

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1138 of 2023 (S.B.)

- 1) Pravin s/o Wasantrao Wasalwar,
aged about 55 years,
Peon to Sub-Divisional Agriculture Officer,
Rajura District: Chandrapur.
- 2) Aabaji Maroti Shimpi,
aged about 58, Peon to Taluka Agriculture Officer,
Kurkheda. District Gadchiroli.
- 3) Hussain Khan Imam khan Pathan,
Age 53, Peon to Taluka Agriculture Officer,
Bhamragad. District-Gadchiroli.
- 4) Rushi Patruji Barsagade,
Age about 58, Peon to Taluka Agriculture Officer,
Korchi. District -Gadchiroli.
- 5) Smt. Muktabai Widow of Ganpati Pohankar,
Legal heir of late Shri Ganpati Pohankar,
[died 26/9/2023] Peon to Taluka Agriculture Officer,
Chamorshi District-Gadchiroli.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary, Agriculture Department, Mantralaya,
Mumbai-32.
- 2) The District Collector, Chandrapur.
- 3) The District Collector, Gadchiroli.
- 4) The District Superintendent, Agriculture Officer, Chandrapur.
- 5) The District Superintendent, Agriculture Officer, Gadchiroli.

Respondents.

Shri Bharat Kulkarni, Sunil Pande, Advocates for the applicants.
Mrs. Aditi Warjekar, learned P.O. for respondents.

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

Dated :- 09/07/2024.

J U D G M E N T

Heard Shri Bharat Kulkarni, learned counsel for the applicants and Mrs. Aditi Warjekar, learned P.O. for the respondents.

2. The case of the applicants in short is as under –

All applicants were initially engaged as a Mustering Assistant as per the chart given below –

Statement showing details of MUSTER ASSISTANT.

As per list of District Collector Chandrapur & Gadchiroli.

Sr. No.	Name of muster Assistant	date of appointment in regular service as Muster Assistant	Posting place After absorption	Date of joining in Govt. Service after regularization	Remark	
1	Shri. Pravin Wasalwar	07/08/1995	Gadchandur in Chandrapur distt.	Order of May,2022, 01/06/2022	Seniority as per District list	As per Apex Court judgment seniority from 31/03/1997 to be counted for pension & other benefits.
2	Aabaji Maroti Shimpi	11/08/1994	Gadchiroli Distt.	Joining in 03/06/2022.	Seniority as per District list	
3	Husen Khan Imam khan Pathan	28/04/1994	--do--	02/06/2022		
4	Rushi Patruji Barsagade	20/11/1997	--do--	03/06/2022		
5	Smt. Muktabai Widow of Ganpati Pohankar	16/05/1989	-do-	01/06/2022		

3. Applicant nos.1 to 4 and husband of applicant no.5 were in regular service as per order dated 20/05/2022. The applicants are claiming that they were initially engaged on the post of Mustering Assistant in the year 1989,1994,1995 and 1997 respectively, their services from the date of initial engagement are to be counted for the

purpose of service benefits. The applicants approached to this Tribunal for the following reliefs –

“(9) A] Direct the respondents to consider the service of the applicants from the date of his initial appointment on the post of Mustering Assistant as a continuous service till absorption for the purpose of pension and all retiral benefits.

B] Direct the respondents to pay the difference of salary of 10 months for delay in issuing appointment letter/order w.e.f. August, 2021 to May 2022 till joining as peon.”

4. The O.A. is strongly opposed by the respondents. It is submitted that applicant nos. 1 to 4 and husband of applicant no.5 were absorbed by the respondents as per G.Rs. dated 01/12/1995 and 21/04/1999. They are entitled to count their regular services from the date of their absorption. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, learned counsel for applicants has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in case of ***the State of Maharashtra & Ors. Vs. Uttam S/o Narayan Vendait*** in Writ Petition No.8468/2015, decided on 16/12/2015 and 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.

6. The learned P.O. strongly opposed the O.A. and submitted that applicants are entitled to count their regular services from the date of absorption and not from the date of their initial engagement as Mustering Assistant.

7. The Hon'ble Bombay High Court, Bench at Aurangabad in case of ***the State of Maharashtra & Ors. Vs. Uttam S/o Narayan Vendait*** (cited supra) has held that services of Mustering Assistants are to be counted from the date of their initial engagement as a Mustering Assistant, but in the recent Judgment the Hon'ble Supreme Court in the case of ***Shaikh Miya S/o. Shaikh Chand etc. vs. State of Maharashtra*** (cited supra) has held that the services of the mustering Assistant are to be counted from 31/03/1997. Hence, the following order –

ORDER

(i) The O.A. is partly allowed.

(ii) The respondents are directed to count the services of applicant nos.1 to 4 and husband of applicant no.5 from 31/03/1997 as a regular service for the purpose of pensionary benefits only.

(iii) No order as to costs.

Dated :- 09/07/2024.

(Justice M.G. Giratkar)
Vice Chairman.

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.

Judgment signed on : 09/07/2024.