



मुख्य वनसंरक्षक (प्रादेशिक) अमरावती वनवृत्त, कॅम्प अमरावती-४४४ ६०२

कार्यालयीन दूरध्वनी २६६२०९०/२६६२५९३, २६६२६८० (वैयक्तिक), फॅक्स- २६६३३१४

वनसंपर्क दूरध्वनी (निःशुल्क) १५५३१४ (फक्त लैंड लाईन वरून संपर्कासाठी)

वेब साईट - ccftamt.gov.in ई-मेल-पत्ता - ccftamravati@mahaforest.gov.in / aticcfa@gmail.com

क्रमांक :- कक्ष-८/आस्था/ २१५२ /२०१६-१७

अमरावती-२, दिनांक : २५/९/२०१७

प्रति,

मुख्यवनसंरक्षक आणि क्षेत्रसंचालक

मेळघाट व्याघ्र प्रकल्प

अमरावती

विषय :- चंद्रपुर वनवृत्ताशी निगडित मुळ अर्ज क्र. ५४५/२०१५, ७६१/२०१५, ८०२/२०१५ व ९७/२०१६ मधील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, खंडपीठ नागपुर यांचे दिनांक ०६/०९/२०१७ रोजीचे निर्णयानुसार इतर वनवृत्तात सुध्दा वनरक्षक पदाची सेवाजेष्ठता मुळे नियुक्तीचे दिनांकापासुन देवून दिनांक ०१/०९/२०१७ चे जेष्ठता यादीत सुधारणा करणेबाबत मागणी.

संदर्भ :- अपर मुख्य वनसंरक्षक (प्रशासन दुय्यम संवर्ग) नागपूर यांचे कडील पत्र क्रमांक कक्ष-१०(२)/आस्था/ एक/प्र.क्र.१२८(१७-१८)११७२/दिनांक ११/०९/२०१७

उपरोक्त संदर्भीय पत्रान्वये विषयांकित प्रकरणी मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, खंडपीठ नागपुर यांनी दिलेले दिनांक ०६/०९/२०१७ चे आदेश मा. उच्च न्यायालय खंडपीठ नागपुर यांनी रिट याचिका क्र. ३१२४/२०१७ मध्ये दिनांक २७/०६/२०१७ चे आदेशान्वये रद्द केले आहे. मा. उच्च न्यायालय खंडपीठ नागपुर यांचे निर्णयाची प्रत या सोबत सहपत्रित करण्यात येत आहे.

मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, खंडपीठ नागपुर यांचे दिनांक ०६/०९/२०१७ चे आदेशानुसार आंतरवृत्तीय बदलीनंतर मुळ नियुक्तीचे दिनांकापासुन सेवाजेष्ठता देता येणार नाही.

सहपत्र :- न्यायालयाचे निर्णयाची
छायांकित प्रत

मुख्य वनसंरक्षक
(प्रादेशिक) अमरावती

प्रतिलिपी :- वनसंरक्षक, कार्यआयोजना विभाग, अमरावती यांना माहितीकरीता अग्रेषित.

प्रतिलिपी :- वनसंरक्षक, सामाजिक वनिकरण विभाग अमरावती यांना माहितीकरीता अग्रेषित.

प्रतिलिपी :- उपवनसंरक्षक, पुर्व मेळघाट वनविभाग/पश्चिम मेळघाट वनविभाग/अमरावती वनविभाग/ बुलडाणा वनविभाग यांना माहितीकरीता अग्रेषित.

**वन संरक्षक कार्य आयोजना
अमरावती**

प्रधान मुख्य वनसंरक्षक (वन बल प्रमुख), महाराष्ट्र राज्य, नागपूर यांचे कार्यालय

वनभवन, रामगिरी रोड, सिव्हील नार्डन, नागपूर, ४४०००९

तिसरा माळा, 'ए' विंग, दुरध्वनी क्रमांक २५५०६७० Email ID :- pcfhoffs@gmail.com

अपर प्रधान मुख्य वनसंरक्षक (प्रशासन-दुय्यम संवर्ग), महाराष्ट्र राज्य, नागपूर

दुसरा माळा, 'ए' विंग, दुरध्वनी क्रमांक ०७९२-२५५६७९२ फॅक्स नं. २५५०६७५ Email ID :- soccfhrmadmn@gmail.com

ISO 9001: 2015

क्रमांक कक्ष-१०(२)/आस्था/एक/प्र.क्र.१२८(१७-१८)/११७२
नागपूर-४४० ००९ दिनांक ११-९-२०१७

