

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.695/2024
WITH CIVIL APPLICATION No.27/2025

- 1) Caste Castribe Vanvibhag Karmachari Sanghatana,
Maharashtra through its circle working President
Shri Umesh Pandurangji Bawane.
(Registration No. NGP-2784).
- 2) Abdul Sageer Gulam Rasul Qureshi,
age 54 years R/o Occu: service,
R/o near Ahamed Floor Mill, Nayanakasha
Lashkaribaug, Dr. Ambedkar road, Nagpur 440017.
- 3) Sanjay Baburao Khadode
aged 54 years occu: service
R/o House No. 223k, Coffee house, Gali no. 2,
Gokulpeth, Nagpur 440010.
- 4) Anil Gaurishankar Khadotkar,
aged about 51, years occu: service
R/o Plot No. 42, Shrihari nagar Manewada Ring road,
Nagpur.
- 5) Umesh Pandurangji Bawane,
aged no. 51 years, occu: service,
R/o plot no. 58 Ramana Maruti Road near Sai kirana store,
Pavansut nagar, Ayodhya Nagar, Nagpur 440024.
- 6) Ravindra Ramprasad Shukla,
aged about 46 years, Plot No. 33, Sarvashri Nagar,
Dadajidhuniwale Mandir, Khobragade Layout,
Dighori, Nagpur, 440009.
- 7) Aniruddha Haibatrao Khadase
aged about 53 years, occu: service,
R/o Neelkamal Apartment House no. 312,
Wanadongri, Higna. Nagpur 441110.

- 8) Dhirajkumar Ratiram Pawar,
aged about 51 years, Occu: service,
Chargaon Road, 39 Sitajwadi post. KK Nagar,
Th. Ramtek, dist. Nagpur 441106.
- 9) Parag Rambhau Madke,
aged about 51 year, occu: service,
R/o Plot no. 61, Koradi road, Vaibhavanad GNS Sanstha,
Mankapur, Nagpur 440030.
- 10) Anil Harishchandra Rathod,
aged about 54 years, occu: service
R/o Shende Nagar, no. 11/7 Indora vanwasahat,
Behind PWS college, Uppalwadi, SO Nagpur 440026.
- 11) Deepak Purrushottam Kadu,
aged about 43 years, occu: service,
R/o Plot no. 155 Ulasnagar Manewad, Nagpur, 440027.
- 12) Atul Manohar Dhoke,
aged about 43 years, occu: service,
Ranaprataap Nagar near first bus stop,
Nagpur 440022.
- 13) Devidas Amarut Jadhao,
aged about 42 years, occu: service,
R/o gat no. 200/2/1/2 plot no. 25,
Anand Mitra Colony Jalgaon, 425001.
- 14) Nishikant Laxman Wagh,
Aged about 56,Occu. Service,
r/o plot no. 20 Suryakiran Housing Society,
Manewada Besa Road Kosare Lay out,
Nagpur 440034.
- 15) Rajendra Vishnupant Ganjre,
Aged about 56 years. Occu. Service,
R/o Main road, Pundlik Baba Nagar,
VMV Amravati. 444604.

16) Sandeep Prabhakar Mandalik,
Aged about 46 years, Occu. Service,
R/o Plot no. 73 Sadashiv Nagar near Swami Narayan Mandir,
Dhule, 420001.

...APPLICANTS.

// V E R S U S //

1) The State of Maharashtra,
through its Secretary, Revenue and Forest Department,
Mantralaya, Mumbai-32.

2) The Principal Chief Conservator of Forest,
Nagpur, having office at: 'Van Bhawan', Civil Lines,
Nagpur.

...RESPONDENTS

Shri Abhay Sambre, Ld. Counsel for the Applicants.

Shri S.A. Deo, ld. C.P.O. for the Respondents.

**Coram :- Hon'ble Shri Justice Vinay Joshi,
Member (J) and
Hon'ble Shri Nitin Gadre,
Member (A).**

Dated :- 13/06/2025.

ORAL JUDGMENT Per : Justice Vinay Josh : Member (J).

Heard finally with the consent of both learned counsel.

2. The applicants were appointed on the post of Forest Guard from the year 1990 onwards. They have raised challenge to the communication dated 02/07/2024 issued by office of

respondent no.2, the Principal Chief Conservator of Forests, Nagpur whereby the applicants' urge for change of seniority has been declined.

3. The common grievance raised by applicants is that the Forest Guards who have been promoted by virtue of amended rule 7 (1) of the Notification dated 22/10/2013 have been placed above the applicants in the seniority list. The said rule contemplates that the Forest Guards possessing degree of statutory University were only permitted to appear for "Limited Departmental Competitive Examination (in short "LDCE")" which was later held to be unconstitutional by the Hon'ble Supreme Court. On that basis, the applicants have staked a claim of seniority contending that though the Hon'ble Supreme Court has protected the promotion of those Forests Guards to the post of Forester, however, due to striking of the condition of educational qualification they cannot be placed above the applicants and therefore the challenge is to the impugned communication by which the applicants' representation seeking seniority above the graduate promotees, has been rejected.

