

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 234/2019(S.B.)

Tikaram Bajirao Borkar,
Aged 61 years, R/o Gandhi Ward,
Wadsaganj, TH-Desaiganj,
Dist. Gadchiroli.

Applicant.

Versus

1. The State of Maharashtra,
through its Department of Planning,
Mantralaya, Mumbai -400 032.
2. The Collector,
Gadchiroli.
3. Block Development Officer,
Panchayat Samiti,
Desaiganj, Dist.-Gadchiroli.

Respondents

N.R. & K.N.Saboo, Ld. counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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

Dated: - 12th December 2022.

JUDGMENT

Heard Shri N.R.Saboo, learned counsel for the applicant and
Shri A.M.Khadatkar, learned P.O. for the Respondents.

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

The applicant was engaged as a Mustering Assistant in the year 1984. His service was terminated. Therefore, he approached to the Labour Court. The Labour Court reinstated the applicant as per order dated 19.03.1997. The order of Labour Court was challenged before the Industrial Court, Nagpur, in the Revision No.81/2000. The said Revision was dismissed. The respondents have not challenged the order of Industrial Court. The applicant had filed O.A.No.316/2016 before this Tribunal. This Tribunal allowed the O.A. and directed the respondents to give the benefits of the schemes floated vide G.Rs. dated 01.12.1995 and 21.04.1999 to the applicant, but the respondents have not complied the same. Applicant is retired on 30.04.2017. The applicant made representation to the respondent on 20.11.2017, but his service is not regularised and pensionary benefit is not given to him. Hence, the applicant approached to this Tribunal.

3. The O.A. is strongly opposed by the respondent no.2. It is submitted that the applicant was engaged on E.G.S. and therefore, he is not entitled for the relief claimed in this O.A. It is submitted that the applicant is already retired and therefore, benefit of G.Rs.

of 1995 and 1999 cannot be given. At last submitted that the O.A. is liable to be dismissed.

4. Heard Advocate Shri N.R.Saboo, learned counsel for the applicant. He has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **"The State of Maharashtra Vs. Uttam Narayan Vendait"** and the Judgment of Hon'ble Supreme Court in the case of **"Shaikh Miya s/o Shaikh Chand Vs. State of Maharashtra"** decided on 07.09.2022. The learned Advocate has submitted that this Tribunal has passed order in other similar matters for direction to the respondents to regularise the services of the applicants as per the Judgment of Hon'ble Bombay High Court in the case of **"The State of Maharashtra Vs. Uttam Narayan Vendait"** and the Judgment of Hon'ble Supreme Court in the case of **"Shaikh Miya s/o Shaikh Chand Vs. State of Maharashtra"**.
5. Heard Shri A.M.Khadatkar, learned P.O. for the respondents. He has strongly objected the O.A. As per his submission, the applicant is already retired and therefore, his service cannot be regularised.
6. There is no dispute that the applicant was engaged as a Mustering Assistant in the year 1984-1987. His service was terminated. The applicant had challenged the said termination order before the

Labour Court in complaint U.L.P.No.280/1992. The Labour Court granted the relief to the applicant and directed the respondents to reinstate him. The respondents have not complied the order of Labour Court. The respondents have challenged the order of Labour Court before the High Court and also before the Industrial Court. As per the direction of High Court, the Industrial Court has decided the Revision no.81/2000. The Revision was dismissed and the order passed by Labour Court was confirmed. Thereafter, the applicant was continued in the service.

7. The respondents have not complied the order of Labour Court. Therefore, the applicant approached to this Tribunal along with other applicants by filing O.A.No.316/2016. This Tribunal allowed the said O.A. holding that the applicant and other all similarly situated applicants are entitled to the benefits of the Scheme floated vide G.Rs. dated 01.12.1995 and 21.04.1999. The respondents have not complied the order of this Tribunal dated 05.07.2016 in O.A.No.316/2016.
8. The learned Advocate for applicant Shri N.R.Saboo has pointed out the proposal made by the Committee for regularisation of the applicant and other similarly situated Mustering Assistants. The proposal is dated 24.03.2017. As per this proposal, the Collector

was directed to regularise the services of the applicant and other similarly situated employees. In the same proposal, the name of applicant Shri.Dadmal and other 14 Mustering Assistants were recommended for regularisation of their services.

9. As per the submission of learned counsel for the applicant, Shri.Dadmal and others were regularised, but services of the applicant was not regularised. The applicant retired on 30.04.2017.
10. As per the submission of learned P.O., the applicant is retired and therefore, he is not entitled for the benefits of G.Rs. 1995 and 1999.
11. Specific direction was given by the Labour Court to continue the services of the applicant. The said order was confirmed by the Industrial Court. That order was not challenged by the respondents. The same issue was raised before the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **"The State of Maharashtra Vs. Uttam Narayan Vendait"**. The Hon'ble Bombay High Court, Bench at Aurangabad has held that the respondent Uttam Vendait is entitled for regularisation as per the G.Rs. of 1995 and 1999. The said Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad was challenged before the Hon'ble

Supreme Court. The Hon'ble Supreme Court dismissed the S.L.P. In the said Judgment, the Hon'ble Bombay High Court has directed the respondents to regularise the services of the Mustering Assistants from the date of their initial engagement as a Mustering Assistant.

12. The Hon'ble Supreme Court in respect of the particular date for regularisation in the case of "**Shaikh Miya s/o Shaikh Chand Vs. State of Maharashtra**" decided on 07.09.2022 has held that the date for regularisation shall be on 31.03.1997 for all the Mustering Assistants, whose services are to be regularised.
13. There is no dispute that the applicant was continued in service till his retirement. This Tribunal has directed the respondents to regularise the services of the applicant, but the said order was not complied. The Collector also not followed the direction of the Committee. Other similarly situated Mustering Assistants were regularised and they are getting pension and other benefits. In view of the Judgment of Hon'ble Bombay High Court in the case of "**The State of Maharashtra Vs. Uttam Narayan Vendait**" and the Judgment of the Hon'ble Supreme Court in the case of "**Shaikh Miya s/o Shaikh Chand Vs. State of Maharashtra**" the applicant

is entitled to regularise his service as per the G.Rs. dated 01.12.1995 and 21.04.1999. Hence, the following order.

ORDER

- 1) The O.A. is allowed.
- 2) The respondents are directed to regularise the service of the applicant from 31.03.1997 and give all the pensionary benefits to the applicant within a period of four months from the date of receipt of the order of this Tribunal.
- 3) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 12/12/2022

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 12/12/2022.