

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 792/2010**

Shri Suresh S/o Sambhaji Chaudhari,  
Aged about 45 years, R/o Dhanora,  
Distt. Gadchiroli.

**Applicant.**

**Versus**

- 1) State of Maharashtra through its  
Secretary, Department of Planning,  
Mantralaya, Mumbai-32.
- 2) Commissioner,  
Nagpur Division, Nagpur.
- 3) The Collector,  
Gadchiroli.
- 4) Executive Engineer,  
Public Works Division, Gadchiroli,  
Distt. Gadchiroli.
- 5) Sub-Divisional Engineer,  
Public Works Sub-Division, South  
Dhanora, Distt. Gadchiroli.

**Respondents**

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**Shri G.G. Bade, P.P. Dhok, Advocate for the applicant.**

**Shri H.K. Pande, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGEMENT**

**(Delivered on this 19<sup>th</sup> day of April,2017)**

Heard Shri G.G. Bade, Id. counsel for the applicant and  
Shri H.K. Pande, Id. P.O. for the respondents.

2. The applicant Suresh Sambhaji Chaudhari has claimed  
direction to the respondents to absorb him in regular service, thereby

regularising his service as per G.R. dated 01/12/1995 and to grant other relief deems fit of such absorption.

3. The applicant has joined as a Mustering Assistant on 10/11/1989 in the office of respondent nos. 4 & 5. He came to be terminated on 10/01/1992. The said termination order was challenged by the applicant before Labour Court, Chandrapur vide ULP Complaint No.13/1994. By virtue of the interim order dated 15/09/1994, the applicant continued in the service and joined in the service of respondent no.5 on 20/01/1995. The said complaint came to be allowed and the applicant was reinstated with full back wages. He thereafter filed representation for regularisation of services and since his grievance was not met, he has filed this O.A.

4. The respondents have denied the claim of the applicant. It is stated that the applicant was temporarily appointed as Mustering Assistant under EGS Act, 1977. The scheme of regularisation is elaborated in G.R. dated 01/12/1995 to those Mustering Assistants whose names appeared in the seniority of 31/05/1993. The applicant was not working under the EGS scheme during the period from 26/05/1993 to 31/05/1993 and therefore he is not entitled for regularisation as per G.R. dated 01/12/1995.

5. The learned P.O. has placed reliance on the Judgment delivered by this Tribunal at Nagpur Bench in O.A.Nos.710/2009, 711/2009, 714/2009, 715/2009, 716/2009, 167/2010, 168/2010, 169/2010, 33/2015, 34/2015, 35/2015, 36/2015, 37/2015, 38/2015, 56/2015, 58/2015 and 60/2015, delivered on 14/02/2017. The learned P.O. submits that the case of the applicant is covered by this Judgment. In the said Judgment this Tribunal has observed as under:-

*“(6) It is also seen that validity of G.R. dated 01/12/1995 was upheld by Hon’ble Supreme Court in S.L.P. (Civil) No.15664 of 1991 by judgment dated 02/12/1996.*

*Clause 5.2 of this G.R. dated 01/12/1995 state that :-*

*^ 5.2 gtjh l gk; dkuk l /; k feGr vl yŷ; k oruJskh 0; frfjDr ‘kkI dh; depk&; kdk feG.kkj; ykhk vFkok brj l ks h l oyrh vuks jkg.kkj ukgh o rs ‘kkI dh; depjkh Eg.ku vkG[kystk.kkj ukghr-<sup>\*\*</sup>*

*This G.R. has been upheld by Hon’ble Supreme Court. There is no question of considering past service as Muster Assistant for pensionary purpose.*

7. *This issue was again considered by the Hon’ble Supreme Court when the Judgment of High Court dated 20/12/2001 in Writ Petition No.954 of 1990 was considered in S.L.P. (Civil) No.5171 of 2003. Hon’ble Supreme Court did not approve the order of Hon’ble High Court to absorb all Muster Assistant w.e.f. 31/03/1997 and ordered that they be absorbed gradually on the available vacancies in accordance with seniority and roster.*

8. *This Tribunal (Aurangabad Bench) by judgment, dated 10/06/2010 in O.A.578/2008 has held that the Muster Assistants were not recognized as Govt. Servant till their absorption in the Government. Accordingly, their past service before absorption in Government service cannot be counted for pensionary benefits.*

9. *The Judgment dated 21/10/2016 in the group of O.As. No.28 of 2012 etc. Delivered by the Aurangabad Bench of this Tribunal after considering all earlier Judgments of this Tribunal, judgments of Hon'ble High Court and Hon'ble Supreme Court. There is no reason for us to take any different view here.*

10. *Facts in other Original Applications in this Group of O.As. are more or less identical and a common order can be passed to dispose them of.*

11. *Having regard to the aforesaid facts and circumstances, these O.As. are dismissed with no order as to costs."*

6. Since the case of the applicant is covered by the Judgment reported as above, the applicant is not entitled to any relief.

Hence, the following order :-

### **ORDER**

The O.A. stands dismissed with no order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

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