4. The State resisted the O.A. by filing reply-affidavit dated 03/02/2025. It is not denied that the Hon'ble Supreme Court has struck down the eligibility condition to appear for LDCE

examination based on educational qualification, i.e., degree of the University. However, the Hon'ble Supreme Court has protected the promotions which were already made on the basis of the then existing rule 7 (2) of the year 2013. According to State, since the promotion of degree holder was protected by the Hon'ble Supreme Court the said matter cannot be re-opened by allowing change in seniority. It is contended that degree holders have already been promoted in the year 2014 and joined the promotional post. In such circumstances, their seniority cannot be tinkered by accepting the applicants' urge. Lastly, it is contended that after lapse of 7 years, the issue of seniority has been raised which is not tenable. Moreover, allowing the applicants' representation would amount to reviewing the decision of the Hon'ble Supreme Court which is impermissible.

5. The applicants are appointed on the post of Forest Guard from the year 1990 onwards. The Government of Maharashtra has published the Rules for appointment of the posts of Forester, Forest Guard, etc. in the year 1987 in terms of Rule 3 (1) of the Recruitment Rules of the year 1987, the appointment to the posts of Forester shall be made by promotion from suitable Forest Guards on the basis of seniority subject to fitness. One another channel by way of nomination was opened subject to

passing of Higher Secondary School Certificate Examination with a defined proportion from two channels. Those rules were amended in the year 2011 and later again amended on 22/10/2013. Rule 7 of the year 2013 pertains to appointment to the posts of Forester. It has also provided two channels, i.e., firstly by promotion from Forest Guards on the basis of seniority and secondly by selection of suitable candidates who have passed LDCE examination. However, by way of amendment additional restriction of graduation for participating in the LDCE examination was introduced. The said criteria based on educational qualification making Forest Guard eligible to appear for LDCE examination was challenged by the aggrieved. Though, the challenge was initially turned down by the Tribunal as well as Hon'ble High Court, however, the Hon'ble Supreme Court in Civil Appeal No.17974/2017 in the case of ***the Maharashtra Forest Guards & Foresters Union Vs. the State of Maharashtra & Ors.***, decided on 03/11/2017 has held that Rule 7 (2) of the Recruitment Rules to the extent of imposing the requirement of being a graduate is declared unconstitutional.

6. In above background, it is applicants' contention that several employees, rather graduate employees after clearing LDCE examination have been promoted to the post of Forester.

According to applicants, since the said rigour about holding graduation was struck down by the Hon'ble Supreme Court, the applicants who have joined the post of Forest Guard much earlier shall be placed above them in the seniority list. It is argued that though the Hon'ble Supreme Court has protected the promotions of graduate Forest Guards, however, it has not accorded seniority and therefore the applicants shall be placed above those selectees.

7. We have given thoughtful consideration to the controversy involved. Though the Hon'ble Supreme Court has struck down the condition introduced in rule 7 (2) of the rules, 2013 of possessing a graduation for participating in LDCE, however, the Hon'ble Supreme Court has protected the promotions already granted on the basis of newly introduced rule 7 (2) of the rules, 2013. The relevant para-18 of the decision reads as below –

“18. Rule 7(2) of the Recruitment Rules to the extent that it imposes the requirement of being a graduate is declared unconstitutional. However this judgment shall not affect the promotions already made. But for further promotions, the LDCE shall be held afresh granting opportunity to all eligible Forest Guards.”

8. It is not in dispute that the applicants have joined much earlier on the post of Forest Guard than the graduate Forest Guards who cleared LDCE examination and promoted in the year

2014. The short issue is whether the decision of the Hon'ble Supreme Court shall be construed as protecting the promotions already granted without giving seniority as claimed or the protection is to the promotion in all respects. The Hon'ble Supreme Court in crystal clear words has ruled that the promotions which are already made shall not be affected by setting aside the condition of graduation. It means that, the promotions which were already granted have been fully protected. We do not understand the concept of promotion without seniority as has been claimed by the applicants. If we read the Judgment in tune with the applicants' contention, then it would amount to tinkering with the Judgment of Hon'ble Supreme Court. If the Hon'ble Supreme Court intended to protect the promotion without seniority, then it would have been done so. By any stretch of imagination, we cannot put different colour to the clear protection granted by the Hon'ble Supreme Court to the graduate promotees. Moreover, already those persons have been promoted in the year 2014 and till date, neither the issue of seniority was raised nor clarification was sought from the Hon'ble Supreme Court. In the circumstances, it is not possible to accept the applicants' contention that they should be placed above in the seniority list

than the graduate promotees. In conclusion, the application carries no merit. Hence, dismissed. The C.A. is also disposed of.

(Nitin Gadre)
Member (A).

(Justice Vinay Joshi)
Member (J).

Dated :- 13/06/2025.

*dnk.

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

Name of P.A. : D.N. Kadam.
Court Name : Court of Hon'ble Member (A)
& Member (J).
Judgment signed on : 13/06/2025.