

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 371 of 2023 (S.B.)**

Smt. Vandana Wd/o Motiram Lengure,
aged 52 years, Occ. NIL, R/o Chimdha,
Post Chimdha, Tq. Mul, Dist. Chandrapur.

Applicant.

Versus

1) The State of Maharashtra,
Through Its Secretary, Employee Guarantee Scheme,
Mantralaya, Mumbai-32.

2) The Collector, Chandrapur.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.

Shri A.M. Khadatkar, learned P.O. for respondents.

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

Dated :- 08/06/2023.

JUDGMENT

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The reply is yet not filed by the respondents. The matter is heard and decided finally with the consent of learned counsel for both the parties.

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

The husband of applicant namely Motiram Lengure was engaged by the respondents as a Mustering Assistant on 28/01/1988.

The respondents had given technical break in the year 1995. Thereafter, husband of applicant was in the service on the post of Mustering Assistant till 22/11/2012. He died on 22/11/2012.

4. The husband of applicant was not regularised in the service and therefore the applicant is not getting family pension. Therefore, she approached to this Tribunal for direction to the respondents to regularise the services of her deceased husband and direct the respondents to pay pension as per the rules.

5. Heard Shri S.P. Palshikar, learned counsel for the applicant. He has pointed out the Judgment of Hon'ble Supreme Court in the case of ***Shaikh Miya S/o Shaikh Chand Etc. Vs. State of Maharashtra***, decided on 07/09/2022 and submitted that deceased husband of applicant is entitled for regularisation of his service from 31/03/1997. Hence, O.A. be allowed as prayed.

6. Before the Judgment of Hon'ble Supreme Court, the Hon'ble Bombay High Court Bench at Aurangabad in the case of ***State of Maharashtra and others Vs. Uttam S/o Narayan Vendait*** has held that the Mustering Assistant is entitled to get their services regularised from the date of their initial engagement. That Judgment was confirmed by the Hon'ble Supreme Court. In the case of ***Shaikh Miya S/o Shaikh Chand Etc. Vs. State of Maharashtra***, the Hon'ble Supreme Court has held that there are many matters of Mustering

Assistants and there should be uniformity for regularisation of the services of Mustering Assistants. Therefore, the Hon'ble Supreme Court has held that the date of regularisation of Mustering Assistant shall be from the date of 31/03/1997.

7. The learned counsel for the applicant has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.5748/2019. The Hon'ble Bombay High Court, Bench at Nagpur has held in para-6 as under –

“6. Hence, for aforesaid reasons the impugned judgment of the Tribunal in Original Application No. 215 of 2011 dated 27.09.2018 is set aside. It is held that the petitioner is entitled to receive pensionary benefits by considering his entry in service from 31.03.1997. The necessary be done with a period of three months from today.”

8. 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 deceased husband of applicant was / is entitled to get regularise his service from 31/03/1997.

9. In view of the above cited Judgments the following order is passed –

ORDER

(i) The O.A. is allowed.

(ii) It is held that the petitioner (her husband) is entitled to receive pensionary benefits by considering his entry (deceased husband) in service from 31.03.1997.

(iii) The respondents are directed to do the needful in respect of pension and other benefits of deceased husband of applicant within a period of three months from the date of receipt of copy of this order.

(iv) No order as to costs.

Dated :- 08/06/2023.

(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 : 08/06/2023.

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