

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 308 of 2008 (D.B.)**

Ramrao Jaiwantrao Jadhav,
Aged about 53 years,
Occupation- Govt. Servant (Driver),
R/o At Post Tahsil Parshioni,
Behind Irrigation Rest House, Saoner Road,
District- NAGPUR.

Applicant.

Versus

- 1) Govt. of Maharashtra,
through its Secretary, Water Resources Department,
Mantralaya, MUMBAI -32.
- 2) Superintending Engineer,
Command Area Development Authority (C.A.D.A.),
Wainganga Nagar, Ajni, NAGPUR.
- 3) Sub-Divisional Engineer,
Pench Irrigation Management,
Sub-Division Parshioni,
Distt. NAGPUR.

Respondents.

Meenaxi Iyer, Sayyad Anwar Ali, P.N. Kumar, Advocates for the applicant.

Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 06/12/2023.

JUDGMENT

Heard Meenaxi Iyer, learned counsel for the applicant and

Shri S.A. Sainis, learned P.O. for the respondents.

2. The regular Division Bench is not available. The Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai issued Circular No.MAT/MUM/JUD/469/2023,dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally. The matter is admitted, heard and decided finally with the consent of learned counsel for both the parties.

3. This O.A. was filed in the year 2008. The application for condonation of delay was filed along with the O.A. The said application was dismissed by this Tribunal. The said order was challenged before the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.3370/2010. The Hon'ble High Court as per Judgment dated 20/06/2023 allowed the Writ Petition and order dated 23/09/2009 is quashed and set aside. The period of delay in approaching this Tribunal is condoned. After the receipt of this order, the file was reconstructed. This O.A. was disposed of in the year 2009 itself and therefore all the records were not traceable and the file is reconstructed by the office of this Tribunal.

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

The applicant was appointed on daily wages on the post of Driver w.e.f. 01/07/1979. He was continued in service. As per the

Kalelkar Award, the respondents should have brought him on Converted Regular Temporary Establishment (in short "CRTE") w.e.f. 01/07/1984. The respondents have brought him on CRTE w.e.f. 16/03/1990. Therefore, the applicant approached to this Tribunal for the following reliefs –

"(i) Direct the respondent to bring the applicant in the CRTE as on during 01/07/1984 taking into consideration of his continuous service w.e.f. 01.07.1979 to 15.03.1985.

(ii) The respondents be directed to give time bound promotion by giving higher scale of pay w.e.f. 01.07.1996 as he could have been completed 12 years service in his lower post as on 01.07.1996.

(iii) Direct to fix his pay as per IV and Vth Pay Commission with the direction to draw and disburse the amount giving time of one month with interest."

5. The respondents have filed the reply and submitted that the applicant was working on daily wages and therefore he was not brought on CRTE w.e.f. 01/07/1984. The applicant was brought on regular service w.e.f. 16/03/1990 and all the benefits were given to him.

6. During the course of submission, the learned counsel for applicant Meenaxi Iyer submitted that the applicant is a retired employee. The applicant was in regular service as a Driver on daily wages w.e.f. 01/07/1979. He was continuous in service, there was no

break in service, therefore, he is entitled for the benefit of Kalelkar Award. The learned counsel for the applicant submitted that as per the Kalelkar Award, the employees who have completed 5 years continuous service on daily wages, they should be brought on CRTE. As per the Kalelkar Award, the post comes to an end after the retirement of those employees on that post. They should be given benefit of regular employees.

7. The learned P.O. Shri S.A. Sainis submits that the applicant was daily wager and therefore he was not brought on CRTE w.e.f. 01/07/1984. He was granted benefit of Kalelkar Award w.e.f. 16/03/1990.

8. The documents filed on record show that the applicant was in continuous service. One of the office order of the respondents shows that his break in service from 01/07/1984 to 15/03/1985 was regularized. Leave was also granted. The copy of service book shows that he was appointed in the year 1979 on the post of Driver on daily wages. As per the Kalelkar Award, the employees who were working on daily wages, after completing five years to be brought on CRTE. As per the guidelines of the Kalelkar Award, all the benefits of regular employees should be given to the said employees. The applicant was continuously working from 01/07/1979, therefore, after completion of period of 5 years, he is entitled to get the benefits of the Kalelkar

Award. The respondents should have brought him on CRTE w.e.f. 01/07/1984. Hence, the following order –

ORDER

(i) The O.A. is partly allowed.

(ii) The respondents are directed to bring the applicant on CRTE w.e.f. 01/07/1984 and give him all the consequential benefits, if he is eligible and entitle for the same.

(iii) No order as to costs.

Dated :- 06/12/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/12/2023.