

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**O.A.No.506 of 2017 ( Prabhakar K. Kshirsagar Vs. State of Mah.& Ors.)**  
**With**  
**O.A. No. 102 of 2020 (Chandrashekhar M. Badwaik & 4 ors. Vs. State of Mah. & Ors.)**  
**With**  
**O.A. No. 316 of 2020 ( Bharat T. Meshram & 3 ors. Vs. State of Mah. & Ors.)**  
**With**  
**O.A.No. 09 of 2021 ( Bhaskar S. Kamane Vs. State of Mah. & Ors. )**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,**  
**Member (J).**

**Dated :- 09/02/2022.**

**COMMON ORDER**

Heard Shri N.R. Saboo, learned counsel for the applicants and Shri A.M. Khadatkar, Id. P.O. (in O.A. 506/2017) and other Id. P.Os. in other O.As. for the respondents.

2. All the applicants have filed the O.As. for direction to the respondents to treat them as permanent employee from the date of their initial appointments as Muster Assistant.

3. All the applicants were appointed as Muster Assistant in the year 1978,1980,1984,1985,1988,1991 & 1992 respectively. They were given regular pay scale of Rs.750-940/- as per the orders dated 01/10/1988, 04/12/1991 & 31/05/1993 respectively.

4. The applicants in O.A. Nos. 102/2020 and 316/2020 were discontinued from service in the year 1990 & 1992. They were reinstated as per the order of Labour Court. As per the Govt. G.Rs. dated 1/12/1995 & 21/04/1999, some employees were absorbed in regular service as Clerk in O.A.No.102/2020. The employee namely Prabhakar K. Kshirsagar in O.A. 506/2017 was absorbed as Peon on 29/09/2003. Other employees were also absorbed in regular service. Most of the employees are retired from service, except employee Pramod N. Upase in O.A. 316/2020, Sukhdeo K. Bodi, Dnyaneshwar M. Hulke and Prakash S. Patil in O.A. 102/2020.

5. All the O.As. are decided by this common order. The initial appointment as Muster Assistant, absorption in regular service and date of retirement etc. are shown in the Chart, which is as under—

Sr. No	O.A No.	Name of Employee	Entry in service under EGS as Muster Assistant	Regular Pay Scale as on (Rs.750-940)	Discontinued from service	Reinstatement as per order of Labour Court	Date of Absorption in Regular Service	Promotion	Date of Retirement
1	506/2017	Prabhakar K. Kshirsagar	23.11.84	01.10.88	-	-	29.09.03 (Peon)		Oct. 21
2	102/2020	Chandrashekhhar M. Badwaik	20.05.88	01.10.88	20.08.92	25.09.2000	01.06.16 (Jr. Clerk)	10/05/20 (Awal Karkun)	31/07/21
		Sukhdeo K. Bodi	04.12.91	04.12.91	28.07.92	28.10.99	01.06.16 (Jr. Clerk)	Sept. 2020 (Supply Inspector)	28/02/30
		Dnyaneshwar M. Hulke	15.04.91	31.05.93	30.06.92	03.11.92	01.06.16 (Jr. Clerk)	20/05/20 (Awal Karkun)	30/11/24
		Ramdas T. Neware	1978	01.10.88	10.06.90	31.01.01	01.06.16 (Jr. Clerk)	20/05/20 (Awal Karkun)	30/06/20
		Prakash S. Patil	30.06.85	01.10.88	31.08.92	03.05.01	01.06.16 (Jr. Clerk)	20/05/20 (Godown Manager)	12/22
3	316/2020	Bharat T. Meshram	11.04.88	01.10.88	31.07.92	ULP 261/1992	02.05.18		31.01.19
		Gajanan T. Meshram	01.04.88	01.10.88	30.07.92	ULP 28/1995	02.05.18		31.05.19
		Damondar B. Bhagadkar	05.05.85	01.10.88	03.08.92	ULP 174/1992	02.05.18		30.06.19
		Pramod N. Upase	01.04.92	01.10.88	31.07.92	ULP 41/1994	02.05.18		On Service
4	09/2021	Bhaskar Kamane	01.10.80	01.10.88	-	-	24.09.03 (Talathi)		31.12.09 (Retired)

6. Heard Shri N.R. Saboo, learned counsel for applicants. He has submitted that this Tribunal has decided bunch of O.As. 545 of 2020 with connected matters on 17/12/2021. This Tribunal has directed the respondents to treat all the Muster Assistants in the O.As., as permanent employees with effect from their initial appointments as Muster Assistant till the date of their superannuation. The respondents were also directed to give all the pensionary benefits to the Muster Assistants as per the rules.

