

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 790 of 2017 (S.B.)**

Bharat Zingruji Raut,  
Aged 65 years, Occ. Retired, r/o Paharni,  
Tq. Nagbhid, District Chandrapur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary, Department of Revenue and  
Forest, Mantralaya, Mumbai-400 032.
- 2) The Collector, Civil Lines, Nagpur.
- 3) The Tahsildar, Bhivapur, District Nagpur.
- 4) The Sub Divisional Engineer,  
Public Works, Sub Division, Nagbhid,  
District Chandrapur.

**Respondents.**

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**S/Shri P.D. Meghe, A. Dubey, A. Singh & Laxmi Malewar, Advs.  
for the applicant.**

**Shri S.A. Sainis, learned P.O. for respondents.**

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

**Dated :- 14/07/2022.**

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**JUDGMENT**

Heard Shri P.D. Meghe, Id. counsel for the applicant and  
Shri S.A. Sainis, Id. P.O. for the respondents.

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

The applicant was appointed as a Mustering Assistant  
from 18/4/1991. His service was continued without any break. As per

the Government decision, vide G.Rs. dated 1/12/1995 and 21/4/1999, the services of Mustering Assistants were regularised. The applicant was absorbed in the regular service w.e.f. 29/9/2003. He was appointed as a Peon. The applicant came to be retired on 31/8/2012. The respondents have not calculated the service of applicant from the date of his initial appointment for the purpose of pensionary benefits, therefore, the applicant is not getting any pension. Hence, this O.A. for direction to the respondents to consider the service of applicant from the date of his initial appointment i.e. from 18/4/1991 for the purpose of pensionary benefits.

3. The application is strongly opposed by the respondents on the ground that the service of applicant is regularised in the year 2003. Since the applicant has not qualified service for pension, therefore, pension was not granted to the applicant. Hence, the O.A. is liable to be rejected.

4. During the course of argument, the learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A. No. 545/2020 with connected matters, decided on 17/12/2021. The learned counsel for the applicant has submitted that as per the Judgment of Hon'ble High Court, Bench at Aurangabad in the case of **Ramchandra Kondiba Mahajan Vs. State of Maharashtra and others**, the service of the applicant from the date of initial appointment

shall be taken into consideration for the purpose of pensionery benefits.

5. The learned P.O. Shri S.A. Sainis has strongly objected the O.A. and submitted that in view of the Judgement of Hon'ble Bombay High Court in the case of **Vikar Ansar Shaikh Vs. State of Maharashtra & Ors.** in Writ Petition No.10471/2014 has held that the services of the Mustering Assistants shall be counted as per the G.R. of 1995. The said G.R. itself is explanatory and therefore Mustering Assistants are not entitled to count their services from the date of their initial appointment. The Judgment of Hon'ble High Court, Bench at Aurangabad in the case of **Ramchandra Kondiba Mahajan** (*cited supra*) was challenged in the SLP. The Hon'ble Supreme Court has dismissed the said SLP on 23/02/2017. Therefore, the Judgment in the case of **Ramchandra Kondiba Mahajan** (*cited supra*) attained the finality. The Judgment in the case of **Vikar Ansar Shaikh** (*cited supra*) was not challenged upto the Hon'ble Supreme Court. Both the Judgments were considered by this Tribunal in O.A. 506/2017 with connected matters.

6. The Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 is also very clear. As per Rule 30, the temporary service of the employee shall be taken into consideration for the purpose of pensionery benefits provided that the employee should be permanent

at the time of retirement. The applicant was permanent at the time of retirement and therefore in view of the Rule 30 of the MCS (Pension) Rules also, the temporary service of applicant from the date of his initial appointment as a Mustering Assistant, i.e., from 18/4/1991 should have been taken into consideration by the respondents.

7. This Tribunal relying on the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Ramchandra Kondiba Mahajan** (*cited supra*) has decided many other O.As. holding that the initial services of Mustering Assistants shall be taken into consideration for the purpose of pensionery benefits only. Hence, the following order –

**ORDER**

- (i) The O.A. is allowed.
- (ii) The respondents are directed to consider the service of the applicant from the date of his initial appointment, i.e., from 18/4/1991 on the post of Mustering Assistant for the purpose of pensionery benefits only. The respondents are directed to act accordingly and give pensionary benefits as per the rules within a period of six months.
- (iii) No order as to costs.

**Dated** :- 14/07/2022.

**(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 : 14/07/2022.

Uploaded on : 19/07/2022.

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