

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 363 of 2022 (S.B.)

Smt. Malanbai Wd/o Bisan Sonwane,
Aged 60 years, Occu. : Housewife,
R/o. Ashirwad Nagar, Girola, Tah. & Distt. : Bhandara.

Applicant.

Versus

- 1) The State of Maharashtra through its Secretary,
Department of Revenue & Forest,
Mantralaya, Mumbai.
- 2) The Collector, Bhandara.
- 3) The Tahsildar, Lakhani, Distt. Bhandara.

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 26/07/2023.

J U D G M E N T

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

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

The applicant was engaged as a Mustering Assistant on
19/12/1980. After technical breaks, he was absorbed with the
respondents department by the order dated 07/02/2001 as per the

G.R. dated 21/04/1999. The respondent no.1 extended the benefit of regular pay scale of Rs.750-12-870-EB-14-940 to the Mustering Assistant working on daily wages under E.G.S. vide G.R. dated 22/02/1993 w.e.f. 01/10/1988. The applicant was absorbed in a regular service from 07/02/2001 and he is retired on 31/12/2009. The respondents have not paid any pension and pensionary benefits on the ground that he has not completed required service for grant of pension. Therefore, he approached before this Tribunal for direction to the respondents to pay pension and pensionary benefits by counting his service from the date of initial appointment on the post of Muster Assistant.

3. The O.A. is opposed by the respondents by filing reply. The learned P.O. has pointed out para-8 of the reply and submitted that the respondents have paid GPF, Gratuity etc., but pension is not paid, because he has not completed required service for grant of pension.

4. 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.

5. In view of Judgment of the 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 count the regular service of applicant from 31/03/1997 and pay the pension and pensionary benefits, if he is eligible for the same within three months from the date of receipt of this order.
- (iii) No order as to costs.

Dated :- 26/07/2023.

(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 : 26/07/2023.