

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 809 of 2022 (S.B.)

Chhatrapati Onduji Kukudkar,
Aged R/o Adpalli, Tah. Mulchera,
Distt. Gadchiroli.

Applicant.

Versus

- 1) State of Maharashtra,
Secretary (E.G.S.),
Department of Planning, State of Maharashtra,
Mantralaya, Mumbai-32.
- 2) The Collector, Gadchiroli.
- 3) Superintendent Engineer,
Public Works Department,
Gadchiroli.

Respondents.

S/Shri N.R.Saboo, A.P. Barahate, Advocates for the applicant.
Shri V.A. Kulkarni, learned P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 810 of 2022 (S.B.)

Sudhakar Keshorao Jambhule,
Aged R/o Aheri, Tah. Aheri,
Distt. Gadchiroli.

Applicant.

Versus

- 1) State of Maharashtra,
Secretary (E.G.S.),
Department of Planning, State of Maharashtra,
Mantralaya, Mumbai-32.
- 2) The Collector, Gadchiroli.
- 3) Superintendent Engineer,
Public Works Department,
Gadchiroli.

Respondents.

S/Shri N.R.Saboo, A.P. Barahate, Advocates for the applicant.
Shri V.A. Kulkarni, learned P.O. for the respondents.

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

Dated :- 21/12/2022.

COMMON JUDGMENT

Heard Shri N.R. Saboo, learned counsel for the applicants and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The applicant in O.A.No.809/2022 and applicant in O.A.No.810/2022 were engaged as Mustering Assistant on 02/03/1985 and 28/02/1986 respectively. The Chart regarding date of appointment of applicants as Mustering Assistant, date of termination etc., is as follows –

Sr. No.	O.A No.	Name	Date of Appointment as Muster. Asst.	Date of Termination	Order of Labour Court granting reinstatement	Date of absorption in Govt. Service	Superannuation Date
1	809/22	Chhatrapati Onduji Kukudkar	02.03.85	01.07.92	17.07.2001 (Complaint ULP No. 223/92)	03.10.17	31.07.19
2	810/22	Sudhakar Keshorao Jambhule	28.02.86	30.04.92	23.07.2001 (Complaint ULP No. 182/94)	03.10.17	30.11.21

3. Applicants were terminated. Thereafter they approached to the Labour Court. The Labour Court has directed the respondents to continue the services. The Labour court has quashed and set aside the order of termination. As per the G.R. dated 01/12/1995, they

were absorbed in the regular service. Both the applicants retired on superannuation as per the dates given in the above Chart.

4. The applicants approached to this Tribunal to count their services from the date of their initial engagement as Mustering Assistant and direct the respondents to pay pension and other pensionary benefits.

5. The O.As. are strongly opposed by the respondents. It is submitted that the applicants have not completed qualifying service for grant of pension. Therefore, they are not entitled for pension and pensionary benefits.

6. Heard Shri N.R. Saboo, learned counsel for the applicants. He has pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in case of **the State of Maharashtra & Ors. Vs. Uttam S/o Narayan Vendait** in Writ Petition No.8468/2015, decided on 16/12/2015. The Hon'ble Bombay High Court, Bench at Aurangabad has held that the services of Mustering Assistant are to be regularised from their initial date of engagement as a Mustering Assistant and directed the respondents to pay the pension and pensionary benefits by calculating the date as a regular service from their initial engagement as a Mustering Assistant. Now the issue is settled by the Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra** in Civil Appeal

No.6531-6533/2022 (Arising out of SLP (C) Nos.6039-6041/2016). The Hon'ble Supreme Court has held that in case of Mustering Assistant their regular services shall be counted from 31/03/1997. As per the Judgment of Hon'ble Supreme Court, the applicants are entitled to count their services from 31/03/1997. Hence, the following order –

ORDER

- 1) The O.As. are allowed.
- 2) The respondents are directed to count the services of applicants from 31/03/1997 as a regular service and pay the pension and pensionary benefits, if they are eligible.
- 3) No order as to costs.

Dated :- 21/12/2022.

dnk.

(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 : 21/12/2022.