

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.355/2022(S.B.)

Shri Rameshwar Kisan Bhandarkar,
Aged 62 years, Occu.: Retired,
R/o. Mundikota, Tah.: Tirora,
Distt. : Gondia.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Planning,
Mantralaya, Mumbai.
- 2) The State of Maharashtra,
through its Secretary,
Department of Employment Guarantee Scheme,
Mantralaya, Mumbai.
- 3) The Collector,
Gondia.

Respondents

Shri P.P.Khaparde, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

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

Dated:- 16th February, 2024.

JUDGMENT

Judgment is reserved on 14th February, 2024.

Judgment is pronounced on 16th February, 2024.

Heard Shri P.P.Khaparde, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the respondents.

2. The applicant was appointed as Muster Assistant in the year 1982. He challenged order of his termination and by Judgment dated 11.04.1996 (Annexure A-1) Labour Court at Bhandara directed reinstatement of the applicant with continuity of service and with full backwages w.e.f. 01.07.1992. In revision, Industrial Court, Bhandara directed that names of three complainants including the present applicant shall be sent to the Collector for inclusion in seniority list for the purpose of their absorption in Government service as per G.R. dated 01.12.1995. This order was passed on 06.03.2004 (Annexure A-2). However, inspite of aforesaid directions grievances of the applicant (and other complainants) remained unredressed. The applicant and one another with such grievance filed in O.A.No.443/2017 before this Bench. Said O.A. and other connected O.As. were decided by this Bench by common Judgment dated 07.11.2019 (Annexure A-5). This Bench directed the respondents to extend benefits of G.Rs. dated 01.12.1995 and 21.04.1999 to the applicants and absorb them in service without giving any monetary benefits. Pursuant to said order of this Bench,

order dated 07.08.2020 (Annexure A-6) was passed absorbing the applicant and two others in Government service. The applicant was appointed as Peon and posted at Tahsil Office, Goregaon, District Gondia. He retired on superannuation on 31.08.2020. In this O.A. the applicant has prayed that for granting him pensionary benefits past services rendered by him be taken into account.

3. To reply of respondent no.3 G.R. dated 21.04.1999 and Annexure dated 16.02.2022 (Annexures R-1 and R-2, respectively) are attached. In Annexure R-2 following guidelines have been issued-

- **हजेरी सहाय्यकांनी दाखल केलेल्या याचिका प्रकरणी करावयाची कार्यवाही.**
- हजेरी सहाय्यकांची समावेशनापूर्वीची सेवा शासकीय सेवा नसल्याने ती जोडून देता येणार नाही. तसेच नियमित शासकीय कर्मचाऱ्यांना मिळणारे लाभ या सेवेसाठी देता येणार नाही.
- एखाद्या प्रकरणी मा. न्यायालयाने हजेरी सहाय्यक सेवेत समावेश करण्याचे आदेश पारित केले असल्यास समावेशनाकरिता पात्र-अपात्र असल्याबाबत पडताळणी करून व तसेच कारणमिमांसा देऊन वरिष्ठ न्यायालयात अपिल दाखल करण्याची करण्याची कार्यवाही करणे आवश्यक आहे.
- मा.न्यायालयाने हजेरी सहाय्यक शासकीय सेवेत समावेशनासाठी पात्रता तपासण्याचे आदेशित केल्यास विभागीय आयुक्त यांच्या अध्यक्षतेखालील समितीने उपरोक्त शासन निर्णयाच्या आधारे सदर

हजेरी सहायक संबंधिताची पात्रता विभागीय आयुक्तांच्या अध्यक्षतेखालील समितीने तपासणे आवश्यक राहिल.

- मा. न्यायालयाने आदेशित केलेले नसताना विभागीय आयुक्त यांच्या अध्यक्षतेखाली समितीने स्वतःहून कोणत्याही हजेरी सहाय्यकांची पात्रता / अपात्रता तपासण्याची आवश्यकता नाही.
- न्यायालयीन प्रकरणी मा. न्यायालयाचा निकाल संबंधित कार्यालय / शासन यांच्या विरोधात लागल्यास संबंधित कार्यालयाने तात्काळ सदर प्रकरणी सादरकर्ता / मुख्य सादरकर्ता अधिकारी यांच्या अभिप्राय घेऊन त्या प्रकरणी आवश्यकतेनुसार अपील दाखल करण्याची कार्यवाही करावी.
- परंतू, अपील दाखल करण्यात येऊ नये असे अभिप्राय प्राप्त झाल्यास तात्काळ शासनस्तरावर व्यक्तीशः संपर्क साधून मार्गदर्शन / सूचना प्राप्त करून घेण्यात याव्यात.

यापुढे न्यायालयीन प्रकरणी उपरोक्त बाबी विचारात न घेता कार्यवाही केल्यास संबंधितांविरुद्ध जबाबदारी निश्चित करून म.ना.से (शिस्त व अपील) नियमानुसार त्यांचे विरुद्ध कारवाई करण्यात येईल.

कालमर्यादा - विभागीय आयुक्त यांच्या अध्यक्षतेखाली समिती हजेरी सहाय्यकांचे प्रस्ताव हे सादर केल्यापासून संपूर्ण पडताळणी करून एक महिन्याच्या आत निकाली काढावे.

4. However, the issue involved in the O.A. is no longer res-integra. In **Shaikh Miya Son of Shaikh Chand etc. Vs. State of Maharashtra** the Hon'ble Supreme Court has held, by Judgment dated

17.09.2022, that Muster Assistant like the applicant shall be notionally treated to have been absorbed/regularised in Government service w.e.f. 31.03.1997, and will be entitled to benefits accruing as a consequence thereof. Hence, the order.

ORDER

The applicant is held entitled to benefits flowing from determination of date of his absorption / regularisation as 31.03.1997. The same shall be paid to him within two months from today. O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 16/02/2024
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 : 16/02/2024.
and pronounced on
Uploaded on : 19/02/2024.