

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 698/2020 (S.B.)

Shri Prakash Tukaram Fulari,
Aged about 66 years, Occu.: Retired,
R/o. Hussain Ward, Umarkhed,
Dist.: Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Rural Development,
Mantralaya, Mumbai.
- 2) The State of Maharashtra,
Through its Secretary,
Department of Employment Guarantee Scheme,
Mantralaya, Mumbai.
- 3) The Collector, Washim.
- 4) The Chief Executive Officer,
Zilla Parishad, Washim.

5) The Sub Divisional Engineer,
Public Works, Sub Division,
Umarkhed, Dist. : Yavatmal.

6) The Collector, Yavatmal.

Respondents

Shri G.G.Bade, Ld. Counsel for the applicant.
Shri A.P.Potnis, Ld. P.O. for the respondents 1 to 3, 5 & 6.
None for the respondent no.4.

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

Dated: - 10th October, 2023.

JUDGMENT

Judgment is reserved on 06th October, 2023.

Judgment is pronounced on 10th October, 2023.

Heard Shri G.G.Bade, learned counsel for the applicant and
Shri A.P.Potnis, learned P.O. for the respondents 1 to 3, 5 & 6. None for
the respondent no.4.

2. The applicant was appointed as Muster Assistant on
28.02.1983. On 16.10.2003 he was absorbed as Junior Clerk and worked
on the establishment of respondent no.3 till his retirement on
superannuation on 31.07.2013 (Annexures A-1, A-2 & A-4, respectively).

According to the applicant, he be treated to have become permanent

employee w.e.f. 01.10.1988 in view of order dated 24.08.2012 passed by Aurangabad Bench of Hon'ble Bombay High Court in a batch of Writ Petitions and accordingly his pensionable service should be counted from the said date.

3. 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.