

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 346/2023(S.B.)

Shri Sharad s/o Dinkar Pachkhede,
aged about 62 years,
Occupation: Retired,
R/o C/o K.S. Awatade, Patel Nagar,
Chandrapur.

Applicant.

Versus

1. The State of Maharashtra,
through Principal Secretary,
Water Supply and Sanitation Department,
7th Floor, Gokuldas Tajpal Hospital Building,
Lokmanya Tilak Road,
Mantralaya, Mumbai-32
2. The Commissioner,
Ground Water Supply and Development Agency,
Maharashtra State, Bhujal Bhawan,
Shivaji Nagar, Pune-411005.
3. The Deputy Director,
Ground Water Supply & Development Agency,
Maharashtra State, Pradhikaran Building,
Telangkhedi, Civil Lines, Nagpur.

4. Senior Geologist,
Ground Water Supply and Development Agency,
Administrative Building Room No. 15, 16,
Chandrapur.
5. Senior Geologist,
Ground Water Supply and Development Agency,
Complex Area Barak No.2, Gadchiroli.

Respondents

Shri N.N.Thengre, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 10th October, 2023.

JUDGMENT

Heard Shri N.N.Thengre, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. The applicant was working as a daily wager. His services was terminated therefore, he approached to the Labour Court. The Labour Court set aside the order of termination. The respondent department approached to the Industrial Court. The order of Labour Court was set aside. Thereafter, the applicant approached to the Hon'ble Bombay High Court, Bench at Nagpur, Writ Petitions was dismissed. Therefore, L.P.A. was filed. In the L.P.A. following order was passed by the Hon'ble Bombay High Court-

34. In the result, this Court directs as follows:-

[a] Letters Patent Appeal No. 36 of 2009 filed by the workman is allowed. Writ Petition No. 4669 of 2005 filed by workman is allowed.

[b] Letters Patent Appeal No.37 of 2009 filed by the workman is partly allowed, and employer's Writ Petition No. 5088 of 2005 is dismissed, except as clarified in Order Clause [d].

[c] Complaint [ULP] No. 514 of 1990 and Complaint [ULP] No.84 of 1997 of Labour Court, Chandrapur, are partly allowed.

[d] Complainant - workman is reinstated with continuity of service, however, without back wages. He shall be entitled to all consequential benefits, except getting actual payment of arrears of back wages.

[e] He be reinstated within 90 days from the date of judgment.

[f] This Court quantifies costs Petitions in both these appeals and Writ Petitions to a sum of Rs.10,000-00 [rupees ten thousand only] each, i.e., Rs. 20,000-00 [rupees twenty thousand only] in total, which be paid within ninety days.

3. Thereafter, the respondents have issued appointment of order dated 10.04.2015. The material part of the order is reproduced below-

आदेश :-

भूजल सर्वेक्षण आणि विकास यंत्रणेच्या अधिनस्त कार्यालयातील वर्ग-३ व वर्ग-४ या पदावर सलग रोजंदारी तत्वावर काम करित असलेल्या रोजंदारी कर्मचा-यांच्या बाबतीत मा. न्यायालयाने दिलेल्या आदेशानुसार त्यांच्या सेवा नियमित करण्यास संदर्भ क्र. २ चे शासन निर्णयाद्वारे मान्यता दिलेली आहे.

मा. न्यायालयांनी संबंधित प्रकरणी दिलेल्या आदेशानुसार त्या त्या कर्मचा-यांच्या सेवा एका विशिष्ट दिनांकापासून अथवा मा. न्यायालयाच्या आदेशाच्या दिनांकापासून अथवा ना. न्यायालयांनी ज्या कर्मचा-यांच्या सेवा एका विशिष्ट दिनांकापासून नियमित करण्याबाबत आदेशित केले आहे, त्या दिनांकापासून त्यांच्या सेवा नियमित करण्यास (संदर्भ क्र. २ व ३ नुसार मान्यता प्राप्त झालेली आहे. ज्या कर्मचा-यांच्या बाबतीत मा. न्यायालयानी सेवेतील सर्व लाभ अदा करण्याचे आदेश दिले आहेत (all consequential benefit / back wages) अशाच कर्मचा-यांच्या सेवेत अनुषंगीक लाभ/ मागील वेतन (back wages) अनुज्ञेय राहिल असे उपरोक्त संदर्भ क्र. २ चे शासन निर्णयात नमूद आहे.

Thereafter, that order was modified and continuity of service was given to the applicant w.e.f. 24.10.1981.

4. The operative part of the order of the Hon'ble High Court in L.P.A. No.36/2009 para [d] is very clear. The Hon'ble Bombay High Court directed the respondents to reinstate the applicant with continuity of service, however, without backwages. He shall be

entitled to all consequential benefits, except getting actual payment of arrears of backwages.

5. As per the G.R. dated 1995 time bound promotion is to be granted. The services of the applicant are continued from 1981. Therefore, he cannot be said to be daily wagers. The learned P.O. has pointed out the G.R. dated 01.11.1995 and submitted that services as daily wager cannot be counted as a regular service for counting the period of 12 years.

6. The applicant was granted continuity of service w.e.f. 1981 it was not a daily wagers service but, he was appointed on Class-III post with continuity of service from 1981. As per the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in L.P.A.No.36/2009, the respondents were directed to give all consequential service benefits. Therefore, the applicant is entitled for the benefit of G.R. dated 01.11.1995. Hence, the following order.

ORDER

1. The O.A. is allowed.
2. The respondents are directed to give the benefit as per G.R. dated 01.11.1995 in respect of time bound promotion etc. to the applicant. But, he is not entitled for the arrears / backwages.

3. The applicant is entitled only for revised pension. The respondents are directed to revise the pension accordingly and grant benefit to the applicant within a period of 6 months from the date of receipt of this order.
4. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

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 Vice Chairman.
Judgment signed on : 10/10/2023.
Uploaded on : 17/10/2023.