

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 278 of 2022 (S.B.)

Shri Nivruti s/o Sambhaji Manwar,
Aged 73 years, Occu.: Retired,
R/o. Ramgaon, Post: Haru,
Tah. : Darwah, Distt. : Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra through its Secretary,
Department of E. G. S., Mantralaya, Mumbai.
- 2) The State of Maharashtra through its Secretary,
Department of Rural Development,
Mantralaya, Mumbai.
- 3) The Collector, Yavatmal.
- 4) The Chief Executive Officer,
Zilla Parishad, Washim.
- 5) The Sub Division Office,
Public Works Division, Darwah, Distt. : Yavatmal

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri M.I. Khan, learned P.O. for respondent nos.1 to 3 and 5.
Shri A.S. Deshpande, Advocate for respondent no.4.

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

Dated :- 20/07/2023.

JUDGMENT

Heard Shri G.G. Bade, learned counsel for applicant, Shri
M.I. Khan, learned P.O. for respondent nos.1 to 3 & 5 and Shri A.S.
Deshpande, learned counsel for respondent no.4.

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

The applicant was appointed as a Mustering Assistant on 23/01/1985. As per the Govt. G.R. dated 21/04/1999, the applicant was absorbed in the regular service as per order dated 24/09/2003. The applicant is now retired after completion of age of superannuation on 31/12/2006. The applicant is not getting pensionary benefits on the ground that he has not completed required service to grant pension. Hence, the applicant approached to this Tribunal for direction to the respondents to count his service from the date of his initial appointment for the purpose of pensionary benefits.

3. The O.A. is strongly opposed by the respondents. It is submitted that the applicant has not completed required service to grant pension and pensionary benefits and therefore he is not entitled for the pensionary benefits. Therefore, the O.A. is liable to be dismissed.

4. 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 has held that the services of Mustering Assistants are to be counted from the date of their initial engagement on the said post. Now recently the Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra**, decided on 07/09/2022 has

held that the services of Mustering Assistants are to be counted from 31/03/1997 for the purpose of pensionary benefits.

5. In view of the Judgment of Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra** (cited supra), the following order is passed -

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to count the regular service of applicant from 31/03/1997 and pay all pensionary benefits, if he is eligible for the same.
- (iii) No order as to costs.

Dated :- 20/07/2023.

(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 : 20/07/2023.