

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 559 of 2022 (S.B.)

Shri Tejram s/o Bajirao Gabhane,
Aged 79 years, Occu. Retired, R/o. Dongargaon,
Mohadi, Distt. : Bhandara.

Applicant.

Versus

- 1) The State of Maharashtra through its Secretary,
Department of E. G. S., Mantralaya, Mumbai.
- 2) The State of Maharashtra through its Secretary,
Department of Rural Development, Mantralaya, Mumbai.
- 3) The Collector, Bhandara.
- 4) The Chief Executive Officer,
Zilla Parishad, Bhandara

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 3.
Shri R. Khobragade, Advocate for respondent no.4.

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

Dated :- 19/10/2023.

J U D G M E N T

Heard Shri G.G. Bade, learned counsel for the applicant,
Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 3 and Shri
R. Khobragade, learned counsel for respondent no.4.

2. The matter is heard and decided finally with the consent of
learned counsel for parties.

3. Shri R. Khobragade, learned counsel has filed reply on behalf of R-4. It is taken on record. In the reply, preliminary objection is raised on the ground that the applicant was appointed / posted by the Zilla Parishad as per the order dated 22/09/2003. The applicant retired from the Zilla Parishad. The applicant has filed the present O.A. for pensionary benefits. The applicant came to be retired in the year 2004. The main contention of the applicant is that he was engaged by the Irrigation / P.W.D. Department as a Mustering Assistant on 24/10/1979.

4. The applicant has prayed to count his past service on the post of Mustering Assistant for the purpose of pensionary benefits.

5. Admittedly, the applicant was absorbed/ appointed by the Zilla Parishad on the post of Peon and he came to be retired in the year 2004. The applicant was the employee of Zilla Parishad. As per the Section 15 (2) of the Maharashtra Administrative Tribunals Act, 1985, there is no any Notification issued by the State Government to govern the local bodies, i.e., Zilla Parishad.

6. The learned counsel for respondent no.4 has pointed out the Judgment of M.A.T., Principal Bench, Mumbai in O.A.No.948/2021 with connected matters, decided on 22/08/2022. The material part of the Judgment is reproduced below -

“(9) Ld. Advocate for Respondents relies on the judgment of the Hon'ble Andhra Pradesh High Court in **Khader Sheriff** (supra) wherein it is held:

“.....Therefore, it is clear from the scheme of the Panchayat Samithis Act that the employees of the Panchayat Samithis are the employees of the body corporate of a particular Panchayat Samithi and not employees of the State. Assuming for the sake of argument that the contention of the appellants that the issue regarding the recovery of amounts alleged to have been misappropriated by the employees is a dispute relating to the service conditions, the fact remains that the jurisdiction over such disputes of the employees of bodies corporate is not given to the Administrative Tribunals under the Administrative Tribunals Act, 1985. No doubt, Section 15 (2) of the Administrative Tribunals Act contemplates that the jurisdiction with reference to the employees of the local bodies can be exercised by the Administrative Tribunal constituted under the Act. But such jurisdiction vests with the Administrative Tribunal only on the existence of a decision of the State Government to entrust such jurisdiction to the Tribunal by a notification. It is neither pleaded nor proved in this case that the jurisdiction with reference to the employees of the Panchayat Samithis was entrusted to the Administrative Tribunal.....”

10. It is clear from the judgment of the Hon'ble Andhra Pradesh High Court in **Khader Sheriff** (supra) that jurisdiction for disputes of the employees of Zilla Parishad does not come under the Administrative Tribunals Act, 1985.

11. Ld. Advocate for the Respondents also relied on the judgment of the Hon'ble Bombay High Court in Writ Petition No.4005 of 2010 (supra) wherein it is held:

“..... It is a settled law, that the employees of the State Government and the employees of the local self-government, form part of separate classes. Differential treatment for different classes is permissible under Article 14 of the Constitution of India. In that view of the matter, no case is made out for interference.....”

12. From the ratio laid down by the Hon'ble High Court in W.P. No.4005 of 2010 (*supra*) it is clear that the employees of the State Government and employees of local self-government, form part of separate classes. In the present case the applicant is Health Worker working in the Primary Health Centre under the Zilla Parishad and therefore his case does not come within the jurisdiction of this Tribunal.

13. Section 15 of the Administrative Tribunals Act, 1985 is reproduced below:

15. Jurisdiction, powers and authority of State Administrative Tribunals.-

(1) Save otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court 3 ***) in relation to-

(a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person [not being a person referred to in clause (c) of this sub-section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation 4 [or society] owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person whose services have been placed by any such local or other authority or corporation 4 for society) or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3)

to local or other authorities and corporations 4 [or societies] controlled or owned by the State Government:

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations 4 [or societies].

*(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation 4 [or society), all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court 3 ***) in relation to-*

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation 4 [or society); and

(b) all service matters concerning a person (other than a person referred to in clause (b) of sub-section (1) of this section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any service or post in connection with the affairs of such local or other authority or corporation 1 [or society) and pertaining to the service of such person in connection with such affairs.

(4) For the removal of doubts, it is hereby declared that the jurisdiction, powers and authority of the Administrative Tribunal for a State shall not extend to, or be exercisable in relation to, any matter in relation to which the jurisdiction, powers and authority of the Central Administrative Tribunal extends or is exercisable."

14. There is no notification issued by the State Government under Section 15(2) of the Administrative Tribunals Act, 1985 extending jurisdiction of this Tribunal to govern matters pertaining to employees of Zilla Parishad. It is

clear that applicant's issue is governed under the provisions of Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961 and Rules of 1964 framed thereunder.

15. Hence, this Tribunal has no jurisdiction to try and entertain these Original Applications along with Misc. Applications. Applicant may approach appropriate forum for redressal of his grievance, if so advised.”

7. The applicant otherwise is not entitled to get the relief from this Tribunal, because, the applicant came to be retired in the year 2004. He was appointed / absorbed in the year 2003. As per the Judgment of the Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra**, decided on 07/09/2022 the services of Mustering Assistant shall be counted for the purpose of pensionary benefits from 31/03/1997. Even that date is counted, then also the applicant will not get any pensionary benefits.

8. Moreover, as per above cited Judgment of M.A.T., Principal Bench, Mumbai, the O.A. itself is not tenable. The applicant was the employee of Zilla Parishad. Therefore, this Tribunal has no jurisdiction to entertain and decide this O.A. Hence, the O.A. is dismissed. No order as to costs.

Dated :- 19/10/2023.

**(Justice M.G. Giratkar)
Vice Chairman.**

*dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 19/10/2023.