

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 630 of 2022 (S.B.)**

Shri Jaysingh S/o Traymbakrao Chavhan,  
Aged about 68 years, Occ. Retired,  
R/o Behind Dr. Andankar Hospital, Laxmi Narsingh Apart. B,  
Pathanpura Road, Chandrapur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary, Department E.G.S.,  
Mantralaya, Mumbai-32.
- 2) State of Maharashtra, through its  
Secretary, State Excise Dept.,  
Mantralaya, Mumbai.
- 3) The Commissioner,  
Nagpur Division, Nagpur  
Civil Lines, Nagpur.
- 4) The State Excise Department,  
Civil Lines, Chandrapur,

**Respondents.**

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**Shri N.Y. Lade, Advocate for the applicant.**  
**Shri V.A. Kulkarni, learned P.O. for respondents.**

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

**Dated :- 20/02/2023.**

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**JUDGMENT**

Heard Shri N.Y. Lade, learned Counsel for the applicant  
and V.A. Kulkarni, learned P.O. for the respondents.

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

The applicant was initially appointed as a Mustering Assistant on 31/03/1981. The applicant came to be absorbed with the State Excise Department, Chandrapur on the post of Javan as per the order dated 08/07/2003. The applicant worked continuously after 31/10/1981 till his absorption in Class-IV category with the respondent. The Government of Maharashtra issued G.R. dated 22/02/1993 and granted benefits to the Mustering Assistants for regularization of their services. Accordingly, the applicant was regularized in the service as per the order dated 08/07/2003. The applicant retired on 30/06/2011 on attaining the age of superannuation. The applicant is not getting pension, because, he has not completed qualifying service for grant of pension therefore he approached to this Tribunal for the following reliefs –

*“(a) Declare the applicant having completed more than 20 years of qualifying service as per Maharashtra Civil Services (Pension) Rules, 1982, is entitled for pension, gratuity and other benefits on attaining the age of superannuation;*

*(b) Direct the respondents to fix the pay scale of the applicants in the revised pay scale of Rs.3050-75-3950-80-4590 on the date of absorption in permanent government service vide letter dated 08/07/2003 by protecting his basic pay as per State Government G.R. dated 21/04/1999 and release arrears of pay and differences of leave encashment accordingly ;*

*(c) Direct the respondents, to fix pension and gratuity of the applicant as per rules thereby direct the respondents to release the pension and other retirement benefits in favour of the applicant.”*

3. Heard learned P.O. for the respondents Shri V.A. Kulkarni. The O.A. is strongly opposed by the respondents. It is submitted that the applicant has not completed minimum 10 years' service and therefore he is not entitled for the pension and pensionary benefits.

4. Heard Shri N.Y. Lade, learned Counsel for the applicant. He has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***State of Maharashtra and others Vs. Uttam S/o Narayan Vendait*** and the recent 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.

5. Heard learned P.O. for the respondents Shri V.A. Kulkarni. As per his submission, the applicant has not completed qualifying service and therefore he is not entitled for pension. Now the issue of Mustering Assistants for counting their services is now finalized by the Hon'ble Supreme Court. In the case of ***State of Maharashtra and others Vs. Uttam S/o Narayan Vendait***, the Hon'ble Bombay High Court, Bench at Aurangabad has held that Mustering Assistants are entitled to count their services from the date of their initial engagement as a Mustering Assistant. But the Hon'ble Supreme Court in the case of ***Shaikh Miya S/o Shaikh Chand Etc. Vs. State of Maharashtra***

has held that the services of Mustering Assistants are to be counted from 31/03/1997.

6. 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 applicant is entitled to count his service from 31/03/1997. Hence, the following order –

**ORDER**

(i) The O.A. is allowed.

(ii) The respondents are directed to count the regular service of the applicant from 31/03/1997 for the purpose of pensionary benefits.

(iii) The respondents are directed to pay all consequential benefits, pension etc. by counting regular service of the applicant from 31/03/1997.

(iv) No order as to costs.

**Dated** :- 20/02/2023.

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**(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 : 20/02/2023.

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