विषय : चंद्रपूर वनवृत्ताशी निगडीत मुळ अर्ज क्र. ५४५/२०१५, ७६९/२०१५, ८०२/२०१५, ८०५/२०१५ व ९७/२०१६ मधील मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण, खंडपीठ नागपूर यांचे दिनांक ०६/०९/२०१७ रोजीचे निर्णयानुसार इतर वनवृत्तात सुध्दा वनरक्षक पदाची सेवाजेष्ठता मुळ नियुक्तीचे दिनांकापासून देवून दिनांक ०९/०९/२०१७ चे जेष्ठता यादीत सुधारणा करणेबाबत मागणी

- संदर्भ :
- १) मुख्य वनसंरक्षक (प्रा.), धुळे यांचेकडील पत्र क्र. कक्ष-१/आस्था/प्रक्र.२३/१७-१८/३९८, दिनांक २९/०८/२०१७.
 - २) श्री. शेख खलील याकुब व इतर २४ वनरक्षक, धुळे वनवृत्त यांचा दिनांक १४/०८/२०१७ चा अर्ज
 - ३) श्री. विशाल विजयराव हलगे, वनरक्षक, खेडा नियतक्षेत्र, वनपरिक्षेत्र कारंजा (प्रा.), अकोला वनविभाग यांचे दिनांक १८/०८/२०१७
 - ४) श्री. दिगांबर भिमराव चौरे, व इतर २१ वनरक्षक, वनविभाग नांदेड यांचा अर्ज दिनांक २४/०८/२०१४.

मुळ अर्ज क्र. ५४५/२०१५, ७६९/२०१५, ८०२/२०१५, ८०५/२०१५ व ९७/२०१६ मध्ये मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण, खंडपीठ नागपूर यांनी दिलेल्या दिनांक ०६/०९/२०१७ चे निर्णयात आंतरवृत्तीय बदलीनंतर सुध्दा वनरक्षकाची सेवाजेष्ठता ही संबंधित वनरक्षकाचे मुळ नियुक्तीपासून देणेबाबत आदेश दिलेले आहे. सदर निर्णयाचे अनुषंगाने सेवाजेष्ठता मिळणेबाबत इतर वनवृत्तातून सुध्दा अर्ज या कार्यालयास प्राप्त होत आहेत. त्यापैकी काही अर्ज संदर्भित पत्रान्वये या कार्यालयास प्राप्त झाले आहेत.

२.० त्या अनुषंगाने सर्व मुख्य वनसंरक्षक (प्रा.) यांना कळविण्यात येते की, मुळ अर्ज क्र. ५४५/२०१५, ७६९/२०१५, ८०२/२०१५, ८०५/२०१५ व ९७/२०१६ मध्ये मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण, खंडपीठ नागपूर यांनी दिलेले दिनांक ०६/०९/२०१७ चे आदेश मा. उच्च न्यायालय, नागपूर (प्रा.) अपर वनसंरक्षक (प्रशासन-दुय्यम संवर्ग) यांनी रिट याचिका क्र. ३९२४/२०१७ मध्ये दिनांक २७/०६/२०१७ चे आदेशान्वये रद्द केले आहे. तसेच या प्रकरणी फेरनिर्णयास्तव प्रकरण मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण, खंडपीठ नागपूर यांचेकडे वर्ग केले आहे. त्यामुळे आता मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण,

1387
14 SEP 2017

आस्था

नागपूर

खंडपीठ नागपूर यांचे दिनांक ०६/०९/२०१७ चे आदेशानुसार आंतरवृत्तीय बदलीनंतर वनरक्षक पदावर मुळ नियुक्तीचे दिनांकापासून सेवाजेष्ठता देता येणार नाही.

उपरोक्त बाब त्वरित संबंधितांचे निदर्शनास आणून द्यावी.



अपर प्रधान मुख्य वनसंरक्षक
(प्रशासन दुय्यम संवर्ग)
महाराष्ट्र राज्य, नागपूर

प्रति,

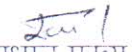
✓ मुख्य वनसंरक्षक (प्रा.),
(सर्व) **अभिरावली**

प्रतिलिपी :- कक्ष अधिकारी, कक्ष-१०(अ) यांना माहितीकरीता.

प्रतिलिपी :- श्री. शेख खलील याकुब व इतर २४ वनरक्षक, धुळे वनवृत्त मार्फत मुख्य वनसंरक्षक (प्रा.), धुळे यांना माहितीकरीता.

