This exercise shall be completed within three months from today and the decision shall be communicated to the applicant forthwith. The O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 29/11/2024
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 29/11/2024.

and pronounced on

Uploaded on : 29/11/2024.