

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 44 / 2010 (D.B.)

Shri Ramchandra S/o Khuji Khetre,
Aged 62 Yrs., R/o At Post Kurja,
Tah. Bramhapuri, Dist. Chandrapur.

Applicant.

Versus

- 1) State of Maharashtra,
through Secretary, Department of E.G.S.,
Mantralaya, Mumbai.
- 2) Commissioner, Nagpur Division,
Nagpur.
- 3) Collector, Chandrapur,
District Chandrapur.

Respondents

Shri G.G.Bade, Id. Advocate for the applicant.

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

**Coram :- Hon'ble Shri J.D. Kulkarni, Vice-Chairman (J) &
Hon'ble Shri Shree Bhagwan, Member (A).**

JUDGMENT

PER : VICE CHAIRMAN (J)

(Delivered on this 08th day of October, 2018)

Shri G.G.Bade, Id. counsel for the applicant and Shri
S.A.Sainis, Id. P.O. for the respondents.

- 2.** The applicant is claiming following reliefs in this O.A.:-
- A. Declare that, the applicant having completed more than 20 yrs. of qualifying service as per the Maharashtra Civil Services Pension Rules, is entitle for pension, gratuity and other retirement benefits after attaining the age of super-annuation.
 - B. Direct the respondents to fix the pay scale of the applicant in the revised pay scale of Rs. 3050-75-3950-80-4590 on the date of his absorption in permanent Govt. Service vide letter dated 30/09/2003 by protecting his basic pay as per State Govt. G.R. dated 21/04/1999 and release arrears of pay and difference of leave encashment accordingly.
 - C. Direct the respondents to fix pension and gratuity of the applicant as per the rules.
 - D. Grant any other relief which this Hon'ble Tribunal deems fit and proper may also be granted in favour of the applicant, in the interest of justice.
- 3.** The applicant was initially appointed as Mustering Assistant vide letter dated 30/03/1981 and after technical breaks, he was reinstated on 01/01/1985. He continuously worked after 01/01/1985 and was subsequently absorbed in Class-III category vide order dated

30/09/2002. He came to be retired on superannuation on 31/10/2005. But he did not get pensionary benefits, and, therefore, he has filed this O.A. for further reliefs already stated.

4. The respondent nos. 2 and 3 resisted the claim. It is stated that the applicant claim is not maintainable and it is devoid of any merits. The applicant has worked on the post of Mustering Assistant. Till the date of absorption and he was absorbed as a Clerk-Cum-Typist vide order dated 30/09/2002. As per the G.R. issued by the Planning Department, dated 21/04/1999, the Mustering Assistants working under Employment Guarantee Scheme are not Government Servants and M.C.S. Rules are not applicable to them. The applicant's services as a Mustering Assistant, therefore, cannot be treated as a Government Servant and as a Class-III Employee. The applicant has served only for two years i.e. from 30/09/2003 to 31/10/2005 and has not completed qualified service of ten years.

5. The Id. P.O. has placed on record, the Judgment delivered by this Tribunal at Nagpur Bench in O.A. Nos. 710, 711, 714, 715, 716 of 2009 and 167, 168, 169 of 2010 and 33, 34, 35, 36, 37, 38, 56, 58 & 60 of 2015 dated 14/02/2017. In the said Judgment it has been observed in para no. 8 as under:-

This Tribunal (Aurangabad Bench) by Judgment, dated 10/06/2010 in O.A.578/2008 has held that the Muster

Assistants were not recognized as Govt. servant till their absorption in the Government. Accordingly, their past service before absorption in Government service cannot be counted for pensionary benefits.

6. The Id. counsel for the applicant, in the present O.A. was one of the Advocates appearing for the parties in the said O.As. and has frankly admitted the legal position as aforesaid.

7. In view of the aforesaid legal position, the services for the applicant as a Mustering Clerk on Employment Guarantee Scheme cannot be treated as a Government service and as such, there is no merit in the O.A. Hence, the following order:-

ORDER

O.A. stands dismissed with no order as to costs.

(Shree Bhagwan)
Member (A)

(J.D.Kulkarni)
Vice Chairman (J)

Dated :- 08/10/2018.

aps