प्रतिलिपी :- श्री. विशाल विजयराव हलगे, वनरक्षक, खेडा नियतक्षेत्र, वनपरिक्षेत्र कारंजा (प्रा.), अकोला वनविभाग, यवतमाळ वनवृत्त मार्फत मुख्य वनसंरक्षक (प्रा.), यवतमाळ यांना माहितीकरीता.

प्रतिलिपी :- श्री. दिगांबर भिमराव चौरे, व इतर २१ वनरक्षक, वनविभाग नांदेड, औरंगाबाद वनवृत्त मार्फत मुख्य वनसंरक्षक (प्रा.), औरंगाबाद यांना माहितीकरीता.


अपर प्रधान मुख्य वनसंरक्षक
(प्रशासन दुय्यम संवर्ग)
महाराष्ट्र राज्य, नागपूर

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 3124/2017

1. Baba s/o Namdeorao Naitam,
Occ-Service, R/o Onkar Nagar,
Chandrapur, District Chandrapur.
2. Ajay s/o Keshorao Neralwar,
R/o Karwa, Tq. Sindewahi,
Distt. Chandrapur.
3. Vilas s/o Girdhar Pedurwar,
Occ.: Service, R/o Sindewahi,
Palideo Mohalla, Bharatmata Chowk,
Sindewahi, Distt. Chandrapur.
4. Prakash Jivandas Sendurkar,
R/o. Shivajinagar Kahde,
Th-Brahmapuri, Distt.Chandrapur.
5. Chandrakant s/o Narayan Rasekar,
Occ.: Service, R/o. Sindewahi,
Vivek Nagar, Tq. Sindewahi,
Distt. Chandrapur.
6. S.P. Karodkar,
R/o. Gadchiroli.
7. S.S. Girsawade,
R/o. Chandrapur (Tukumward),
Behind Matoshri Karyalaya.
8. Kartik S/o Munneshwar Aawle,
Occ.: Service, R/o Durgapur Major
Stores, Chandrapur.
9. Balkrishna Wasudeo Gedam,
R/o Khadsangi (Ropwatika),
Tq. Chimur, Distt. Chandrapur.
10. Moreshwar s/o Jannath Mhaske,
R/o Bondala (Kh) Post-Nandgao,
Th-Mul, Distt. Chandrapur.
11. T.Rajurkar,
R/o Lanjela Ward, Gadchiroli.

PETITIONERS

.....VERSUS.....

1. The Principal Secretary (Forest),
Revenue and Forest Department,
State of Maharashtra, Mantralaya,
Mumbai-32.
2. The Principal Chief Conservator of Forest,
Civil Lines, Nagpur.

3. The Chief Conservator of Forest,
Chandrapur Circle, Chandrapur,
Distt. Chandrapur.
4. The Chief Conservator of Forest,
Gadchiroli Circle, Gadchiroli,
Distt. Gadchiroli.
5. Nitin Tulshiram Gadpayale,
R/o Shastri Nagar, Sarda Colony,
Armori, Tq. Armori, Distt. Gadchiroli.
6. Pundlik M. Khobragade,
Forester, R/o Bramhapur Division,
Bramhapuri, Tq. Bramhapuri,
Distt. Chandrapur.
7. Manohar Lingayya Ghodselwar,
R/o Sai Nagar, Gadchiroli.
8. Baba Haribhau Deogade,
Occ.: Service, R/o Vidya Nagar,
Bramhapuri, Distt. Chandrapur.
9. Pitambar Gomaji Kumare,
C/o B.D. Ugaonkar's House,
Ram Nagar, Gadchiroli.

RESPONDENTS

Shri N.R. Saboo, counsel for the petitioners.
Mrs. H.Prabhu, Assistant Government Pleader for the respondent nos.1 to 4.
Shri Bharat Kulkarni, counsel for the respondent nos.5 and 9.
Shri G.G. Bade, counsel for the respondent nos.6 and 7.

CORAM :SMT.VASANTI A NAIK AND
A.D. UPADHYE, JJ.

DATE : 27TH JULY, 2017.

ORAL JUDGMENT (PER : SMT. VASANTI A NAIK, J.)

RULE. Rule made returnable forthwith. The petition is heard finally with the consent of the learned counsel for the parties.

2. By this writ petition, the petitioners challenge the common order of the Maharashtra Administrative Tribunal, Nagpur, dated 06.01.2017 allowing Original Application Nos.545 of 2015, 761 of 2015, 802 of 2015, 805 of 2015 and 97 of 2016.