7. Heard Shri A.M. Khadatkar, Id. P.O. for the respondents. He has submitted that the applicants were not regular employees. They are entitled for the pensionary benefits from their date of regular absorption in service. Hence, the O.As. are liable to be dismissed.

8. This Tribunal has decided the grievances of similarly situated employees of Muster Assistants in the O.As. 545 of 2020 with connected matters. The observations of this Tribunal from para nos.12 to 19 and operative order are reproduced below –

*"12. One of the employee Uttam N. Vendait was working as Muster Assistant. His service was terminated on 28/7/1988. He approached to the Labour Court. The Labour Court granted relief of reinstatement on the post of Muster Assistant with continuity of service. He was reinstated as per the order of Labour Court dated 26/8/1991. The respondents / authority did not challenge the Judgment of Labour Court, therefore, the Judgment of Labour Court attained the finality. Thereafter also benefit of continuity of service was not granted and therefore employee namely Uttam N. Vendait filed O.A. No. 199/2014. The M.A.T., Bench at Aurangabad directed the respondents / state that the service from the date of initial appointment on the post of Muster Assistant shall be treated as continue service for the purpose of pensionary benefits.*

*13. The Judgment of MAT, Bench at Aurangabad Bench in O.A. 199/2014 attained the finality as it is upheld upto the Hon'ble Apex Court. That Judgment was challenged before the Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8468/2015. The operative part of the Judgment of MAT, Aurangabad in O.A. 199/2014 reproduced as under -*

*" (i) In view of the Judgment and order dated 26/08/1991 passed by the learned Judge, Labour Court, Dhule in Complaint (ULP) No.47/1989 for the purpose of counting his service for pensionary benefits, applicant shall be treated as permanent employee with effect from his entry in the service as Muster Assistant till the date of his superannuation i.e. 31/05/2013.*

*(ii) Respondents shall accordingly consider the case of the applicant for grant of pensionary benefits, as may be admissible, as per rules.*

*(iii) There shall be no order as to costs."*

14. The Hon'ble Bombay High Court, Bench at Aurangabad referred the Judgment in case of **Ramchandra Kondiba Mahajan vs. State of Maharashtra & Ors.**, and held that the services of Muster Assistant is to be counted from the date of initial posting as Muster Assistant. The para-15 of the Judgment is reproduced as under –

*"15) For the reasons stated above, we do not find that the learned Tribunal has committed any error in directing the State, to count the period of service of the respondent employee with effect from his entry in the service as Muster Assistant till the date of his superannuation on 31.05.2013 from the post of Forest Guard, for the purpose of extending benefit of pension to him. The writ petition is, thus, devoid of any substance and is liable to be rejected. Hence, following order:*

**ORDER**

*. Writ petition is rejected.*

*. No order as to cost."*

15. The respondents in that petition challenged the said Judgment in SLP No.23504/2016. The said SLP was dismissed on 23/2/2017. The operative part is reproduced as under –

*" Heard learned counsel appearing on behalf of the petitioners.  
Delay condoned.  
We do not find any reason to entertain this petition.  
The special leave petition is, accordingly, dismissed."*

16. Learned P.O. has relied on the Judgment in case of **Vikar Ansar Shaikh & Ano. Vs. State of Maharashtra & Ors.** in Writ Petition No. 10471/2014, decided on 30/11/2017. The Hon'ble Bombay High Court has held that the G.R. of December, 1995 is self explanatory. As per clause 5 of the G.R. dated 21/4/1999, the Muster Assistant working under the EGS Scheme are not Govt. employees and therefore the Maharashtra Service Rules as well as rules applicable to the State Govt. employees are not applicable to them. Therefore, the benefits of 5<sup>th</sup> Pay Commission will not be made applicable to them. The Hon'ble

