

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 47/2021 (S.B.)**

Ashok S/o Govindrao Pothare,  
Aged about 58 yrs; Occu: Service;  
R/o Agnihotri Layout, Sharda Nagar,  
Sindhi (Meghe), Wardha.

**Applicant.**

**Versus**

1. State of Maharashtra,  
Through its Principal Secretary,  
Public Health Department,  
10th Floor GT Hospital Campus Building,  
New Mantralaya, Fort, Mumbai-01.
2. Director of Public Health,  
Central Building, Near Railway Station,  
Pune.
3. Joint Director of Health Services,  
Central Building, Near Railway Station,  
Pune.
4. Assistant Director of Health Services,  
(Malaria), Mata Kacheri Compound,  
ShradhanandPeth, Nagpur.
5. District Malaria Officer,  
Malaria Office, Wardha.

**Respondents**

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Shri N.D.Thombre, Ld. counsel for the applicant.  
Shri A.M.Ghogre, Ld. P.O. for the respondents.

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**Coram:-Hon'bleShriJustice M.G.Giratkar, Vice Chairman.**  
**Dated: - 2<sup>nd</sup> August, 2023.**

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### **JUDGMENT**

Heard Shri N.D.Thombre, learned counsel for the applicant and Shri A.M.Ghogre, learned P.O. for the Respondents.

2. Case of the applicant in short is as under.

The applicant was working on the post of Multi Purpose Health Worker from 31.10.1997. The applicant is retired after completion of the age of superannuation of 30.06.2021. The respondents have not counted his service from the date of his initial appointment i.e. from 31.10.1997 and not paying full pension to the applicant. Therefore, he approached to this Tribunal for the following reliefs.

- i) *Direct the Respondents to count Applicant's uninterrupted bonded and temporary service for a period from 31/10/1997 to 06/12/2003 as a qualifying service as per Rule 30 of M.C.S. (Pension) Rules, 1982 for the purpose of pension and pensionary benefits;*
- ii) *As the Applicant is due for retirement on 30/06/2021 and if the pension case of the applicant is finalised during the pendency of the O.A., direct the Respondents to revise his pension and pensionary benefits within stipulated period;*

3. Learned counsel for the applicant has pointed out the Judgment of the Hon'ble Bombay High Court in Writ Petition No.7458/2010, decided on 19.07.2011 in the case of ***Devidas Bhiku Borkar and Others Vs. State of Maharashtra and another.*** Learned counsel for the applicant has pointed out the Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 and submitted that the initial temporary service shall be counted for the purpose of pension. He has submitted that the Hon'ble Bombay High Court in the case of ***Devidas Bhiku Borkar and Others Vs. State of Maharashtra and another*** has granted the relief and the temporary service was taken into consideration for the purpose of pension.

4. The learned P.O. Shri A.M.Ghogre has pointed out the Judgment of the Industrial Court, Nagpur in Complaint (ULPN) No.967/1999, dated 02.08.2005 by which the respondents were directed to regularise the services of the applicant w.e.f. 06.12.2003. He has submitted that before this Judgment the applicant was already regularised from 06.12.2003.

5. There is no dispute that services of the applicant were regularised from the year 2003. The applicant is retired in the year 2021. The applicant is not getting full pension because he has not completed 20 years service. As per the Rule 30 of the M.C.S., (Pension) Rules, 1982 his service from the date of initial appointment is to be counted for the

purpose of pensionary benefits. The Rule 30 of M.C.S. (Pension) Rules, 1982 is reproduced as below-

***“(30) Commencement of qualifying service***

*Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity: Provided that at the time of retirement he shall hold substantively a permanent post in Government service or holds a suspended lien or certificate of permanency: [Provided further that, in cases where a temporary Government servant retires, on Superannuation or on being declared permanently incapacitated for further Government service by the appropriate medical authority after having rendered temporary service of not less than ten years, or voluntarily after completion of twenty years of qualifying service, shall be eligible for grant of Superannuation, Invalid or, as the case may be, Retiring Pension; Retirement Gratuity; and Family Pension at the same scales as admissible to a permanent Government servant.] Exception- The rules regarding grant of terminal benefits to temporary Government servants [except those mentioned in the second proviso] who retire without being confirmed in any post in Government service are embodied in Appendix II.*

6. As per the Rule 30 of M.C.S., (Pension) Rules, 1982 qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity: Provided that at the time of retirement he shall hold substantively a permanent post-----.

7. In the present case, the applicant was temporarily appointed in the year 1997. Thereafter, he was made permanent. He was permanent at the time of retirement and therefore as per the Rule 30 of the M.C.S. (Pension) Rules, 1982, the applicant is entitled to count his service from the

date of his initial appointment, i.e., from 31.10.1997. The respondents should have counted service from that date. Hence, the following order.

**ORDER**

1. The O.A. is allowed.
2. The respondents are directed to count the service of applicant from 31.10.1997 for the purpose of pensionary benefits only.
3. The respondents are directed to revise the pension of the applicant within a period of four months from the date of receipt of this order.
4. No order as to costs.

(Justice M.G.Giratkar)  
Vice Chairman

Dated – 02/08/2023

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 : 02/08/2023.  
Uploaded on : 02/08/2023.