

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 280/2021 (S.B.)**

Shri Bhaurao S/o Tulsiram Mankar,
Aged 67 years, Occ.: Retired,
R/o At-Bhendala, Post-Khatgaon,
Tah.- Sindhewahi, Dist.- Chandrapur.

Applicant.

Versus

1. State of Maharashtra,
through its Secretary,
Department E.G.S.,
Mantralaya, Mumbai -400032.
2. State of Maharashtra,
through its Secretary,
Department of Revenue & Forest,
Mantralaya, Mumbai.
3. The Commissioner Nagpur Division,
Nagpur, Civil Line, Nagpur.
4. The Collector, Chandrapur,
Civil Line, Chandrapur,
Dist.- Chandrapur.

Respondents

Shri N.Y.Lade, Id. Advocate for the applicant.

Shri V.A.Kulkarni, Id. P.O. for the Respondents.

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

JUDGEMENT

Judgment is reserved on 23rd June, 2023.

Judgment is pronounced on 28th June, 2023.

Heard Shri N.Y.Lade, Id. counsel for the applicant and Shri V.A.Kulkarni, Id. P.O. for the Respondents.

2. The applicant joined as Muster Assistant on 18.12.1984. He was absorbed as Peon in the respondent department on 27.06.2003. He was promoted as Junior Clerk on 07.05.2005. He worked continuously. He retired on superannuation on 30.08.2010. It is his grievance that he has been unjustifiably deprived of pensionary benefits. Hence, this O.A..

3. Stand of the respondents is that Muster Assistants are not Government Servants and pensionable service of the applicant would begin from the date of absorption i.e. 27.06.2003.

4. In Judgement dated 21.03.2023 in W.P. No. 5748/2019 the Bombay High Court relied on the Judgement of the Hon'ble Supreme Court and observed:-

“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 factual and legal position the O.A. deserves to be allowed in the following terms - It is held that the applicant became entitled to receive pensionary benefits by considering his entry in service from 31.03.1997. Consequential benefits shall be extended to him. Arrears shall be paid within three months from today. No order as to costs.

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

Dated :- 28/06/2023.
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 : 28/06/2023.
and pronounced on

Uploaded on : 30/06/2023.