3. Few facts giving rise to the writ petition are stated thus:-

The petitioners are the Foresters working in North Chandrapur Circle. The seniority of the Foresters and the Forest Guards has to be prepared circlewise. In Chandrapur district, there are two circles, one being the North Chandrapur Circle and the other being the South Chandrapur Circle. The petitioners were appointed as Forest Guards and were promoted as Foresters in North Chandrapur Circle. The respondent nos.5, 6, 7, 8 and 9 are the Forest Guards and the Foresters working in North Chandrapur Circle. Initially, the respondent nos.5 to 9 were appointed as Forest Guards in South Chandrapur Circle but, on their request, they were transferred to North Chandrapur Circle. The seniority list of Foresters and Forest Guards was prepared in the year 2015. In the said seniority list maintained in the North Chandrapur Circle, the names of the respondent nos.5 to 9 were shown below the names of the petitioners as they were placed at the bottom of the seniority list when they were transferred from South Chandrapur Circle to North Chandrapur Circle. Three of the respondents were reverted from the posts of Forester to the posts of Forest Guard on the basis of the seniority list prepared in the year 2015. Being aggrieved by the orders of reversion and also by their placement below the petitioners in the seniority list in view of their transfer from South Chandrapur Circle to North Chandrapur Circle, the respondent nos.5 to 9 filed separate original applications before the Maharashtra Administrative Tribunal. The petitioners, who were placed

above the respondent nos.5 to 9, were not joined as parties to the original applications filed by the respondent nos.5 to 9. It was the case of the respondent nos.5 to 9 before the Tribunal that their seniority should have been reckoned from the date of their appointment in the South Chandrapur Circle and they could not have lost their seniority merely on their request transfer from South Chandrapur Circle to North Chandrapur Circle. The original applications filed by the respondent nos.5 to 9 were allowed by the Tribunal. As per the directions of the Tribunal, the respondent nos.2 to 4 prepared a fresh seniority list of the Foresters and Forest Guards in the North Chandrapur Circle. The petitioners were placed below the respondent nos.5 to 9 in the seniority list prepared by the respondent nos.2 to 4 in pursuance of the order of the Tribunal. Since the petitioners were not made parties to the proceedings filed by the respondent nos.5 to 9 and the order of the Tribunal had seriously prejudiced the petitioners, the petitioners have filed the instant petition challenging the common order of the Tribunal in the original applications filed by the respondent nos.5 to 9.

4. Shri Saboo, the learned counsel for the petitioners, submitted that the Tribunal was not justified in allowing the original applications filed by the respondent nos.5 to 9 without directing them to join the Foresters and the Forest Guards who would have been affected by the preparation of a fresh seniority list. It is submitted that the original

applications filed by the respondent nos.5 to 9 ought to have been dismissed by the Tribunal in view of the non-joinder of the necessary parties. It is submitted that the impugned order is passed behind the back of the petitioners without giving them an opportunity of hearing and the said order has caused serious prejudice to the petitioners inasmuch as, by the preparation of the fresh seniority list on the basis of the order of the Tribunal, the petitioners, who were senior to the respondent nos.5 to 9 in the seniority list prepared in the year 2015 are placed below the respondent nos.5 to 9 in the newly prepared seniority list. It is submitted that the Tribunal was not justified in allowing the original application filed by the respondent nos.5 to 9 by misreading the transfer orders of the respondent nos.5 to 9. It is stated that it is clearly mentioned in the appointment orders of some of the respondents that they would lose their seniority in view of their transfer from the South Chandrapur Circle to the North Chandrapur Circle. It is stated that a wrongful observation is made by the Tribunal in the impugned order that there is no such condition in the orders transferring the respondent nos.5 to 9 from South Chandrapur Circle to the North Chandrapur Circle. It is submitted that by a circular dated 14.10.2013, the Chief Conservator of Forest had asked all the Forest officials to abide by the rule of placing the employee in the Forest Department at zero seniority at the place of his transfer in another circle or district, if it is a request transfer. It is stated that the circular clearly mentions that the Forest officials are not adhering

to the rule that the employees in the Forest Department that are transferred from one circle to the other would lose their seniority. It is stated that it is apparent from the circular dated 14.10.2013 that the said policy was in existence for long. It is submitted that in the circumstances of the case, since the petitioners were not made parties to the proceedings before the Maharashtra Administrative Tribunal, the order of the Tribunal is liable to be set aside and the matter is liable to be remanded to the Tribunal if the respondent nos.5 to 9 are desirous of joining the petitioners as parties to the original applications or else the original applications filed by the respondent nos.5 to 9 should be dismissed by this Court.

