

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI
BENCH AT AURANGABAD
ORIGINAL APPLICATION NO.228 OF 2016

DISTRICT : AHMEDNAGAR

Shri Dattatraya Vishwanath Landge,)
Age 58 years, occ. Service, R/o Pimpalgaon Landge,)
Taluka & District Ahmednagar)..Applicant

Versus

1. The State of Maharashtra,)
Through the Secretary,)
Planning Department, Mantralaya, Mumbai)
2. The Deputy Director of Land Records,)
Nashik Division, Nashik)
3. The Deputy Superintendent of Land Records,)
Taluka Rahuri, District Ahmednagar)..Respondents

Shri A.D. Sugdare – Advocate for the Applicant

Smt. Sanjivani Ghate-Deshmukh – Presenting Officer for the Respondents

CORAM : Shri Rajiv Agarwal, Vice-Chairman
Shri B.P. Patil, Member (J)

DATE : 8th March, 2017

J U D G M E N T

1. Heard Shri A.D. Sugdare, learned Advocate for the Applicant and Smt. Sanjivani Ghate-Deshmukh, learned Presenting Officer (PO) for the Respondents.

2. This OA has been filed by the Applicant claiming that he is entitled to benefit of his past service as Muster Assistant on EGS, in view of the judgment of Industrial Court, Ahmednagar dated 9.9.1995. The Applicant is relying on order dated 19.7.2012 in W.P. No.2946 of 1997 passed by Hon'ble Bombay High Court, which was upheld by Hon'ble Supreme Court.

3. Learned counsel for the Applicant argued that the Applicant was initially appointed as Muster Assistant in EGS works in Ahmednagar on 5.10.1982 on ad hoc basis. His services were regularized by order dated 1.4.1991. The Applicant filed Complaint ULP No.55/1983 before the Industrial Court at Ahmednagar which was allowed by order dated 9.9.1995. The Applicant is, therefore, entitled to the benefit of judgment of Hon'ble Bombay High Court dated 19.7.2012 in W.P. No.2946 of 1997 and his past services are required to be counted for pensionary benefits.

4. Learned Presenting Officer (PO) argued on behalf of the Respondents that this Tribunal has decided this issue by judgment dated 21.10.2016 in a group of OA No.28 of 2012 etc. It has been held that the judgment dated 19.7.2012 of Hon'ble Bombay High Court in W.P. No.2946 of 1997 will be applicable to the petitioners in that writ petition only. All other Muster Assistants, who were later absorbed in Govt. Service are regulated by judgment dated 16.7.2007 of Hon'ble High Court in W.P. No.619 of 2006 etc. wherein it was held that:

“Therefore, Rule 33 of the Pension Rules would not be applicable to the facts of this case and the scheme framed by the State Government.”

5. Learned PO argued that the scheme of absorption of the Muster Assistant in EGS was framed by the State Govt. by GR dated 1.12.1995. Some modification/clarifications were issued by GR dated 21.4.1999 and circular dated 15.4.2009. Hon’ble Supreme Court had upheld the scheme of absorption by GR dated 1.12.1995 in SLP No.15664 of 1991 by judgment dated 2.12.1996. Again in SLP (Civil) No.5171/2003 Hon’ble Supreme Court did not approve the order dated 20.12.2001 in WP No.954 of 1990 that all Muster Assistants should be absorbed w.e.f. 31.3.1997. Learned PO argued that the OA has no merit.

6. We find that this issue has been decided by this Tribunal based on the judgment dated 16.7.2007 in WP No.619/2006 of the Hon’ble High Court and various judgments of Hon’ble Supreme Court. The scheme of GR dated 1.12.1995 was approved by Hon’ble Supreme Court. This GR made it very clear that Muster Assistants on EGS would not be entitled for any benefits based on the service rendered by them as Muster Assistants. The judgment dated 19.7.2012 of Hon’ble High Court in WP No.2946 of 1997 is applicable to the petitioners in that WP only. We fully agree with the contention of Ld. PO that this Tribunal cannot take a view different from the view already taken by us while delivering judgment dated 21.10.2016 in a group of OAs No.28 of 2012 etc.

7. Having regard to the aforesaid facts and circumstances of the case, this OA is dismissed with no order as to costs.

(B.P. Patil)
Member (J)

(Rajiv Agarwal)
Vice-Chairman

Dictation taken by: S.G. Jawalkar.