

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 590 of 2018 (S.B.)

Vishnu S/o Mukunda Gurunule,
Aged about 56 years, R/o Lakhandur,
Tahsil Lakhandur, Dist. Bhandara.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Department of Planning,
Mantralaya, Mumbai-32.
- 2) The Collector, Bhandara.

Respondents.

S/Shri N.R. & Mrs. K.N., Advocates for the applicant.
Shri H.K. Pande, learned P.O. for respondents.

WITH
ORIGINAL APPLICATION No. 591 of 2018 (S.B.)

Tejram S/o Parasram Sawarkar (died) ...Original applicant (deleted).

- (1) Smt. Sumitra Wd/o Tejram Sawarkar, Aged 50 years, Occ. Housewife,
- (2) Swapnil S/o Tejram Sawarkar, Aged 35 years, Occ. Service

Both R.O. WCL Colony, Qtr. No.110/2,
B-type, Sadbhavna Nagar, Patansavangi, Dist. Nagpur.

L.Rs./Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary, Department of Planning,
Mantralaya, Mumbai-32.
- 2) The Collector, Bhandara.

Respondents.

S/Shri N.R. & Mrs. K.N., Advocates for the applicants.
Shri H.K. Pande, learned P.O. for respondents.

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

Dated :- 03/08/2022.

COMMON JUDGMENT

Heard Shri N.R. Saboo, learned counsel for the applicants and Shri H.K. Pande, learned P.O. for the respondents.

2. The case of the applicant in O.A. No. 590/2018 in short is that, the applicant was working as a Mustering Assistant since May, 1985. His service was discontinued and therefore he had filed Complaint / PULP No.300/1992 before the Labour Court, Bhandara. The said complaint was decided on 30th September, 1995. The Labour Court, Bhandara directed the respondents to reinstate the complainant on the post of Mustering Assistant with continuity of service w.e.f. 30/6/1992 and full back wages. Thereafter the applicant is continued in service as a Mustering Assistant. During the pendency of the O.A., he retired on attaining the age of superannuation.

3. In O.A.No. 591/2018, original applicant died during the pendency of O.A. His L.Rs., i.e., the wife and son have continued this proceeding. The deceased employee was working as a Mustering Assistant from 1980. He was in continuous service. His service was discontinued in the year 1992. Therefore, Complaint (ULP) No.298/1992 was filed before the Labour Court, Bhandara. The said Complaint was decided on 20/08/2002. The Labour Court, Bhandara directed the respondents to reinstate the complainant to his former

post as a Mustering Assistant with continuity of service from 24/07/1992 with full backwages.

4. Heard learned counsel for applicants Shri N.R. Saboo. He has pointed out the Govt. G.Rs. dated 01/12/1995 and 21/04/1999. He has pointed out the Clause no. 3.1 of G.R. dated 01/12/1995. As per this Clause, the Mustering Assistants who were in service on 30/05/1993, they have given regularisation.

5. The learned counsel for applicants submitted that the services of the applicant / deceased employee were terminated at the relevant time and therefore they were not in service, but the terminations of both the applicant / deceased employee were set aside by the Labour Court and they were granted continuity of service from the year 1992 and therefore it is clear that they were in service in the year 1992. Learned counsel for applicants submitted that the applicant / deceased employee are entitled for the benefit of G.Rs. of 1995 and 1999. He has pointed out the Judgment of this Tribunal in O.A.331/2019 along with connected matters.

6. Heard P.O. Shri Pande. He has strongly objected both the O.As. and submitted that the applicant /deceased employee were not in service in the year 1993 and therefore they are not entitled for absorption / regularisation.

7. The Government of Maharashtra framed the scheme to absorb the services of Mustering Assistants those who were in service in the year 1993. The benefits were given to all the Mustering Assistants those who were eligible as per the said G.Rs. Many of the Mustering Assistants were absorbed in Revenue Department as a Clerk, Talathi etc. Both the applicant / deceased employee were not regularised / absorbed in the Govt. service permanently only because their services were terminated at the relevant time.

8. Both the applicant / deceased employee were working with the respondents from the year 1980 and 1985. Their services were terminated. Both the applicant / deceased employee challenged the termination before the Labour Court, Bhandara. The Labour Court, Bhandara has decided both the complaints filed by both the applicant / deceased employee. In both the complaints, the Labour Court, Bhandara has allowed the complaints with direction to the respondents to grant continuity of service to both the applicant / deceased employee from the year 1992. Therefore, it is clear that if the continuity of services of applicant / deceased employee are taken into consideration, then they are deemed to be in service in the year 1993. Therefore, both the applicant / deceased employee are eligible for regularisation / absorption in the service as per the G.Rs. dated 1/12/1995 and 21/4/1999. Hence, the following order –

ORDER

- (i) The O.As. are allowed.
- (ii) The applicant / deceased employee are entitled for absorption in service as per the Government scheme floated by G.Rs. dated 01/12/1995 and 21/04/1999.
- (iii) One of the applicants namely Vishnu M. Gurunule (in O.A. No.590/2018) is retired during the pendency of O.A. and another original applicant namely Tejram P. Sawarkar (in O.A.591/2018) died during the pendency of the O.A. Hence, the respondents are directed to absorb in regular service to both applicant /deceased employee from the year 1992 as per the order of the Labour Court, Bhandara and grant them all pensionery benefits only.
- (iv) The respondents are directed to pass the absorption order of both applicant / deceased employee absorbing them in regular / permanent service and thereafter fix the pay of both applicant / deceased employee.
- (v) It is made clear that both applicant / deceased employee are entitled for pensionery benefits only.
- (vi) No order as to costs.

Dated :- 03/08/2022.

(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 : 03/08/2022.

Uploaded on : 08/08/2022.

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