

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 271/ 2022 (S.B.)**

Shri Parasram S/o Ramji Rathod,  
Aged about 69 years, Occ. Retired,  
R/o At Post : Chikhali (Bhandegaon),  
Tal. Darwah, Dist. Yavatmal.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Public Works,  
Mantralaya, Mumbai- 32.
- 2) The Divisional Commissioner,  
Amravati Division,  
Amravati.
- 3) The Collector,  
Yavatmal.
- 4) The Executive Engineer,  
Public Works Department,  
Pusad, Dist. Yavatmal.

**Respondents**

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**Shri G.G.Bade, Id. Advocate for the applicant.**

**Shri S.A.Deo, Id. C.P.O. for the Respondents.**

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGEMENT**

**Judgment is reserved on 14<sup>th</sup> June, 2023.**

**Judgment is pronounced on 16<sup>th</sup> June, 2023.**

Heard Shri G.G.Bade, Id. counsel for the applicant and Shri  
S.A.Deo, Id. C.P.O. for the Respondents.

2. The applicant was appointed as Muster Assistant vide order dated 26.12.1980. Against his termination he filed U.L.P.A. No. 109/1994 in Labour Court, Yavatmal. By judgement dated 04.09.1996 (A-2) he was directed to be reinstated without backwages, and continuity of service. As per G.R. dated 21.04.1999 (A-6) he was observed in the respondent department vide order dated 26.03.2004 (A-3). By extending the benefit of G.R. dated 22.02.1993 (A-4) the applicant was given regular pay scale w.e.f. 01.10.1988. He retired on superannuation on 31.05.2011 (A-5). By judgement dated 16.12.2015 (A-7) passed by the Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8468/2015 Muster Assistants were held entitled to computation of pensionable service from the date of their entry. As per Circular dated 28.02.2017 (A-8) issued by Law and Judiciary Department, Government of Maharashtra, similarly situated employees should be extended identical benefits. Circular (A-9) to the same effect is issued by Rural Development Department of Government of Maharashtra. Zilla Parishads of Wardha and Nashik, by orders dated 04.06.2020 and 19.07.2021 (A-10 & 11, respectively) extended benefit of computation of pensionable service as aforesaid to Muster Assistants working on their establishments. Identical relief deserves to be granted to the applicant. Hence, this original application.

3. In their reply at PP. 63 to 66 respondents 2 & 3 have contended that since the applicant retired in the year 2011, instant O.A.

is barred by limitation, and Circular of Planning Department, Government of Maharashtra dated 26.02.2022 (A-R-1) would show that the Hon'ble Supreme Court has held that Muster Assistants cannot be treated as Government Servants.

4. The issue is no longer *res-integra*. In judgement dated 21.03.2023 passed in W.P. No.5748/2019 Hon'ble Bombay High Court has held:-

*"5. We find that the very same issue as regards entitlement of Muster Assistants to get pensionary benefits has been considered by the Hon'ble Supreme Court in Shaikh Miya Shaikh Chand (Supra). The relevant date for reckoning the pensionary benefits is taken as 31.03.1997. We find that the petitioner is similarly situated. Though appointed on 05.02.1985, he was directed to be treated as in employment with continuity in service by the Labour Court when the order of termination dated 14.07.1988 was set aside. Notwithstanding the absorption of his services on 10.06.2003 in the light of the aforesaid decision, the petitioner would be entitled to the pensionary benefits by taking into consideration the relevant date as 31.03.1997."*

5. In view of this legal position contentions of the respondents cannot be accepted. In the result it is held that the applicant is entitled to receive pensionary benefits by considering his entry in service from 31.03.1997. The same shall be paid to him within three months from today. O.A. is allowed in these terms with no order as to costs.

**(Shri M.A.Lovekar)**  
**Member (J)**

**Dated :- 16/06/2023.**  
**aps**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 16/06/2023.  
and pronounced on

Uploaded on : 19/06/2023.