

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 385 of 2022 (S.B.)

Sushila W/o Gopichand Ganthale,
Aged about 68 years, Occu. Retired,
R/o Bajeria, Marathi Telipura,
Near Nageshwar Mandir, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra through Secretary,
Department of Health, Mantralaya,
Mumbai-32.
- 2) Dean, Indira Gandhi Medical College & Hospital,
Nagpur.
- 3) The Accountant General (A&E)-II,
Maharashtra (Pension),
Civil Lines, Nagpur.

Respondents.

Smt. S.W. Deshpande, Advocate for the applicant.
Shri H.K. Pande, learned P.O. for the respondents.

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

Dated :- 03/01/2023.

JUDGMENT

Heard Smt. S.W. Deshpande, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

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

The applicant was appointed as Attendant with respondent no.2 on monthly basis on 20/08/1988. Since then the applicant was

continuously working as Attendant on monthly basis. The applicant was made permanent as Attendant on the vacant post. On 31/05/2013 the applicant is now retired on attaining the age of superannuation. The applicant is not getting pensionary benefits, because she has not completed qualifying service after regular appointment.

3. The respondent no.2, i.e., the Dean, Indira Gandhi Medical College and Hospital, Nagpur requested the Director of Medical Education and Research, Mumbai to condone period of seven months for her pensionary benefits.

4. The applicant has filed O.A. No. 35/2018. In the said O.A. order was passed directing the respondents to condone the period of seven months and grant pension. That order was not followed and therefore Contempt Petition No.31/2019 was filed. It was disposed of because the respondents have stated before the Court that they have made proposal to condone the period of seven months for qualifying service to get the pension, but the respondents have not decided the same. Hence, the applicant approached to this Tribunal by filing the present O.A.

5. The O.A. is strongly opposed by the respondents. It is submitted that the applicant has not completed qualifying service for

pension and therefore she is not entitled for pension and therefore the O.A. is liable to be dismissed.

6. The learned counsel for applicant has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in W.P.No.3061/2014 in the case of **Shri Dattu S/o Saidu Shinde Vs. State of Maharashtra & Ors.** The Hon'ble Bombay High Court, Bench at Aurangabad has recorded findings in para-6 as under –

“ (6) There is a certificate issued in favour of the petitioner clarifying that the petitioner has worked from the years 1976 to 1999 as a daily wager. The fact that the petitioner has worked with the said institution is not a disputed fact. The petitioner thereafter vide order dated 09/05/1999 has been brought to regular establishment. The services rendered earlier as a daily wager in view of Rule 57 will have to be counted half.”

7. As per the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.3061/2014, services of daily wager are to be counted half in view of Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982. In view of the Judgment, the applicant is entitled for counting her half service as a daily wager till she made regular / permanent. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to count half service of the applicant from 1988 to 30/12/2003.

(iii) The respondents are directed to grant pensionary benefits to the applicant after counting the half service of the applicant as a daily wager.

(iv) The respondents are directed to comply the order within a period of three months from the date of this order.

(v) No order as to costs.

Dated :- 03/01/2023.

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 Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/01/2023.