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IN THE COURT OF MAHARASHTRA ADMINISTRATIVE
TRIBUNAL, MUMBAI, NAGPUR BENCH NAGPUR

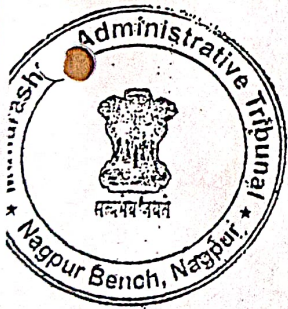
ORIGINAL APPLICATION No.570/2025

APPLICANT : Sanjay Viththalrao Parekar
& others.

-versus-

RESPONDENTS: The State of Maharashtra
& others.

AFFIDAVIT - IN - REPLY ON BEHALF OF
RESPONDENT Nos.1 & 2



The Respondent Nos.1 & 2, herein above, most
humbly submits as under :-

1] At the outset it is submitted that, the instant
Original Application filed by the applicants is without
any merits and therefore the same deserves to be dismissed

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dismissed. The instant Original Application filed by the applicants is on the basis of wrong presumptions of the applicants which does not stand to the scrutiny of law and therefore the same cannot be entertained and deserves to be dismissed.

2] The applicants by the instant Original Application have prayed for directions against the respondents to consider their candidature for promotion to the post of Forest Ranger, Group- B by treating their selection as Foresters through LDCE as recruitment and not by promotion. The applicants have further prayed for granting their seniority from the date of joining as Foresters. The applicants further prayed to restrain the respondents from proceeding with the DPC without considering the applicants claim for promotion.

3] By way of an interim relief the applicants have prayed for a direction against the answering respondents to decide their representations dated 10.05.2025 and 06.06.2025 and a further direction not to proceed for promotion of the post of Ranger.

4] From the following reply it would be revealed that none of the aforesaid prayers made by the applicants deserves to be granted. In fact it seems that either the

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✓ applicants does not have the proper and full knowledge of the facts or it seems that they have not appraised their Counsel properly.

5] At the outset it submitted that, the answering respondents are filing instant reply just to oppose the admission and interim relief as claimed by the applicants. The answering respondents reserves their rights to file a fuller and detailed reply at a later stage if found necessary. All the adverse allegations made by the applicants against the answering respondents are hereby specifically and categorically denied. None of the allegations which are not specifically traversed may not be deemed to have been admitted.

6] It is submitted that, the issue involved in the instant Original Application is about granting promotion from the post of Forester to Range Forest Officer by counting their seniority from the date of joining as Forester. It is submitted that, the applicants joined on the post of Foresters after passing the Limited Departmental Competitive Examination (herein after referred to as LDCE for the purpose of brevity) as provided in the Recruitment Rules, 2013 which has been treated as accelerated promotion and this view has already been taken and confirmed by the Division Bench of this Hon'ble Tribunal while deciding the Original ✓



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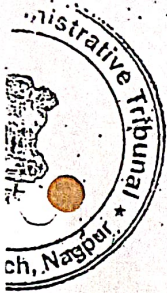
Application Nos.1064 and 1306 of 2022 vide order dated 17.07.2023. The reference of the aforesaid judgment is also made by the Principal Bench of this Hon'ble Tribunal in Para No.23 of the recent judgment passed by the Principal Bench in Original Application Nos.834 and 885 of 2025 with M.A. Nos.454 and 464 with 244, 415, 443 of 2025 on 22.09.2025. A copy of the judgment passed by this Hon'ble Tribunal in Original Application Nos.1064 and 1306 of 2022 is annexed herewith and marked as Annexure R-1.

7] A bare perusal of the aforesaid judgment would reveal that it has been specifically held by the Principal Bench of this Hon'ble Tribunal that, the joining as 'Forester' through LDCE is treated an accelerated promotion. As such the said issue has already been dealt with and decided by this Hon'ble Tribunal in 2023 itself. It is submitted that, the said Judgment still holds the field and has not been modified or set aside by the Hon'ble High Court. In that view of the matter the first prayer/relief sought by the applicants have become infructuos as the same cannot be considered by this Hon'ble Tribunal again in view of the judgment dated 17.07.2023.

8] As it is submitted that, the issue in respect of whether the joining on the post of Forester through

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✓ LDCE is to be treated as recruitment or promotion is already been decided by the Principal Bench of this Hon'ble Tribunal by holding that, it is an accelerated promotion and not the recruitment. In that view of the matter, the first prayer made by the applicants goes.



