

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 126 of 2022 (S.B.)

Chandraprakash S/o Jagoji Shende,
Aged about 60 years, Occ. Retired
R/o Panchsheel Chowk, Indira Nagar,
Mul Road, Chandrapur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Department of Water Supply and Sanitation,
Mantralaya, Mumbai-32.
- 2) The Commissioner,
Ground Water Survey & Development Agency,
Bhujal Bhavan, Shivaji Nagar, Pune.
- 3) The Deputy Director,
Department of Ground Water Survey &
Development Agency, Jivan Pradhikaran Building,
Telangkhedi, Civil Lines, Nagpur
- 4) Senior Geologist, Department of Ground
Water Survey & Development Agency, Jivan Pradhikaran
Building, Telangkhedi, Civil Lines, Nagpur.
- 5) Senior Geologist, Department of Ground
Water Survey & Development Agency,
Near Sawarkar Square, Chandrapur,
Tq. and Dist. Chandrapur.
- 6) Deputy Engineer, Mechanical Sub Division,
Zilla Parshad, Chandrapur.

Respondents.

N.N., Yogita & N.Y. Thengre, Advocates for the applicant.
Shri A.P. Potnis, P.O. for respondents.

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

Dated :- 07/07/2022.

JUDGMENT

Heard Shri N.N. Thengre, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. The applicant was working with the respondents as a Choukidar on daily wages w.e.f. 4/9/1989. His service was terminated on 2/8/1991. Again he was appointed on 7/9/1991. His service was again terminated on 1/5/1992. The applicant challenged the termination order dated 1/5/1992 before the Labour Court in Complaint ULPA No.55/1992. During the pendency of the said complaint, the respondents revoked the termination on 7/12/1992, since then the applicant is in continuous service. The applicant approached to the Industrial Court by filing Complaint ULPA No.74/2007 with a prayer for direction to the respondents to regularise his service as per the provisions of the Kalelkar Award by bringing him on CRTE. The said complaint was allowed on 22/7/2010 with a direction to the respondents to absorb the complainant on CRTE in accordance with the direction issued in the Government Gazetted dated 24/11/2000 and 24/04/2001.

3. The respondents have complied the direction given by the Industrial Court and his service was regularised from 22/7/2010. The applicant is now retired. The applicant is claiming that his past

service is not taken into consideration by the respondents for the pensionary benefits. The applicant has approached to this Tribunal for the following prayer –

*“(i) Grant pensionary benefits taking into consideration the orders dated 22/10/2019 passed by the State and other orders enclosed herewith, which are before this Tribunal in the present application and
(ii) As per Annexure A-11,A-12,A-13 and A-14, be directed to fix pension as early as possible, giving effect to the order dated 22/07/2010 and order of High Court vide Annex-A-3 and Annex-A-4, along with interest.”*

4. The applicant retired on 30/4/2020 after completion of age of 60 years. The applicant has not qualified service for pensionary benefits, therefore, he approached to this Tribunal for direction to the respondents to count his service from the date of his initial appointment.

5. The application is opposed on the ground that the service of the respondents is regularised from 22/7/2010 from the date of the order of the Industrial Court. Hence, he is not entitled for the pensionary benefits, because, he has not completed qualifying service. From the contents of the order of Industrial Court dated 22/7/2010 in para-2 it is clear that *last termination of the applicant was on 1/5/1992. The said termination order was challenged before the Labour Court in Complaint ULP No. 55/1992. During the pendency,*

the respondent revoked the termination order on 7/12/1992. It appears that the applicant was in continuous service from 7/12/1992.

6. As per the direction of Industrial Court, the services of the applicant was regularised as per the Kalelkar Award and he was brought on CRTE. The respondents have complied the order of Industrial Court and his service was regularised from 22/7/2010 i.e. from the date of order of the Industrial Court. The respondents have not given any pension to the applicant on the ground that he has not completed qualifying service of minimum 10 years for pensionary benefits.

7. It is pertinent to note that while fixation of the pension, the respondents should have taken into consideration earlier service of the applicant from 7/12/1992. There is no dispute that the applicant was in continuous service from 7/12/1992 till his retirement though his service was regularised from 22/7/2010. As per the Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982, *the qualifying service of a government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity, provided that, at the time of retirement he shall hold substantively a permanent post in government service or holds a suspended lien or certificate of permanency.*

8. It is clear from the Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 that the temporary service of government servant / employee shall be taken into consideration for the purpose of pensionary benefits provided that he should be permanent at the time of retirement.

9. The service of applicant was made permanent w.e.f. 22/7/2010, but he was in temporary service from 7/12/1992. Service of the applicant from 1992 shall be taken into consideration for the purpose of pensionary benefits. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to calculate the service of the applicant from 7/12/1992 till the date of his retirement for the purpose of pensionary benefits and give pensionary benefit to the applicant by calculating his service from 7/12/1992.

(iii) No order as to costs.

Dated :- 07/07/2022.

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 : 07/07/2022.

Uploaded on : 08/07/2022.

ok*