

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 689 of 2022 (S.B.)

- 1) Suresh Sambhaji Choudhari,
Aged years, R/o. Dhanora, Distt. Gadchiroli.
- 2) Vilas Devaji Dingalwar,
Aged 56 years, R/o. Ghot,
Tahsil Chamorshi, Distt. Gadchiroli.

Applicants.

Versus

- 1) State of Maharashtra,
Secretary (E.G.S.) Department of Planning,
State of Maharashtra, Mantralaya, Mumbai-32.
- 2) The Collector, Gadchiroli.
- 3) Superintendent Engineer,
Chandrapur Irrigation Project Circle,
Jalnagar, Chandrapur.

Respondents.

S/Shri N.R.Saboo and A.P. Barhate, Advs. for the applicants.
Shri V.A. Kulkarni, learned P.O. for respondent nos.1&2.
Shri T.M. Zaheer, Advocate for respondent no.3.

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

Dated :- 11/08/2023.

J U D G M E N T

Heard Shri N.R. Saboo, learned counsel for the applicants, Shri V.A. Kulkarni, learned P.O. for respondent nos.1 and 2 and none for respondent no.3.

2. The matter is heard and decided finally with the consent of learned counsel for both the parties.

3. The applicant no.1 was initially engaged as a Mustering Assistant on 22/11/1984 and the applicant no.2 was initially engaged as a Mustering Assistant on 14/01/1985. The details are given in the following Chart –

Sr. No.	Name of applicant	Date of initial appointment as Mustering Assistant	ULP Complaint decided by Labour Court	Present place of posting
1.	Suresh Sambaji Chaudhari	22.11.84	Complaint ULP No.13/94	P.S. Dhanora
2.	Vilas Devaji Dingalwar	14.01.85	Complaint ULP No.126/93	P.S. Mulchera

4. Both the applicants were not regularised as per the Government G.Rs. dated 01/12/1995 and 21/04/1999, therefore, the applicants approached to this Tribunal by filing O.A.No.96/2018 with connected matters. This Tribunal directed the respondents to absorb the applicants in a regular post as per the Government G.Rs. dated 01/12/1995 and 21/04/1999. The said order was not complied, therefore, the Contempt Petition was filed by applicants. After the Contempt Petition, the respondents have issued order dated 06/07/2021. Both the applicants are absorbed in a regular service in the Irrigation Department on Class-IV post (Peon). One of the applicants is retired and another applicant will retire after attaining the age of superannuation. Both the applicants have not completed the

required service for grant of pension and therefore they approached to this Tribunal for the following reliefs –

“i) To direct Respondents to release all service benefits to the applicants of permanent employee from the date of their initial appointment as Mustering Assistant.

ii) To allow O.A. & further be pleased to hold that applicants are entitled for counting their service tenure from the date of working as Mustering Asst. till age of superannuation on the post of Peon, as qualifying service for the purpose of pension and other service benefits.

iii) To direct Respondent Nos. 2 & 3 to forthwith to consider representation dated 22.04.22 at Annexure and release monetary claim as prayed in said representation.”

5. The respondents have filed reply. It is submitted that the applicants have not completed required service to grant pension, therefore, the O.A. is liable to be dismissed.

6. 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 the services of Mustering Assistant are to be counted from the date of their initial engagement as Mustering Assistant for the purpose of pensionary benefits. Some of the matters reached to the Hon'ble Supreme Court. 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 the services of Mustering

Assistant shall be counted for the purpose of pensionary benefits from 31/03/1997. Hence, the applicants are entitled to count their services from 31/03/1997 for the purpose of pensionary benefits. Therefore, the following order is passed –

ORDER

- (i) The O.A. is disposed of.
- (ii) The respondents are directed to treat the applicants in regular service w.e.f. 31/03/1997 and grant the consequential benefits / pensionary benefits to the applicants.
- (iii) No order as to costs.

Dated :- 11/08/2023.

(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 : 11/08/2023.