

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 284 of 2021 (S.B.)

Jagannath S/o Bapuraoji Bhong,
Aged about 66 years, Occ. Retired,
R/o Subhmangalm Karyalay, Collory Ward,
Warora, Dist. Chandrapur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary, Department EGS, Mantralaya,
Mumbai-400 032.
- 2) State of Maharashtra,
through its Secretary, Health Affairs, Mantralaya, Mumbai.
- 3) The Commissioner, Nagpur Division,
Nagpur, Civil Lines, Nagpur.
- 4) The Collector, Chandrapur,
Civil Lines, Chandrapur, Dist. Chandrapur.

Respondents.

Shri N.Y. Lade, Advocate for the applicant.
Shri A.M. Khadatkar, learned P.O. for respondents.

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

Dated :- 11/01/2023.

JUDGMENT

Heard Shri N.Y. Lade, learned counsel for the applicant
and Shri A.M. Khadatkar, learned P.O. for respondents.

2. The learned P.O. files reply of respondent nos. 1 and 4. It
is taken on record and copy is given to the applicant.

3. The matter is admitted and kept for final hearing. The
learned P.O. waives notice for respondents.

4. The matter is decided finally with the consent of learned counsel for parties.

5. The applicant was initially appointed as a Mustering Assistant on 14/10/1985 in the office of Sub Divisional Officer, Irrigation Department, Sub Division, Zilla Parishad, Gondpiari, District Chandrapur. As per the G.Rs. of 1995 and 1999 the applicant was absorbed in regular service on 27/10/2003. The applicant is retired on 31/07/2012 after attaining the age of superannuation. The respondents have not granted pensionary benefits because his service is short. Hence, the applicant approached to this Tribunal.

6. The respondents have strongly opposed the O.A. It is submitted that the applicant has not completed qualifying service for grant of pension and therefore he is not entitled for pension.

7. Heard Shri N.Y. Lade, learned counsel for the applicant and Shri A.M. Khadatkhar, learned P.O. for respondents.

8. Now the issue is well settled by the Hon'ble High Court and Hon'ble Supreme Court. In the case of "**State of Maharashtra and Others Vs. Uttam S/o Nanarayan Vendait**" the Hon'ble Bombay High Court, Bench at Aurangabad has held that the service of the Mustering Assistant is to be counted from the date of his initial engagement. Some of the matters went to the Hon'ble Supreme

Court and the Hon'ble Supreme Court in the case of "**Shaikh Miya S/o Shaikh Chand Etc. Vs. State of Maharashtra**" has held that for counting the service for pensionary benefit of Mustering Assistant, the date 31/03/1997 is to be taken into consideration. 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 as under-

*" We are thus of the view that the only direction which can be issued is that persons who have been absorbed over a period of time post **31/03/1997**, for pensionable service, the reckoning date would be **31/03/1997** and such of the persons who have rendered a pensionable service on that basis would be entitled to that benefits."*

9. 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**" the following order is passed –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to count the service of the applicant from 31/03/1997 for the purpose of pensionary benefits and pay the consequential benefits within a period of three months.

(iii) No order as to costs.

Dated :- 11/01/2023.

(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 : 11/01/2023.

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