

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1084 of 2021 (S.B.)

Miss Sarita wd/o Surendra Tembhekar,
R/o Mohd. Zakir Husain Ward at Post Tirora,
Tah. Tirora, Dist. Gondia.

Applicant.

Versus

- 1) The State of Maharashtra
through its' secretary, Rural Development & Water
Conservation Department,
Mantralaya Mumbai-400 001.
- 2) Tahsildar, Tirora,
Distt. Gondia, near Panchayat Samittee-441 911.
- 3) The Collector, Gondia
Phulchur, Amgaon Road,
Tah. & Distt. Gondia-441 601.

Respondents.

S/Shri G.G. Bade, P.P. Khaparde, Advocates for the applicant.
Shri A.M. Khadatkar, learned P.O. for respondents.

Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated :- 18/04/2023.

J U D G M E N T

Heard Shri G.G. Bade, learned counsel for the applicant
and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant is a wife of deceased Surendra Govindrao
Tembhekar. The applicant's husband was working as a Mustering

Assistant w.e.f. 30/01/1993. As per the G.Rs. of 1995 and 1999, the applicant's husband was absorbed in a regular service on the post of Junior Clerk in Tahsil Office, Tiroda as per order dated 20/06/2003.

3. The applicant's husband was retired on 30/11/2011. The applicant's husband was not getting pension because of less service. He died on 16/04/2021. Hence, the applicant approached to this Tribunal for direction to the respondents to regularize the service of her husband from the date of his initial appointment.

4. The O.A. is strongly opposed by the respondents on the ground that the applicant's husband has not completed qualifying service for pension and therefore he is not entitled for pensionary benefits.

5. The issue in respect of regularisation of Mustering Assistant was decided by the Hon'ble Bombay High Court, Bench at Aurangabad in case of **the State of Maharashtra & Ors. Vs. Uttam S/o Narayan Vendait** in Writ Petition No.8468/2015, decided on 16/12/2015. The Hon'ble Bombay High Court, Bench at Aurangabad has held that the services of Mustering Assistant are to be regularised from their initial date of engagement as a Mustering Assistant. Now in the recent Judgment Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra** in Civil

Appeal No.6531-6533/2022 (Arising out of SLP (C) Nos.6039-6041/2016), decided on 07/09/2022 has held that the services of Mustering Assistant are to be regularized from 31/03/1997.

6. In view of the Judgment the Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra**, decided on 07/09/2022, the applicant's husband is entitled to get his service regularized from 31/03/1997. Hence, the following order –

ORDER

- i) The O.A. is allowed.
- ii) The respondents are directed to treat the applicant's husband namely Surendra Tembhekar in the regular service w.e.f. 31/03/1997 and pay all consequential benefits including pensionary benefits etc. to the legal heirs of deceased Surendra Tembhekar, as per rules within a period of three months from the date of receipt of this order.
- iii) No order as to costs.

Dated :- 18/04/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 18/04/2023.*