

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 305 of 2023 (S.B.)**

Prabhakar Ganpatrao Bharatkar,  
Age. 64 yrs, Occu. retired, R/o. Ward No.19,  
Ram Nagar, Distt. Gadchiroli.

**Applicant.**

**Versus**

- 1) The State of Maharashtra, through its secretary,  
Department of Planning,  
Mantralaya, Mumbai-32.
- 2) Collector, Gadchiroli.

**Respondents.**

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**N.R. Saboo, K.N. Saboo, A.P. Barahate, Advs. for the applicant.**  
**Shri M.I. Khan, learned P.O. for respondents.**

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

**Dated :- 20/06/2023.**

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**JUDGMENT**

Heard Shri N.R. Saboo, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The learned P.O. has filed reply of R-2. It is taken on record. The matter is admitted, heard and decided finally with the consent of learned counsel for both the parties.

3. This O.A. is covered by the Judgment of 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). Hence, heard and decided finally.

4. The learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A.443/2017 along with connected O.As. decided on 07/11/2019. He has pointed the Judgment of Hon'ble Bombay High Court in Writ Petition No. 446/2021, decided on 01/03/2023.

5. The applicant was appointed as a Mustering Assistant on 20/10/1984. The applicant was terminated on 31/03/1991. The applicant challenged said termination before the Labour Court, Chandrapur in Complaint ULP No.215/1992. The Labour Court as per Judgment dated 20/02/1995 granted reinstatement with continuity of service w.e.f. 31/03/1991. The applicant was not regularized as per the G.Rs. dated 01/12/1995 and 21/04/1999, therefore, he prayed to this Tribunal for direction to the respondents to absorb him in regular establishment. The applicant had filed O.A.No.33/2018. This Tribunal directed the respondents to extend the benefit of G.Rs. dated 01/12/1995 and 21/04/1999 to the applicant and absorb him in service without giving any monetary benefits. This order was not complied till date.

6. The applicant has filed present O.A for counting his past service for the purpose of pensionary benefits.

7. The Judgment of this Tribunal in O.A. No. 33/18 is not challenged before the Hon'ble High Court. The applicant is not

absorbed in regular service as per the direction of this Tribunal. The applicant is retired on 31/01/2018. The applicant made representation to the respondents on 22/03/2023, but his representation is not decided.

8. 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 has held that service of Mustering Assistant shall be treated from the initial date of engagement of Mustering Assistant and same shall be counted for pensionary benefits. Now 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 has held that service of Mustering Assistant shall be counted for the purpose of pensionary benefits from 31/03/1997. The Hon'ble Bombay High Court in Writ Petition No.446/2021 in paras-2 and 3 has held as under –

*“ (2) It is not disputed that the Petitioners in the present writ petition were Muster Assistant. The Petitioners were dismissed from service. They filed dispute with the Industrial Court. The Industrial Court allowed the dispute and granted reinstatement but did not grant permanency. ----*

*(3) As far as Petitioners are concerned, they have approached the Industrial Court. The Industrial Court had passed an order reinstating them but has not granted permanency. In that event, the judgment of the Apex Court in the case of **Shaikh Miya S/o. Shaikh Chand etc. vs. State of Maharashtra dated 07/09/2022 in Civil Appeal No.6531-6533 of 2022** will*

*be relevant. In that judgment, it is observed that the persons who have been absorbed over a period of time post 31/03/1997 for pensionable services reckoning date will be 31/03/1997 and such of the persons who have rendered pensionable services will be entitled to that benefit. In view of that, the petitioners shall be considered as permanent from 31/03/1997 and the pensionable benefits shall be granted to them considering their services with effect from 31/03/1997, as expeditiously as possible.”*

9. In view of Judgment of the Hon’ble Bombay High Court Writ Petition No.446/2021 and the Judgment of Hon’ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra** (cited supra), the applicant is entitled to get pensionary benefits from 31/03/1997. Hence, the following order –

### **ORDER**

- (i) The O.A. is allowed.
- (ii) The respondents are directed to treat the entry of applicant in regular service from 31/03/1997 and shall give all the consequential benefits within three months from the date of receipt of this order.
- (iii) No order as to costs.

**Dated** :- 20/06/2023.

**(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 : 20/06/2023.