9] Entertaining the first prayer of the applicants and holding that it's a recruitment would amount to review of the judgment dated 17.07.2023 passed by the Principal Bench of this Hon'ble Tribunal and therefore the same is not permissible.

10] It is respectfully submitted that, the present applicants were selected through LDCE on the post of Foresters. The applicants were selected by resorting to reservation in the matter of promotion. As at that point of time the policy of reservation in promotion was in existence.

11] It is respectfully submitted that, the State of Maharashtra issued Government Resolution dated 25.05.2004 thereby providing reservation in the matter of promotion. However, it was struck down by the judgment dated 04.08.2017 passed by the Hon'ble Bombay High Court in Writ Petition No.2797/2015 in the matter of Vijay Ghogare & others -vs- State of 1

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✓ Maharashtra holding it to be contrary to the law laid down in M. Nagraj and others -vs- Union of India and others, with consequent directions to the State Government to take necessary corrective steps/measures in respect of promotions which were already granted, within 12 weeks.

12] It is respectfully submitted that, although the said judgment dated 04.08.2017 was challenged before the Hon'ble Apex Court in S.L.P. No.28306/2017. However, since there is no stay granted by the Hon'ble Apex Court, the judgment dated 04.08.2017 still force in the field.

13] As it is already stated that, the judgment dated 04.08.2017 is not stayed by the Hon'ble Apex Court the State Government proceeded to undertake with process of further promotion considering the seniority of such employees who has derived the benefit of reservation under Government Resolution dated 25.05.2004 by issuing the Government Resolution dated 07.05.2021.

14] A perusal of the Government Resolution dated 07.05.2021 would reveal that, the candidates are eligible for further promotion by considering their seniority prior to 25.05.2004 and the candidates who have joined the ✓

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✓ services after 25.05.2004 their seniority needs to be considered from the date of their appointment.

15] It is further submitted that, the Forest Department of State of Maharashtra published the Recruitment Rules, 2013 vide notification dated 22.10.2013 which is called as "Range Surveyor, Group-B, (Non-Gazetted), Chief Accountant, Accountant, Surveyor, Forester, Clerk-Cum-Typist and Forest Guard, Group-C" wherein it has been clearly mentioned that, the appointment of Foresters shall be made by selection of a suitable candidate from amongst the persons holding the post of Forest Guard, on the basis of result of the "Limited Departmental Competitive Examination" conducted by the Conservator of Forests (Education and Training), Pune. A copy of the said Recruitment Rules dated 22.10.2013 are annexed herewith and marked as Annexure R-2.

16] The present applicants were given promotion on the post of Foresters as they were selected through LDCE, but their names have been inducted in the list by giving benefit of reservation, as at that point of time the policy of reservation in promotion was in existence. However, as on today the legal position is that, the State Government cannot provide any reservation in promotion as the Hon'ble High Court has declared the Government ✓



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✓ Resolution dated 25.05.2004 as ultra virus to the constitution. Therefore, initially the General Administration Department of the State Government had communicated to all the departments vide communication dated 29.12.2017 to fill in the promotional posts from Open Category for the time being subject to the decision of the SLP pending before the Hon'ble Apex Court. However, latter on the Government has issued a Government Resolution dated 07.05.2021 to fill-in all promotional posts on the basis of seniority including the posts which are kept vacant for reserved category.

17] It is submitted that, the Government Resolution dated 07.05.2021 is still in force and holds the field and instructions issued vide the said Government Resolution that promotions granted to any of the employee who have secured higher position in the seniority list by giving benefit of reservation vide Government Resolution dated 25.05.2004 be kept in abeyance and next promotion should be granted only on the basis of seniority as on 25.05.2004.

18] As it has been held by the Principal Bench of this Hon'ble Tribunal that, LDCE is an accelerated promotion the same provisions are applicable to the applicants also. Hence, while conducting the DPC it was decided not to hold eligible the names of those Foresters ✓



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✓ who have secured higher position in the seniority list by giving benefits of reservation who were selected through LDCE.

19] It is submitted that, the DPC has communicated its decision to the General Administration Department of the Government for approving the select list.

20] It is submitted that, the Government, Revenue and Forest Department vide letter dated 29.07.2025 approved the select list of 142 candidates. A copy of which is annexed herewith and marked as Annexure R-3.

21] It would not be out of place to mention here that, recently on 25.09.2025 the Principal Bench of this Hon'ble Tribunal has dealt with and decided the same issue in Original Application Nos.834, 843, 885 of 2025 wherein the Principal Bench has observed and quoted as under :-

"It is apparent that such of the employees who were selected through L.C.E. and have derived the benefit of reservation could not have, but have been sought to be conferred with seniority from the date of their appointments by way of selection through L.C.E. which has to be regarded as illegal." ✓



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A copy of order dated 25.09.2025 in Original Application Nos. 834, 843, 885 of 2025 is annexed herewith and marked as Annexure R-4.

