

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 96/2022(S.B.)

Shri Bramhanand Namdeorao Udale,
Aged about 59 years, Occu. : Retired,
R/o. Near Chintamani Ice Factory,
Yavatmal.

Applicant.

Versus

1. The State of Maharashtra,
through its Secretary,
Department of Rural Development,
Mantralaya, Mumbai.
2. The State of Maharashtra,
through Secretary, Department of E.G.S.,
Mantralaya, Mumbai.
3. The Divisional Commissioner,
Amravati Division, Amravati.
4. The Collector, Yavatmal.
5. The Chief Executive Officer,
Zilla Parishad ,
Yavatmal.

6. The Chief Executive Officer,
Zilla Parishad , Washim

Respondents

Shri G.G.Bade, Ld. counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondent nos.1 to 4.
S/Shri J.Y. Ghurde, V.B. Bhise, N.R. Shiralkar, ld. Advs. for resp. no.5.
Shri M.L. Virgade, ld. Advocate for respondent no.6.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 25st August, 2023.

JUDGMENT

Heard Shri G.G.Bade, learned counsel for the applicant,
Shri A.M.Khadatkar, learned P.O. for the respondents 1 to 4, Shri
A.Motlog, appearing for Shri N.R.Shiralkar, ld. Counsel for the
respondent no.5 and Shri V.R.Mishra appearing for Shri
M.L.Vairagade, ld. Counsel for the respondent no.6.

2. Respondent nos. 3 and 4 have filed their reply. It is taken
on record. The matter is heard finally and decided with the consent
of learned counsel for both the parties.

3. This O.A. is covered by the Judgment of the Hon'ble
Bombay High Court Bench at Aurangabad in the case of **the State of
Maharashtra Vs. Uttam Narayan Vendait**, decided on 16.12.2015
and recent Judgment of the Hon'ble Supreme Court in the case of

Shaikh Miya S/O Shaikh Chand Etc. Etc. vs State Of Maharashtra,

decided on 07.09.2022.

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

The applicant was working as a Mustering Assistant from 24.03.1983. As per the Government resolution dated 21.04.1999, the applicant is absorbed in a regular service on the post of Arogya Sevak. The applicant is now retired on 31.05.2021. The applicant is not getting full pension, because, he has not completed 20 years regular service from the date of regular absorption i.e. from 24.09.2003.

5. The respondents 3 and 4 have filed reply and denied the claim of the applicant. It is submitted that the service of the applicant is counted from the date of regular appointment. Therefore, he cannot claim full pension by counting his earlier service.

6. In the case **the State of Maharashtra Vs. Uttam Narayan Vendait,** the Hon'ble Bombay High Court Bench at Aurangabad has held that services of Mustering Assistant shall be counted from the date of initial engagement as a Mustering Assistant for the purpose of pensionary benefits. In the recent Judgment, the Hon'ble Supreme Court in the case of **Shaikh Miya**

S/O Shaikh Chand Etc. Etc. vs State Of Maharashtra decided on 07.09.2022 has held that for the purpose of pensionary benefits the service of Mustering Assistant shall be treated as regular service w.e.f. 31.03.1997.

7. In view of the Judgment of the Hon'ble Supreme Court in the case of *Shaikh Miya S/O Shaikh Chand Etc. Etc. vs State Of Maharashtra*, the service of the applicant is to be counted as regular service w.e.f. 31.03.1997. Hence, the following order.

ORDER

1. The O.A. is allowed.
2. The respondents are directed to count the service of the applicant as regular service on the post of Mustering Assistant w.e.f. 31.03.1997 and pay the pensionary benefits to the applicant.
3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 25/08/2023

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 : 25/08/2023.