

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.60/2021(S.B.)**

1. Shri Gajanan s/o Motiram Kamdi,
Age: 49 yrs., Occu.: Service,
R/o. Shegaon, Tah.: Warora,
Distt.: Chandrapur.
2. Shri Rama s/o Chimna Warbhe,
Age: 62 yrs., Occu.: Service,
R/o. Mesa, Tah.: Warora,
Distt.: Chandrapur.
3. Shri Ramesh s/o Gomaji Rokde,
Age: 62 yrs., Occu.: Service,
R/o. Mahalgaon (Kadu), Tah. Chimur,
Distt.: Chandrapur.
4. Shri Dada s/o Lawdi Chauke,
Age: 56 yrs., Occu.: Service,
R/o. Navin Navegaon, Khadsangi, Tah.:
Chimur, Distt.: Chandrapur.
5. Shri Chintaman s/o Janiram Tembhare,
Age: 50 yrs., Occu.: Service,
R/o. At: Kolsa, Post: Tichpalli,
Tah.: Chandrapur, Distt. Chandrapur.
6. Shri Ashok s/o Ballaiya Palewar,
Age: 59 yrs., Occu.: Service,
R/o. At Kolsa, Post: Tichpalli,
Tah.: Chandrapur, Distt. Chandrapur.

7. Ku. Vandana Maroti Pendam,
Age: 47 yrs., Occu.: Service,
R/o. At Kolsa, Post: Tichpalli,
Tah.: Chandrapur, Distt.: Chandrapur.
8. Smt. Baby Asaram Madavi,
Age: 59 yrs., Occu.: Service,
R/o. At: Kolsa, Post: Tichpalli,
Tah.: Chandrapur, Distt.: Chandrapur.
9. Shri Baba Bapurao Nannaware,
Age: 54 yrs., Occu. Service,
R/o. Tadoba Ghosari, Post Mudori,
Tah. Bhadrawati, Distt.: Chandrapur.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai.
- 2) The Principal Chief Conservator of Forest,
[Vanbal Pramukh), Maharashtra State,
Civil Lines, Nagpur.
- 3) The Chief Conservator of Forest
[Territorial] Chandrapur.
- 4) The Deputy Director (Core),
Tadoba Anghari (Tiger Project), Chandrapur.
- 5) The Deputy Director (Buffer),
Tadoba Anghari (Tiger Project), Chandrapur.

6) The Deputy Conservator of Forest,
Central Chanda Forest Department,
Chandrapur.

7) The Conservator of Forest,
Field Director, Tadoba – Anghari,
(Tiger Project), Chandrapur.

Respondents

Shri G.G.Bade, Ld. Counsel for the applicants.
Shri A.P.Potnis, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).
Dated:- 19th September, 2024.

JUDGMENT

Judgment is reserved on 27th August, 2024.

Judgment is pronounced on 19th September, 2024.

Heard Shri G.G.Bade, learned counsel for the applicants and
Shri A.P.Potnis, learned P.O. for the respondents.

2. Applicants 1 to 9 were appointed as Vanmajoor on
01.10.1990, 29.11.1989, 01.04.1988, 01.04.1992, 01.05.1992,
01.11.1992, 01.01.1993, 01.04.1990 and 20.11.1992, respectively. As
per G.R. dated 16.10.2012 (Annexure A-1) their services were
regularised by orders dated 07.11.2012 w.e.f. 01.06.2012 (Annexure A-3
at PP. 18 to 26). The applicants pray that the respondents be directed to

consider their past services i.e. services before regularisation for grant of pensionary benefits. Hence, this O.A..

3. Stand of respondents 1 to 7 is as follows-

9. It is submitted that, all the Applicants were working on daily wages with the Respondent. The State Government vide G.R. dt.16.10.2012 has taken the policy decision to regularize the services of daily wagers working with the Respondents and other Forest Departments as one time measure. In pursuance to the said policy decision, all the Applicants have been given the regularization order which they have annexed to the Original Application on Page No.17 onwards. All the Applicants have accepted the appointment order given to them.

10. It is pertinent to note here that, nowhere in the G.R. du.16.10.2012 it is stipulated that their service were regularized retrospectively. It also needs to be pointed out that the G.R. dt.31.1.1996 has only created the supernumerary posts and the services of the Applicants are not regularized as per the G.R. dt.31.1.1996. Therefore, the reliance of the Applicants on the said G.R. is not proper. The G.R. dt.31 January, 1996 has clearly mentioned that the posts created were automatically abolished after the retirement, discharge or death of the employee and the said posts are not permanent in nature.

4. The applicants have relied on the Judgment of Hon'ble Bombay High Court dated 19.12.2006 in Writ Petition No.3690/2005 **(Shri Anant S. Tambde and Others Vs. the Collector, Ratnagiri and Others)** wherein it is held-

4. The learned Counsel for Petitioners has placed before us the Maharashtra Civil Service (Pension) Rules, 1982 and, in particular,

Rule 30 thereof to support his case. We reproduce Rule 30 hereinbelow.

"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.

A bare perusal of this rule would indicate that if a government employee is holding a substantive post at the time of his retirement, his qualifying service shall be computed from the date of his first appointment either substantively or in an officiating capacity or temporary capacity. It is clear from the record that petitioners had been given temporary appointment as seasonal godown keepers and this fact has been recognized by the Tribunal as also by the respondents in their reply before us. In this view of the matter, we find that the entire period of service from the date of their joining would have to be counted for the purpose of computing their entitlement and quantum of pension.

5. The applicants have further relied on the Judgment of this Bench dated 07.07.2022 in O.A.No.126/2022 **(Chandraprakash S/o Jagoji Shende Vs. State of Maharashtra and Others)**. While confirming Judgment of this Bench dated 07.07.2022, by Judgment dated 07.08.2024 in Writ Petition No.6985/2023 the Hon'ble Bombay High Court has held, after quoting Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 as follows-

Thus, from the above Rule it is crystal clear that for the purpose of qualifying services for pensionary benefits, services of a Government employee shall commence from the date he takes charge of the temporary post to which he is first appointed. The only criteria which is required is that, on the date of retirement he shall hold substantively, a permanent post in Government service.

6. In view of the aforesaid factual and legal position, the respondents are directed to calculate qualifying service of the applicants for pensionary benefits from the date they had taken charge of temporary post on their first appointment, and extend to them consequential benefits. The O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 19/09/2024
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 : 19/09/2024.
and pronounced on