22| It is submitted that, while deciding the aforesaid Original Application Nos.834, 843, 885 of 2025, the Principal Bench of this Hon'ble Tribunal has directed the State Government to complete the process of granting promotion within four weeks and shall desist from taking any steps contrary to the decision in the matter of Vijay Ghogare till the SLP is pending before the Hon'ble Apex Court.

23| It is respectfully submitted that, the provision for granting reservation in promotion as per Government Resolution dated 25.05.2004 was applicable till the judgment passed by the Hon'ble High Court on 04.08.2017. As the LDCE was treated as accelerated mode of promotion, reservation as per Government Resolution dated 25.05.2004 was made applicable to LDCE quota also. As the Circle Incharge i.e. the Chief Conservator of Forest are the appointing authority for the posts of Forester, select list on the basis of LDCE was prepared Circle-wise in 2014. As such the present applicants have been selected to the post of Foresters through LDCE by granting them the benefit of reservation. The details of which are as under-



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Sr.	Name of the applicant	Circle	Selection Category	Marks Obtained in LDCE by Applicant	Marks of Last Candidate Selected in Open Category in the respective Circle
1	Sanjay Vitthalrao Parekar	Nagpur	SC	124	133.0
2	Sachin Rahul Taksande	Nagpur	SC	128	133.0
3	Jivan Sainath Pawar	Nagpur	VJ-A	120	133.0
4	Gunwant Mahadeo Gaikwad	Nagpur	SC	125.5	133.0
5	Jagdish Bholanath Chaware	Nagpur	SC	130.5	133.0
6	Satish Shriramji Ingale	Amravati	SC	107.0	129.0
7	Manojkumar Randas Agre	Amravati	SC	127.5	129.0
8	Pradip Kailasrao Bawane	Amravati	NT-B	91.5	129.0
9	Smita Vijay Wahane (Meshram)	Amravati	SC	93.5	129.0
10	Rahul Gulabrao Chavhan	Amravati	VJ-A	90.0	129.0

Select lists for Nagpur and Amravati Circles are

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✓ annexed herewith and marked as Annexure R-5 and R-6 respectively.

24] A bare perusal of which would reveal that, the candidates who were selected in reserved category through LDCE and who have secured equal marks or more marks than the cut off marks of the Open Category, in such cases the DPC recommended to consider the candidates having equal or more marks than the cut off marks of Open Category candidates for further promotion.

25] The applicants in the instant Original Application have filed C.A. No.524/2025 by which the applicants are seeking amendment based on the fact that, some of candidates who were selected as Foresters through LDCE against reserved category seats have been considered for promotion to the post of Range Forest Officer by taking into account their seniority from the date of joining on the post of Foresters. In this regard, it submitted that, the reserved category candidates (as mentioned by the applicants in Civil Application No.524 of 2025) have secured more marks in LDCE than the candidates selected from Open Category, therefore, they were eligible for further promotion by DPC. The details of those candidates are as under. ✓

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Sr.	Res. No.	Name of the Respondent	Circle	Selection Category	Marks Obtained in LDCE by Applicant	Marks of Last Candidate Selected in Open Category in the respective Circle
1	8	Devashri Nandkishor Nawale	Amravati	NT-C	132.5	129.0
2	11	Gajanan Narayan Singankar	Yavatmal	SC	145.0	120
3	13	Prabhakar Kawaduji Itkelwar	Gadchiroli	Open	149.5	132.0
4	14	Vijay Partuji Ramteke	Chandrapur	SC	145.0	130.0
5	15	Manoj Wasudev Ramteke	Nagpur	SC	151.5	133.0
6	16	Dharmendra Adkuji Raut	Chandrapur	SC	132.5	130.0
7	17	Kanchan Madhav Sarode	Nagpur	SC	144	133.0
8	18	Raju Dhanu Walthare	Nagpur	NT-B	135	133.0
9	20	Satish Devidas Gadlinge	Nagpur	SC	137.5	133.0

Select list of Yavatmal, Gadchiroli and Chandrapur Circles are annexed herewith and marked as Annexure R-7 to R-9 respectively.

26] A bare perusal of the aforesaid chart, it reveals that, even though the above candidates were

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✓ selected in reserved category through LDCE, but they have not secured higher position in the select list by availing the benefits of reservation, their names are included on the basis of merit. As such they cannot be disqualified for further promotion as per Government Resolution dated 07.05.2021 and therefore they have already held eligible for promotion to the post of Range Forest Officer by the answering respondents.

