

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1158 of 2022 (S.B.)

Arun S/o Vitthalrao Naikwad,
Aged 70 yrs., Occu. Retired,
R/o Deoli, Dist. Wardha.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Department of Planning,
Mantralaya, Mumbai-32.
- 2) Collector, Wardha.
- 3) Tahsildar Karanja (Ghadge),
Dist. Wardha.

Respondents.

**S/Shri N.R. & K.N. Saboo, A.P. Barhate, Advs. for the applicant.
Shri V.A. Kulkarni, learned P.O. for respondents.**

**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 applicant
and Shri V.A. Kulkarni, learned P.O. for respondents.

2. The reply of respondent nos.2 and 3 is filed on record. The
matter is heard and decided finally with the consent of learned counsel
for both the parties.

3. The applicant was initially engaged as a Mustering Assistant w.e.f. 26/11/1981. The Government of Maharashtra has issued G.Rs. dated 01/12/1995 and 21/04/1999 by which the services of Mustering Assistant are to be regularised. The service of the applicant is regularised as per the order dated 24/01/2001 on the post of Talathi. The applicant was retired on 31/03/2004. On 04/01/2021, proposal was submitted for grant of pension, but pension is not granted on the ground that the applicant has not completed qualifying service and therefore the applicant approached to this Tribunal for the following reliefs –

“(a) To direct the respondents to consider & grant pension to the applicant by counting his service tenure from the date of appointment as Mustering Assistant till his date of retirement on 31.03.04.

(b) To allow O.A. & further be pleased to hold that applicant is entitled for counting his service tenure from the date of working as Mustering Asst. till age of superannuation as qualifying service for the purpose of pension and other service benefits.

(c) To direct the respondents to forthwith grant pension to the applicant with interest.”

4. As per the reply, the applicant has not completed qualifying service, therefore, he cannot be granted pension and pensionary benefits therefore the O.A. is liable to be dismissed.

5. Now the Hon'ble Supreme Court has settled the issue in respect of counting of the date for the purpose of pensionary benefits

in respect of Mustering Assistant in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra**, decided on 07/09/2022. The Hon'ble Supreme Court has held that the services of Mustering Assistant shall be counted as regular service for the purpose of pensionary benefits from 31/03/1997.

6. In view of 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 following order is passed -

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to regularise the service of the applicant w.e.f. 31/03/1997 for the purpose of pensionary benefits.
- (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.