

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 640/2016

Shri Vishnu Kesho Rathod, (Dead) through
His wife Smt. Nirmala Wd/o Vishnu Rathod,
Aged about 55 years, Occ : Service,
R/o Ghatkini, Tah. Darwaha,
District Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of E.G.S. ,
Mantralaya, Mumbai-440 032.
- 2) The Commissioner,
Amravati Division, Amravati.
- 3) The Collector, Amravati.

Respondents

-
1. Shri G.G. Bade, Advocate for the applicant.
 2. Shri A.M. Ghogre, Presenting Officer for respondents.
-

Coram:- Rajiv Agarwal : Vice-Chairman.


Dated:- 10/3/2017

RD

Heard Learned Advocate Shri G.G. Bade, for the Applicant and Shri A.M. Ghogare, Learned Presenting Officer for the Respondents.

2. This O.A. has been filed by the Applicant seeking to count his service as Muster Assistant on Employment Guarantee Scheme (E.G.S.) works for pensionary benefits, after he was absorbed in Class-III post as Junior Clerk in Tahsil Office, Dharni, Distt. Amravati by order dated 24/4/2000.

3. Learned Counsel for the Applicant argued that the Applicant was working as Muster Assistant on E.G.S. works since 8/2/1983. By order dated 24/4/2000, issued by the Respondent No. 3, he was absorbed as Junior Clerk on the establishment of the Respondent no. 3. The applicant retired on superannuation on 30/6/2008. The applicant was in Govt. service from 1983 and he completed 20 years in service. As such, he is eligible to get pension under the Maharashtra Civil Services (Pension) Rules, 1982. In Writ Petition no.2429/1980, which was transferred to this Tribunal and renumbered as T.A. No.610/1991, this Tribunal by judgment dated 25/5/1992, kept the issues like gratuity, provident fund, bonus, pension etc. open.



Learned Counsel for the Applicant contended that this O.A. has been filed as per liberty granted by this Tribunal in T.A. no. 610/1991.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Muster Assistants working on E.G.S. works were absorbed in Govt. jobs in terms of G.R. dated 1/12/1995. This G.R. has a clear provision that the Muster Assistants would not be eligible to get any benefit of past service on regularisation and they would not be considered as Govt. Servants during the period they were working as Muster Assistant. This G.R. was upheld by Hon'ble Supreme Court in S.L.P.(Civil) no. 15664 of 1991 by judgment dated 2/12/1996. In another S.L.P. no. 5171 of 2013, Hon'ble Supreme Court again upheld the validity of this G.R. Learned P.O. contended that all these issues have been considered by this Tribunal in judgment dated 14/2/2017 in a group of O.A. No. 710/2009 etc. and it has been held that Muster Assistants working on E.G.S. works, who were regularised later, cannot count service as Muster Assistant for any purpose, including for pensionary benefits.



5. I have perused the judgment of this Tribunal dated 14/2/2017 in a group of O.A. no.710/2009 etc. Based on the judgment dated 21/10/2016 in a group of O.A. nos. 28 of 2012 etc. delivered by the Aurangabad Bench of this Tribunal, it was held that a Muster Assistant was not eligible to count his previous services as Muster Assistant, before regularisation, for any service purpose, including for pensionary benefits. In view of the past judgments of this Tribunal the present O.A. has to be dismissed with no order as to costs.

sd/-

(Rajiv Agarwal)
Vice-Chairman.

Skt.

(Rajiv Agarwal)
Vice-Chairman.