

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 11 of 2021 (S.B.)**

Zibal Motiram Tichkule,  
Aged about 67 years,  
Occ. Retired R/o Somalwada (Rengepar Kotraha),  
Tah. Lakhani, Dist. Bhandara.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Revenue, Mantralaya,  
Mumbai-32.
- 2) The Divisional Commissioner,  
Nagpur Division, Nagpur.
- 3) The Director, Officer of Geology &  
Mining Department, M.S. Office at  
Shivaji Nagar, Nagpur.

**Respondents.**

---

**Shri N.R. Saboo, Advocate for the applicant.**  
**Shri V.A. Kulkarni, learned P.O. for respondents.**

---

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

**Dated :- 22/06/2022.**

---

**JUDGMENT**

Heard Shri N.R. Saboo, Id. counsel for the applicant and  
Shri V.A. Kulkarni, Id. P.O. for the respondents.

2. The applicant was working as a Mustering Assistant w.e.f.  
7/4/1993. He was in continuous service. As per the G.Rs. dated

1/12/1995 and 21/4/1999 all the Mustering Assistants were absorbed in regular service. The applicant was absorbed in regular service as per the G.Rs. of 1995 and 1999 on the post of Junior Clerk. As per the order dated 6/7/2007, the applicant was promoted as Senior Clerk. The applicant was retired on attaining the age of superannuation w.e.f. 30/6/2010. The respondents have not paid the pensionary benefits to the applicant on the ground that the applicant has not completed qualifying service. Therefore O.A. is filed for direction to the respondents.

3. The learned counsel has pointed out the Judgment of this Tribunal in O.A. 545/2020 with connected matters, decided on 17/12/2021. This Tribunal has granted the relief to the applicants / Mustering Assistants holding that the initial services of Mustering Assistant shall be taken into consideration for the purpose of pensionary benefits. The learned counsel has also pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in case of **Ramchandra Kondiba Mahajan Vs. State of Maharashtra & Ors.**

4. The learned P.O. submits that the applicant has not completed minimum 10 years' service for qualifying pension and therefore the pension is not granted.

5. The Rule 30 of the MCSR (Pension) Rules is very clear. As per the Rule 30 of the Pension Rules, the Govt. employee is entitled for pensionary benefits and for that purpose his temporary service is to be taken into consideration provided that he should be permanent at the time of retirement. There is no dispute that the applicant was permanent employee at the time of retirement. His temporary service as a Mustering Assistant from 7/4/1993 ought to have been taken into consideration for the purpose of pensionary benefits.

6. In the case of **Ramchandra Kondiba Mahajan (cited supra)**, issue was raised by the department that Mustering Assistants are not entitled for pensionary benefits because they have not completed qualifying service. Their temporary service cannot be taken into consideration for pensionary benefits. The Hon. Bombay High Court, Bench at Aurangabad in case of **Ramchandra Kondiba Mahajan (cited supra)** has held that initial service of Mustering Assistant shall be taken into consideration for the purpose of pensionary benefits. The said Judgment was challenged before the Hon'ble Supreme Court in SLP No.23504/2016. The said SLP was dismissed on 23/2/2017. Therefore, now it is well settled that initial service of Mustering Assistant is to be taken into consideration for the purpose of pensionary benefits. The applicant was working as a

Mustering Assistant from 7/4/1993 continuously till his regular absorption on the post of Clerk and therefore he is entitled for pension. In that view of the matter, the following order –

**ORDER**

- (i) The O.A. is allowed.
- (ii) The respondents are directed to grant pensionary benefits counting the service of the applicant from 7/4/1993 for the purpose of pensionary benefits only.
- (iii) No order as to costs.

**Dated** :- 22/06/2022.

**(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 : 22/06/2022.

Uploaded on : 22/06/2022.