

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.752 of 2016 (D.B.)**

Smt. Indira Wd/o Nanaji Thakare,  
Aged about: 59 years, Occu: Labour,  
R/o Kurud Tah: Wadsa, Distt: Gadchiroli.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary Department of Revenue and Forest.
- 2) The Collector Gadchiroli.
- 3) The Tahasildar Kurkheda.
- 4) The Sub-Divisional Officer,  
Desaliganj (Wadsa).
- 5) The Sub - Divisional Officer, Kurkheda.
- 6) The Accountant General-II, Nagpur.

**Respondents.**

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**Shri G.G. Bade, Advocate for the applicant.**  
**Shri S.A. Sainis, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and  
Hon'ble Shri Nitin Gadre, Member (A).**

**Dated :- 28/08/2024.**

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**J U D G M E N T**

Heard Shri G.G. Bade, learned counsel for the applicant  
and Shri S.A. Sainis, learned P.O. for the respondents.

2. The learned counsel for the applicant has pointed the  
Judgment of the Hon'ble Supreme Court in the case of ***Yashwant***

***Hari Katakkar Vs. Union of India (Uoi) and Ors.***, decided on 19<sup>th</sup> September, 1994. It is taken on record.

3. The case of the applicant in short is as under -

The applicant was engaged as a Mustering Assistant w.e.f. 19/03/1983. As per the Govt. decision / G.R. of 1995 and 1999, Mustering Assistants who had completed five years continuous service, were to be absorbed in regular service. The applicant was absorbed in regular service in Zilla Parishad on 12/02/1997. Thereafter, he was posted on the post of Talathi as per order dated 04/04/2001. The applicant had given voluntary retirement application on 13/07/2010 (P-10) on the ground that his health was not good. Voluntary retirement application was accepted by the respondents on 11/10/2010. Pension case was submitted. The A.G. has raised objection on the ground that acceptance of voluntary retirement application before completion of 20 years of service was not legal and proper and therefore deceased employee / applicant is not entitled to get pension. The present applicant is the wife of deceased employee namely Nanaji Thakre.

4. There is no dispute that the applicant was absorbed in a regular service in the year 1997. The applicant had not completed 20 years of service to get voluntary retirement. As per the Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982, 20 years service is

to be completed to get voluntary retirement. Before 20 years of service, voluntary retirement is not permissible to the Government employee. The acceptance of voluntary retirement application of applicant by the respondents was not legal and proper. The Authority should have rejected it as per Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982.

5. The applicant was not in service w.e.f. 31/10/2010. Therefore, at the most his service can be counted till 31/10/2010.

6. As per the Judgment of the Hon'ble Supreme Court in the case of ***Shaikh Miya S/o. Shaikh Chand etc. vs. State of Maharashtra, dated 07/09/2022 in Civil Appeal No.6531-6533 of 2022***, the services of Mustering Assistant shall be treated regular service w.e.f. 31/03/1997. In view of the said Judgment of the Hon'ble Supreme Court, the services of deceased employee Nanaji Thakre was / is to be treated as a regular service w.e.f. 31/03/1997 till 31/10/2010. Therefore, the applicant, i.e., wife of deceased employee is entitled for family pension after the death of employee namely Nanaji Thakre who had completed more than 10 years service with the respondents. The husband of applicant, i.e., deceased employee Nanaji Thakre died on 10/06/2014 (P-14). Therefore, deceased Nanaji Thakre was entitled to get pension w.e.f. 31/10/2010 till he died

on 10/06/2014 and thereafter his wife, i.e., the applicant is entitled to get family pension. Hence, we pass the following order –

**ORDER**

(i) The respondents are directed to calculate the services of deceased Nanaji Thakre as a regular service w.e.f. 31/03/1997 to 31/10/2010 as a regular service. By calculating that service, the respondents are directed to pay regular pension to the deceased Nanaji Thakre till his death, i.e., 10/06/2014 and thereafter shall pay family pension to his wife, i.e., the applicant namely Smt. Indira Nanaji Thakre.

(ii) The O.A. is disposed of.

(iii) No order as to costs.

**(Nitin Gadre)**  
**Member(A).**

**(Justice M.G.Giratkar)**  
**Vice Chairman.**

**Dated :- 28/08/2024.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and  
Member (A).

Judgment signed on : 28/08/2024.