

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 105 of 2022 (S.B.)

Shri Devidas S/o Shiram Hajare,
Aged about 70 years, Occ. Retired,
R/o Behind Gadge Maharaj Mandir,
Bramhapuri, Dist. Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Department of Forest and Revenue,
Mantralaya, Mumbai.
- 2) The Collector, Chandrapur.

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 175 of 2022 (S.B.)

Shri Harishchandra Ragnath Bankar,
Aged about 70 years, Occ. Retired,
R/o Post : Khedmakta, Tah. Bramhapuri, Distt. Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Department of Forest and Revenue,
Mantralaya, Mumbai.
- 2) The Collector, Chandrapur.

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 21/02/2023.

COMMON JUDGMENT

Heard Shri G.G. Bade, learned counsel for the applicants and Shri S.A. Sainis, learned P.O. for the respondents.

2. The case of the applicant in O.A. No. 105/2022 is as under-

The applicant was appointed as a Mustering Assistant on 03/03/1981. He was absorbed in regular permanent service as per G.R. dated 21/04/1999. He was made permanent as per the order dated 21/04/2003. The applicant came to be retired on 31/03/2011 on attaining the age of superannuation. The respondents have not counted the applicant's service from the date of his initial engagement as a Mustering Assistant. Therefore, the applicant is not getting pensionary benefits. Hence, the applicant approached to this Tribunal for direction to the respondents to pay pensionary benefits by counting his service from the date of his initial engagement as a Mustering Assistant.

3. In O.A.No.175/2022, the applicant was engaged as a Mustering Assistant w.e.f. 31/03/1983. As per the G.R. dated 21/04/1999, the applicant came to be absorbed in permanent government service on 22/04/2003. The applicant is retired after completion the age of superannuation on 31/07/2010. The respondents have not counted his service from the date of his initial

engagement as a Mustering Assistant, i.e., from 31/03/1983 for the purpose of pensionary benefits and therefore the applicant is not getting pension. Hence, the applicant approached this Tribunal for direction to the respondents to count his service from the date of his initial engagement as a Mustering Assistant and pay all pensionary benefits.

4. Heard Shri S.A. Sainis, learned P.O. for the respondents. Both the O.As. are strongly opposed by the respondents. It is submitted that the applicants have not completed qualifying service to get pension and pensionary benefits. They have not completed 10 years' regular service and therefore they are not entitled for any pensionary benefits.

5. The issue in respect of counting the service of Mustering Assistant was dealt with by the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***State of Maharashtra and others Vs. Uttam S/o Narayan Vendait***. The Hon'ble Bombay High Court, Bench at Aurangabad has held that the services of Mustering Assistants shall be counted from the date of their initial engagement as a Mustering Assistant for the purpose of pensionary benefits. One of the Judgments of Hon'ble Bombay High Court, Aurangabad Bench was challenged before the Hon'ble Supreme Court. The Hon'ble Supreme Court in the recent Judgment dated 07/09/2022 in the case of ***Shaikh***

Miya S/o Shaikh Chand Etc. Vs. State of Maharashtra has held that for the purpose of pensionary benefits the services of Mustering Assistants shall be counted from 31/03/1997.

6. The learned counsel for applicants Shri G.G. Bade has pointed out the Judgment of this Tribunal in O.A. No.174/2022, decided on 17/11/2020.

7. In view of the Judgment of Hon'ble Supreme Court in the case of ***Shaikh Miya S/o Shaikh Chand Etc. Vs. State of Maharashtra***, the applicants are entitled to get their regular services from 31/03/1997. Hence, the following order –

ORDER

(i) The O.A. Nos.105/2022 and 175/2022 are allowed.

(ii) The respondents are directed to count the services of the applicants from 31/03/1997 for the purpose of pensionary benefits.

(iii) The respondents are directed to pay pension and other pensionary benefits to both the applicants by counting their services from 31/03/1997 within a period of three months.

(iv) No order as to costs.

Dated :- 21/02/2023.

(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 : 21/02/2023.

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