

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT NAGPUR**

**ORIGINAL APPLICATION NO 750 OF 2014**

**DISTRICT : AKOLA**

**ORIGINAL APPLICATION NO 750 OF 2014**

Shri Madhaolal Giridharilal Borikar )  
Aged about 63 years, )  
Occ : Retired, )  
R/o : R.T.O. Road )  
Girinagar, Akola ) **...Applicant**

**Versus**

1. The State of Maharashtra, )  
Through its Secretary, )  
Department of Technical Education, )  
Mantralaya, Mumbai 400 032. )
2. Director of Technical Education, )  
Maharashtra State, Mumbai )
3. Joint Director of Technical Education, )  
Amravati Division, Amravati )
4. Principal, Government Polytechnic, )  
Dhamangaon Road, Yeotmal ) **...Respondents**

Shri P.N.Shende, learned advocate for the Applicant.

Shri A.P.Potnis, learned Presenting Officer for the Respondents.

**CORAM : Shri S.S.Hingne (Member) (J).**

**DATE : 06.06.2016**

**ORDER**

1. The applicant has filed the O.A. seeking the benefit of addition of period in qualifying services in view of rule 54 of the M.C.S.R.(Pension Rules), 1982.
2. Heard Shri P.N.Shende, learned advocate for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.
3. The applicant retired as a Principal, Polytechnic College on 31/09/2009 on superannuation. He had joined the government service on 15/03/2000 in Polytechnic college, Arvi. Prior to that he served in the several Private Institutions (Annex-R-1, P-26).
4. After retirement the applicant filed the application dated 24-8-2009 (P-47,R-5) seeking the benefit under rule 54 of The Maharashtra Civil Services (Pension Rules), 1982 (in short 'Pension Rules') for addition to the period of service qualifying for pension. The Government rejected it vide communication dated 29/09/2010 (P-13) which mentions as under:-

*S.S.H.*

“तसेच म.ना.से. (नि.वे.) नियम १९८२ मधील नियम ५४ च्या दोन्ही तरतूदींचा वापर लघूवेतन (चतुर्थश्रेणी) शासकीय कर्मचा-याची निवृत्तीवेतनासाठी आवश्यक असलेली किमान अर्हताकारी सेवा पूर्ण होण्यासाठीच अपेक्षित असल्याचे दिनांक ३ नोव्हेंबर, २००८ च्या वित्त विभाग शासन निर्णयान्वये स्पष्ट करण्यात आले असल्याने त्याची विनंती अमान्य करण्यात येत आहे.”

5. From the above, it is manifest that the case of the applicant is not considered at all on the ground that benefit is available to low-paid Government servants only. At this stage it will be beneficial to reproduce the rule 54, which runs as under :-

**“Condonation of deficiency and addition in service:-** Government may, for special reasons to be recorded in writing—

1. Condone a deficiency, which may not ordinarily exceed one year, in the period of service qualifying for pension performed by a Government servant in order to qualify him to receive a Retiring Pension or to receive a pension as distinct from a gratuity: or
2. Make an addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these rules may be counted for pension.

315/2

**Note:-** “The power under sub-rule(1) “Prior to amendment of sub rule (2) shall be exercised only in respect of low paid Government servants retiring on invalid or compensation pension.”

From the plain reading of language of above provision it is crystal clear that the benefit under rule 1 is only available to low paid government servants. The note is restricted to that extent only. Meaning thereby the benefit of sub rule 2 is available to all class of employees. This amendment was made on 18/07/1985 vide notification no. MCS-1085/E.R.-54. Before amendment the benefit under sub rule 2 was restricted to low paid government servants. However, after amendment the sub rule 2 is deleted and sub rule 1 is inserted.

6. In support of view taken by Govt., the Id. P.O. relied on the notification dated 03/11/2008 (P-60) issued by Finance Department “ शासन परिपत्रक क्रमांक - सेनिवे १००८/१६/ सेवा - ४, मंत्रालय, मुंबई - ४०० ०३२, दिनांक - ३ नोव्हेंबर २००८”

The clarification of Rule 54 of the Pension Rules runs as under:-

६	नियम ५४	शासकीय कर्मचा- याच्या सेवेतील कमतरता क्षमापित करणे व सेवेमध्ये	९ लघुवेतन (चतुर्थश्रेणी) शासकीय कर्मचा-याची निवृत्तीवेतनासाठीच आवश्यक असलेली किमान अर्हताकारी सेवा पूर्ण होण्यासाठीच या नियमातील दोन्ही तरतुदीचा वापर अपेक्षित आहे.
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5/5/14

		<p>भर घालणे कोणत्या परिस्थितीत करणे नियमांस अभिप्रेय आहे.</p>	<p>२. या नियमातील दोन्ही तरतुदीचा लाभ फक्त रुग्णता निवृत्तीवेतनावर किंवा भरपाई निवृत्तीवेतनावर सेवानिवृत्त होणा-या लघुवेतन (चतुर्थश्रेणी) शासकीय कर्मचा-यानां लागू आहे.</p> <p>३ रुग्णता व भरपाई निवृत्तीवेतनावर निवृत्त होणारे लघुवेतन (चतुर्थश्रेणी) शासकीय कर्मचारी वगळून इतर कोणत्याही कर्मचा-यासाठी सदर नियमातील तरतुदी लागू नाही.</p>
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7. From the plain reading of the language of the rule it is obvious that the clarification in the notification is not correct. The legislature in its wisdom has restricted the benefit of Rule (1) to low paid government employees. Therefore the benefit of rule 2 cannot be restricted to low paid employees only. If the legislature wanted to restricts that benefit to low paid government servants only, it would not have used the sub rule 1 only.

8. The applicant served for about "9 years 5 months and 17 days". Thus some period is short which is less than one year to complete the qualifying service of 10 years.

9. The respondents have not considered the case of the applicant on the ground that benefit under rule 54 of the Pension Rules is restricted to low paid government employee only which is not proper and correct. Consequently, the impugned letters dated 29-9-2010

issued by Govt. and communicated to applicant vide letter dated 12-9-2012 (A-1,P-12) are not legal and valid.

10. In effect, the O.A. is allowed. Since the aspect needs to be decided by the government and special reasons are to be recorded in writing the respondents are directed to consider and decide the claim of the applicant within four months from the date of the receipt of this order, in the light of above observations. With this the O.A. stands disposed of, with no order as to cost.

Sd/-

**( S.S.Hingne )**  
**Member (J).**