

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.333/2024(S.B.)**

1. Late Suresh W.Dahikar Through his
Smt. Shobha Wd/o Suresh Dahikar,
Age about 55 years, R/o Aarmori, Distt. Gadchiroli.
2. Parashuram S/o Zingoji Gohane,
Age about 65 years, R/o Wasala,
Tah. Aarmori, Distt. Gadchiroli.

Applicants.**Versus**

- 1) The State of Maharashtra,
Through its Secretary,
Department of Planning Mantralaya, Mumbai-32.
- 2) The Collector, Gadchiroli.

Respondents

Smt.K.N.Saboo, Ld. Counsel for the applicants.
Smt.S.R.Khobragade, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).

Dated:- 06th September, 2024.

JUDGMENT

Judgment is reserved on 27th August, 2024.

Judgment is pronounced on 06th September, 2024.

Heard Smt.K.N.Saboo, learned counsel for the applicants and Smt.S.R.Khobragade, learned P.O. for the respondents.

2. Husband of applicant no.1, and applicant no.2 had filed O.A.No.670/2017. Said O.A. and connected O.As. were decided by a Common Judgment dated 01.08.2019 (Annexure A-2) directing the respondents to extend benefits of G.Rs. dated 01.12.1995 and 21.04.1999 to the applicants. Husband of applicant no.1 superannuated on 31.10.2018 and applicant no.2 superannuated on 30.09.2017. Both of them were not absorbed in regular service and they retired as Muster Assistant. The applicants are seeking directions to the respondents to count pensionable service of husband of applicant no.1, and applicant no.2 w.e.f. 31.03.1997 in view of Judgment of the Hon'ble Supreme Court referred to in G.R. dated 23.05.2023 (Annexure R-2-IV). Hence, this O.A..

3. Stand of respondent no.2 is that husband of applicant no.1, and applicant no.2 both had retired before Judgment was delivered by this Tribunal on 01.08.2019, there was no question of absorbing them after their retirement and since they were never absorbed, they will not be covered by the Judgment of the Supreme Court.

4. Relevant part of G.R. dated 23.05.2023 reads as under-

याच अनुषंगाने मा. सर्वोच्च न्यायालय विशेष अनुमती याचिका (सी) ६०३९-६०४१/२०१६ मधील सिव्हील अपिल क्र.६५३१-६५३३/२०२२ दाखल झाली होती. त्यामध्ये मा. सर्वोच्च न्यायालयाने दि.०७.०९.२०२२ नुसार मा. न्यायालयाने पुढीलप्रमाणे आदेश पारित केले आहेत :-

In our view, what the Bench considered appropriate to issue notice was really the aspect that since the absorption occurred over a period of time, and that may have deprived some persons to their service as permanent employees, it should be the notional date of absorption of 31.03.1997 which should be taken into account for determining the pensionable service.

In our view, this is also what the Industrial Courts have done where relief has been granted and it has been accepted by the State.

We are thus of the view that the only direction which can be issued is that persons who has been absorbed over a period of time post 31.03.1997, for pensionable service, the reckoning date would be 31.03.1997 and such of the persons who have rendered a pensionable service on that basis would be entitled to that benefits.

शासन निर्णय :-

संदर्भाधिन शासन निर्णयास अनुलधून शासन सेवेत समावेशन झालेल्या हजेरी सहाय्यकांची तसेच मा. न्यायाधिकरण / न्यायालये यांनी दिलेल्या निर्देशानुसार समावेशन झालेल्या हजेरी सहाय्यकांची मा. सर्वोच्च न्यायालयाने दि.०७.०९.२०२२ रोजी पारित केलेल्या आदेशास अनुसरून दि.३१.०३.१९९७ पासूनची सेवा निवृत्तीवेतनाह सेवा

म्हणून ग्राह्य धरण्यात यावी. हजेरी सहाय्यकांचे समावेशन ज्या शासकीय कार्यालयात करण्यात आले आहे, त्या कार्यालय प्रमुखांनी / विभागप्रमुखांनी / प्रशासकीय विभागाने उपरोक्त निर्णयानुसार समावेशन झालेल्या हजेरी सहाय्यकांची सेवाविषयक अभिलेखांची तपासणी करून त्यानुसार दि.३१.०३.१९९७ पासून निवृत्तीवेतनार्ह सेवा देण्याबाबत कार्यवाही करावी. सदरचे लाभ हे काल्पनिकरित्या ग्राह्य धरण्यात येत असल्याने, कोणत्याही कर्मचाऱ्याला दिनांक ३१.०३.१९९७ ते प्रत्यक्ष समावेशन या कालावधीतील कोणतेही सेवाविषयक लाभ वा वेतन फरक / थकबाकी रक्कम अनुज्ञेय नाही. तसेच पुनर्वेतननिश्चिती करण्यात येऊ नये. वरीलप्रमाणे कार्यवाही शासन निर्णयाच्या दिनांकापासून एक महिन्याच्या कालावधीत पूर्ण करावयाची आहे.

5. It is a matter of record that husband of applicant no.1, and applicant no.2 had retired before this Tribunal granted them relief by order dated 01.08.2019. By this order the respondents were directed to extend benefits of G.Rs. dated 01.12.1995 and 21.04.1999 to the applicants and absorb them in service. In para 7 of his reply respondent no.2 has stated –

It is pertinent to note that the applicants' claim was considered by the Divisional Level Committee but since the applicants were already superannuated, their claim was not considered for absorption as per Govt. Policy dated 01.12.1995.

To seek relief of absorption husband of applicant no.1 and applicant no.2 had filed O.A.No.670/2017, though after their retirement

i.e. on 17.07.2019. They were held entitled to relief sought by them. In these peculiar facts following order shall meet ends of justice. The respondents are directed to reconsider, within three months from today, question of notional absorption of husband of applicant no.1, and applicant no.2 afresh so that benefits of G.R. dated 23.05.2023 could be extended to them, and communicate the decision to the applicants forthwith. With these directions the O.A. is disposed of with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 06/09/2024
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 Member (J).
Judgment signed on : 06/09/2024.
and pronounced on