*Bombay High Court has held that the G.Rs. dated 1/12/1995 and 21/4/1999 are self explanatory, therefore, Muster Assistants who were working under the EGS scheme cannot claim to count their services of the post of Muster Assistant.*

17. *From the reading of the Judgment cited by Id. P.O., it appears that the Judgment of Hon'ble Bombay High Court, Aurangabad Bench in W.P. No.8468/2015 which was confirmed by the Supreme Court was not cited.*

\*18. *The State Government / respondents have acted upon the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8468/2015. The Collector, Wardha given the direction to the Chief Executive Officer (CEO), Wardha to regularize the services of employees who were absorbed in regular service from the post of Muster Assistants. The State Government issued G.R. dated 1/8/2017 stating that as per general rules, the similarly situated employees who were given benefit as per the decision of the Court, then other similarly situated employees are also entitled for the same benefit. As per the order dated 4/6/2020 the CEO, Zilla Parishad, Wardha has given the benefit of continuity of service from the initial date of posting on the post of Muster Assistants to the 13 employees. As per the order dated 6/3/2018 the CEO, Zilla Parishad, Ahmednagar has given the benefit of continuity of service from the initial date of posting on the post of Muster Assistants to the 24 employees. In the present O.As., the respondents have not taken care of the said G.R. All the applicants were terminated / discontinued, but they were reinstated as per the order of Labour Court with continuity of service.*

19. *All the applicants are having similar grievances as like the applicant in O.A. No. 199/2014 filed before the MAT, Bench at Aurangabad. The Judgment of MAT, Bench at Aurangabad was confirmed upto the Hon'ble Apex Court. Therefore, the decision in Judgment of MAT, Bench at Aurangabad in O.A. 199/2014 is applicable to the grievances of the applicants. In that view of the matter, the following order is passed -*

**ORDER**

(i) *The O.As. are allowed.*

(ii) *The applicants in O.A.Nos.545,546,547,549,550,551 and 578 of 2020 and deceased employee Sudam L. Thute (applicant Mangla S. Thute) in O.A. 579 of 2020 shall be treated as permanent employees with effect from their entries in the service as Muster Assistants till the date of their superannuation.*

(iii) *The respondents shall accordingly consider the case of the applicants / deceased employee for all the pensionary benefits, as may be admissible, as per rules.*

(iii) *The applicant in O.A. 548/2020 (Sandip W. Gulhane) is in service. He is entitled for all the service benefits as per rules, as a permanent employee from the date of his entry in service on the post of Muster Assistant.*

(iv) *No order as to costs."*

9. There is no dispute that all the applicants were appointed as Muster Assistant. They were given regular appointment / absorption. Some of them were promoted.

10. In view of the judgment of this Tribunal in O.As. 545 of 2020 with connected matters, the present applicants are also entitled for the same relief. In that view of the matter, the following order is passed –

**ORDER**

(i) The O.As. are allowed.

(ii) The applicants in O.A. Nos. 506/2017,102/2020,316/2020 & 09/2021 shall be treated as permanent employees with effect from their initial appointments in the service as Muster Assistants till the date of their superannuation.

(iii) The respondents shall give all the pensionary benefits, as may be admissible, as per the rules.

(iv) The applicants namely Pramod N. Upase in O.A. 316/2020, Sukhdeo K. Bodi, Dnyaneshwar M. Hulke and Prakash S. Patil in O.A. 102/2020 who are in service shall be treated as permanent employee from the date of their initial appointments. They are entitled for all the service benefits as permanent employee from the date of their entry in service on the post of Muster Assistant as per the rules.

(v) No order as to costs.

**Dated** :- 09/02/2022.

**(Justice M.G. Giratkar)**  
**Member (J).**

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