5. Mrs.Prabhu, the learned Assistant Government Pleader appearing for the respondent nos.1 to 4, submitted that before the Tribunal, a reply was filed on behalf of the respondent nos.1 to 4, clearly stating therein that when a Forester or Forest Guard is transferred from one circle to another on his own request, he would lose his seniority in the circle from where he is transferred. It is stated that the seniority of such an employee would be reckoned from the date of his joining the duties in the circle where he is transferred, on his request. The learned Assistant Government Pleader submitted that appropriate orders may be passed in the circumstances of the case.

6. Shri Kulkarni and Shri Bade, the learned counsel for the respondent nos.5 and 9 & 6 and 7 respectively, have supported the order of the Tribunal. It is submitted that the Tribunal rightly considered that there were no circulars pertaining to the policy of an employee losing his seniority if he was transferred from one circle to another till the circulars and resolutions were passed in the year 2015. It is submitted that since the respondent nos.5 to 9 were transferred some time in the year 2006-07, the Tribunal has rightly held that the circulars / resolutions of the year 2015 would not apply to them. It is submitted that after the Tribunal allowed the original applications filed by the respondent nos.5 to 9, the respondent nos.1 to 4 have prepared a fresh seniority list and if the petitioners are aggrieved by the fresh seniority list, they may make a representation to the respondent nos.1 to 4 in that regard and if their representations are not favourably considered, they may file the original applications before the Tribunal. The learned counsel sought for the dismissal of the writ petition.

7. On hearing the learned counsel for the parties, it appears that the Tribunal was not justified in allowing the original applications filed by the respondent nos.5 to 9, specially when the respondent nos.5 to 9 had not joined the Foresters and Forest Guards who would have been seriously prejudiced and affected by any favourable order that could

have been granted in favour of the respondent nos.5 to 9. It was necessary for the Tribunal to have directed the respondent nos.5 to 9 to join the petitioners and the other concerned Foresters and Forest Guards who would have been affected if a favourable order was passed in favour of the respondent nos.5 to 9. The Tribunal, however, did not consider that the respondent nos.5 to 9 had not joined the necessary parties to the original applications. Also, the circular of the Chief Conservator of Forest which speaks of the policy that was in existence for long, dated 14.10.2013 was not considered by the Tribunal while deciding the original applications. Also, the Tribunal has recorded a statement of fact which is contrary to the facts on record. In the orders of transfer of some of the respondents, it was clearly mentioned that in view of their transfer to the North Chandrapur Circle, they would lose their seniority and they would be placed at the bottom of the seniority list in the North Chandrapur Circle. The Tribunal failed to consider that the respondents in whose transfer orders, the said condition was incorporated had never challenged the said condition till they filed the original applications in the year 2015-16. The Tribunal further failed to consider that if there was no policy in the year 2006-07 that a transferred employee would lose his seniority if the transfer was on request, such a condition could not have found place in the orders of transfer of some of the respondents. We find that the Tribunal has erroneously held that in the transfer

orders of all the employees such a condition was not incorporated. We clearly find the incorporation of the said condition in the transfer order of the respondent nos.5 and 9. In any case, since the order of the Tribunal is based on an assumption that there is no condition in the order of transfer of the respondent nos.5 to 9 that they would lose their seniority and since the Tribunal has not taken into consideration the reply filed by the respondent nos.1 to 4 as also the fact that the respondent nos.5 to 9 had not joined the necessary parties to the original applications, it would be necessary to quash and set aside the order of the Tribunal and remand the matter to the Tribunal for a fresh decision on the original applications, in accordance with law. The Tribunal may grant an opportunity to the respondent nos.5 to 9 to join the necessary parties and accordingly pass orders in their original applications. We are not inclined to uphold the objection raised by the respondent nos.5 to 9 that it would be necessary for the petitioners to first challenge the fresh seniority list and if their objection is not favourably considered by the respondents, to file original applications before the Tribunal. The said exercise would be an empty formality as the fresh seniority list is prepared by the respondent nos.1 to 4 on the basis of the orders of the Tribunal and till the orders of the Tribunal exist, the seniority list would not be disturbed.

8. Hence, for the reasons aforesaid, the writ petition is allowed. By quashing and setting aside the order of the Tribunal, the matter is remanded to the Tribunal for a fresh decision in the original applications filed by the respondent nos.5 to 9, on merits. The respondent nos.5 to 9 and the petitioners undertake to appear before the Tribunal on 10.08.2017 so that notices to the said parties could be dispensed with. The respondent nos.5 to 9 may join additional parties to the original application. It is needless to mention that with the remand of the matter to the Tribunal, the interim orders that were passed by the Tribunal, would revive.

Rule is made absolute in the aforesaid terms with no order as to costs.

JUDGE

JUDGE

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