

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 352/2023 (S.B.)

Dhanpal S/o Kisan Shende,
Aged about 68 yrs, Occ. Retired,
R/o Sai Colony, G.T.Road,
In front of ICICI Bank, Tiroda,
Dist. Gondia.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Additional Secretary,
General Administration Department,
Mantralaya, Mumbai -32.
- 2) State of Maharashtra,
Through its Principal Secretary
Water Resources Department,
Mantralaya, Mumbai-32.
- 3) Collector, Nagpur,
Collector Office, Nagpur.
- 4) Tahsildar,
Tahsil Office, Post-Tiroda,
Dist. Gondia.

5) Collector, Gondia,
Collector Office, Gondia.

6) Office of Accountant General,
Maharashtra, Accounts & Entitlement-II,
Nagpur.

Respondents

Smt.S.D.Anjankar, Ld. Counsel for the applicant.
Shri A.P.Potnis, Ld. P.O. for the respondents.

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

Dated: - 10th October, 2023.

JUDGMENT

Judgment is reserved on 15th September, 2023.

Judgment is pronounced on 10th October, 2023.

Heard Smt. S.D.Anjankar, learned counsel for the applicant
and Shri A.P.Potnis, learned P.O. for the respondents.

2. By order dated 03.04.1993 the applicant was appointed as
Muster Assistant (Annexure A-1). By order dated 29.09.2003 (Annexure
A-3) the applicant was absorbed as Junior Clerk in the respondent
department. He retired on superannuation on 29.02.2012. By the

impugned order dated 18.05.2012 (Annexure A-4) pensionary benefits were denied to him. Hence, this O.A..

3. Contention of the applicant is that from the initial date of his appointment his pensionable service should be counted. In support of this contention reliance is placed on Judgments of this Tribunal dated 17.12.2021 (in a batch of 9 original applications) and 03.02.2022 in O.A.No.85/2021. Here, it may be mentioned that in **Vikar Ansar Shaikh & Ano. Vs. State of Maharashtra & Ors. in Writ Petition No. 10471/2014, decided on 30/11/2017**, Nagpur Bench of the Hon'ble Bombay High Court had taken a view that pensionable service is to be counted from the date of absorption in Government service.

4. Though, the respondent department has resisted the O.A., the issue is no longer *res integra*. In Judgment dated 07.09.2022 in the case of **Shaikh Miya s/o Shaikh Chand Vs. State of Maharashtra in Civil Appeal No.6531-6533/2022** the Hon'ble Supreme Court has held as follows-

In our view, what the Bench considered appropriate to issue notice was really the aspect that since the absorption occurred over a period of time, and that may have deprived some persons to their service as permanent employees, it should be the notional date

of absorption of 31.03.1997 which should be taken into account for determining the pensionable service.

Hence, the following order.

ORDER

1. The O.A. is allowed.
2. The applicant shall be treated to be permanent employee w.e.f. 31.03.1997 for determining pensionable service, and is held entitled to all benefits flowing therefrom.
3. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 10/10/2023
rsm.

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 Member (J).
Judgment signed on : 10/10/2023.
and pronounced on : 11/10/2023.