27] So far as the query put forth by this Hon'ble Tribunal during the hearing on 15.10.2025 in respect of difference between Government Resolution dated 07.05.2021 and 29.07.2025 is concerned, it is submitted as follows-

(i) Government Resolution dated 07.05.2021 is applicable to all kind of promotions, however, the Government Resolution dated 29.07.2025 is applicable to LDCE selected candidates only.

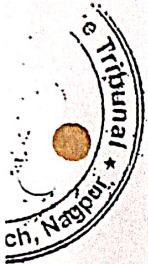
(ii) Government Resolution dated 07.05.2021 states that, the person who has secured higher position in the seniority list by availing the benefits of reservation, shall be eligible for further promotion only as per the seniority list as on 25.05.2004. However, Government Resolution dated 29.07.2025 states that, person selected through LDCE shall be held eligible for further promotion from the date of appointment. ✓



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✓ There is no direction in the Government Resolution dated 29.07.2025 in relation to the candidates who have been selected through LDCE by availing the benefits of reservation in promotion. It is specifically brought to the notice of this Hon'ble Tribunal that, the Government Resolution dated 29.07.2025 is already quashed and set aside by the Principal Bench of this Hon'ble Tribunal by Judgment dated 20.09.2025. However, the Government Resolution dated 07.05.2021 still holds the field. Both the Government Resolutions dated 07.05.2021 and 23.09.2025 are annexed herewith and marked as Annexure R-10 and R-11 respectively.

28] From the aforesaid state of affairs it is crystal clear that, as per the directions of Principal Bench, the decision taken by the Departmental Promotion Committee in its meeting dated 25.06.2025 and the select list approved by the Government vide letter dated 29.07.2025 is proper and legal. As such by no stretch of imagination it can be said that there is any illegality committed by the answering respondents in not considering the candidature of the applicants for further promotion to the post of Range Forest Officer. In that view of the matter the instant Original Application filed by the applicants is devoid of merits and therefore deserves to be dismissed. ✓



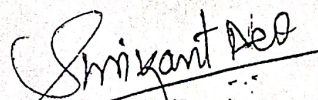
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29] It would be further pertinent to note here that, as it is already stated that, there is dearth of employees on the post of Range Forest Officers and substantial number of posts are vacant therefore, the Hon'ble Tribunal on the last date was pleased to modify the order of status-quo by granting permission to the respondents to go ahead with the promotions keeping the posts equal to the number of applicants vacant. Now, in the aforesaid factual position when it is made clear that, there is no illegality committed by the answering respondents, therefore, the said interim order of keeping the posts equal to the number of applicants vacant may also be vacated and the respondents be permitted to complete the process of promotion on the post of Range Forest Officers by filling up all the posts. In that view of the matter the instant Original Application filed by the applicant deserves to be dismissed and be dismissed accordingly. ✓

Nagpur.

Dated : 29.10.2025

Drafted by,


(Shrikant A. Deo)
Chief Presenting Officer,
Maharashtra Admn. Tribunal, Nagpur.


Administrative Officer
Principal Chief Conservator of Forests
Maharashtra State, Nagpur

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SOLEMN AFFIRMATION

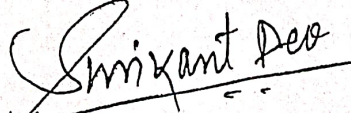
I, Prashant Ramesh Gundalwar aged about 33 years, occupation Adminstrator of forest, D-13, PCCF (HOF) MS Nagpur, do hereby take oath and on solemn affirmation that, the paras 01 to 29 of the above written submissions have been drafted by my counsel as per instruction given by me and same is read over to me in vernacular and found true and correct to the best of my knowledge and belief hence I signed at Nagpur on dated 07th November, 2025.

Nagpur.

Dated : 7th November
07th November, 2025


Administrative Officer
Forest Department
Nagpur
DEPONENT

I KNOW AND IDENTIFY THE DEPONENT


(Advocate)

1803/2025
solemnly affirmed before me by Prashant Ramesh Gundalwar aka - subjects
who is identified before me by Adv - Shrikant Deo occ - service
where, I presently am Adv - Shrikant Deo P/O - Nagpur
This 07th day of November 2025 Dist - Nagpur
Maharashtra Administrative Tribunal
Nagpur


Deputy Registrar/Assistant Registrar
Maharashtra Administrative Tribunal
Nagpur