

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 1047/2021(D.B.)

Wasudeo Bapurao Tongse,
aged about 57 yr
Occ: Laboratory Technician,
R/o Siddhivinayak, Bajrang Nagar,
Galli No 12-A, Nagpur - 440027. (Deceased)

(i) Mangala wd/o Wasudev Tongse,
Aged about 54 years,
Occ: Housewife, (LRs)
(ii) Prathamesh s/o Wasudev Tongse,
Aged about 23 years,
Occ: Student, Both R/o
R/o Siddhivinayak, Bajrang Nagar,
Galli No. 12-A, Nagpur 440027. (LRs)

Applicants.

Versus

1. State of Maharashtra,
through its Secretary,
Department of Medical Education and Research,
Mantralaya, Mumbai - 32.
2. Director of Medical Education and Research,
St Georges Hospital Compound,
CST, Mumbai.

3. Dean,
Government College & Hospital, Nagpur.

Respondents

Shri A.A.Potnis, Ld. Counsel for the applicants.
Shri H.K.Pande, Ld. P.O. for the respondents.

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

Dated: - 14th February, 2024.

JUDGMENT

Heard Shri A.A.Potnis, learned counsel for the applicants and Shri H.K.Pande, learned P.O. for the Respondents. The learned counsel for both the parties have consented for final disposal and argued the matter finally.

2. The regular Division Bench is not available. The Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai issued Circular No.MAT/MUM/JUD/469/2023,dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal and if the O.A. is covered by the Judgment of the Hon'ble High Court and another Court, then regular matter pending before the Division Bench can be disposed off finally.

3. As per the submission of learned counsel for the applicants, this O.A. is covered by the Judgment of Hon'ble Supreme Court in S.L.P.No.1109/2022 decided on 18.02.2022. Hence, the O.A.

is heard and decided finally with the consent of learned counsel for both the parties.

4. Case of the applicants in short is as under-

The original applicant was working as a Laboratory Technician on temporary basis and he was appointed on the said post on 24.12.1990 by Dean, Government Medical College and Hospital, (G.M.C.H.), Nagpur. The appointment was made till the regularly selected candidates are appointed by the Government. The applicant continued on the said post since 1990. The applicant was retired on 31.12.2021. The respondents have not granted any pensionary benefits. His post was not regularised. Therefore, the applicant approached to this Tribunal for direction to the respondents to regularise his services w.e.f. 1992 after completion of two years of temporary service.

5. During pendency of this O.A., the applicant died on 22.09.2023. Therefore, as per the order dated 12.12.2023 the legal heirs of deceased applicant are brought on record.

6. The learned P.O. has submitted that the respondent no.3 Dean, Government Medical College and Hospital, (G.M.C.H.), Nagpur forwarded the proposal to the Government and it is pending before the Government. Hence, at the most direction can be given to decide the same.

7. There is no dispute that the original applicant was appointed on temporary post. He was continued on the said post for about 30 years. The respondents have not taken any decision.

8. The learned counsel for the applicants has pointed out the Judgment of Hon'ble Supreme Court in S.L.P.No.1109/2022 decided on 18.02.2022. The Hon'ble Supreme Court has held as under-

It is unfortunate that the State continued to take the services of the respondent as an ad-hoc for 30 years and thereafter now to contend that as the services rendered by the respondent are ad-hoc, he is not entitled to pension/pensionary benefit. The State cannot be permitted to take the benefit of its own wrong. To take the Services continuously for 30 years and thereafter to contend that an employee who has rendered 30 years continues service shall not be eligible for pension is nothing but unreasonable. As a Welfare State, the State as such ought not to have taken such a stand.

In the present case, the High Court has not committed any error in directing the State to pay pensionary benefits to the respondent who has retired after rendering more than 30 years service.

Hence, the Special Leave Petition stands dismissed.

Pending application(s), if any, shall stand disposed of.

9. Looking to the proposal made by respondent no.3 it will be proper to direct the respondent no.2 to decide the same. Hence, the following order is passed-

ORDER

1. The O.A. is partly allowed.
2. The respondent no.2 is directed to decide the proposal forwarded by respondent no.3 dated 03.09.2020 within four months from the date of receipt of this order.
6. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 14/02/2024
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 Vice Chairman.
Judgment signed on : 14/02/2024.
Uploaded on : 20/02/2024.
