

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 226/2018 (S.B.)

Smt. Bhagirathabai Vithobaji Jambhulkar,
Aged about 72 years, Occ. Household
R/o Tukum Ward, Tadoba Road,
Tah. and Dist. Chandrapur.

Applicant.

Versus

- 1) State of Maharashtra,
through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32 and 2 ors.
- 2) Chief Conservator of Forests,
Forest Division, Chandrapur.
- 3) Divisional Forest Officer, Chandrapur
Forest Division, Chandrapur.
- 4) Assistant Commissioner,
Labour and Controlling Authority under payment
Of Gratuity Act, 1972 at Chandrapur.

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri M.I. Khan, P.O. for respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

JUDGMENT

(Delivered on this 18th day of April, 2019)

Heard Shri G.G. Bade, learned counsel for the applicant
and Shri M.I. Khan, learned P.O. for the respondents.

2. It is case of applicant that her husband deceased Vithoba was in service of the respondents from 1965 to 28/02/1994 as daily wages labourer, deceased Vithoba retired on 28/02/1994. After death of deceased Vithoba the applicant received gratuity. It is grievance of the applicant that deceased Vithoba served in the office of the Divisional Officer, Chandrapur for a period more than 29 years, therefore, he was entitled for the pension and the applicant being wife of deceased Vithoba, therefore, she is entitled for the family pension.

3. The application is opposed by the respondent nos.2 and 3 mainly on the ground that deceased Vithoba was not in service of the Government on a permanent post and deceased Vithoba was employed in service as daily wages "Van Majoor" whenever the work was available. It is submitted that the Government of Maharashtra created supernumerary post vide G.R. dated 31/01/1996 and as per the G.R. the daily wages employees who completed 5 years uninterrupted service on 01/11/1994, were eligible for regularisation in the service of the Forest Department. It is contended that as deceased Vithoba was not in service on 01/11/1994, therefore, he was not entitled for the benefit of the government G.R.

4. It is contention of the respondents that as per Rule-30 of the Maharashtra Civil Services (Pension) Rules, 1982 as deceased

Vithoba was not holding substantive post when his service was terminated, therefore, he was not entitled for pension.

5. I have heard the oral submissions on behalf of the applicant and on behalf of the respondents. The application is mainly attacked on the ground that deceased Vithoba was daily wages Van Majoor employee, he was not in service of the government as permanent employee. The learned P.O. has placed reliance to Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982. The said Rule is as under –

“(30) Commencement of qualifying service

Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity ;

Provided that at the time of retirement he shall hold substantively a permanent post in Government service or holds a suspended lien or certificate of permanency; ”

6. The first proviso to Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 clearly says that a Government servant shall hold substantively a permanent post in the Government service or shall hold a suspended lien or certificate of permanency. In the present case even as per contention of the applicant deceased Vithoba was in service till 28/02/1994 but his service was not

confirmed or he was not regularised, therefore, he was not entitled for the benefit of the G.R. dated 31/01/1996. Admittedly, deceased Vithoba was not holding any permanent post at the time of his alleged retirement of service, therefore, I do not see any merit in this application. Hence, the following order –

ORDER

The application stands dismissed with no order as to costs.

Dated :- 18/04/2019.

*dnk.

(A.D. Karanjkar)
Member (J).