

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 382/2020(S.B.)**

Bhaudas Harichand Bisne,  
Aged about 57 years, R/o. Shiora,  
Tah.- Tumsar, Distt- Bhandara.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
through its Department of Planning,  
Mantralaya, Mumbai-32.
2. The Collector,  
Bhandara.
3. District Supply Officer,  
Bhandara.
4. The Tahsildar,  
Tummsar, Dist.- Bhandara.

**Respondents.**

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Shri N.R.Saboo, Ld. Counsel for the applicant.  
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

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

**Dated: - 21<sup>st</sup> June, 2024.**

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**JUDGMENT**

Heard Shri N.R.Saboo, learned counsel for the applicant  
and Shri V.A.Kulkarni, learned P.O. for the Respondents.

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

The applicant was initially engaged as Mustering Assistant in the year 1985. He was terminated on 18.07.1990 by the respondents. The applicant approached to the Labour Court. The Labour Court in complaint ULP No.370/1990 allowed the complaint and set aside the termination with continuity of service. Thereafter, the applicant was absorbed in the regular service as per order dated 30.07.2018, as per the G.R. dated 01.12.1995 in Group 'D' post. The applicant is retired during the pendency of this O.A.. The respondents have not paid pension and pensionary benefits to the applicant. Therefore, the applicant approached to this Tribunal for the following reliefs-

- i) To issue direction to the respondents to provide deemed date benefit of absorption in Group D post in the office of Respondent No. 3.*
- ii) Allow O.A. with further direction to count service of applicant prior to absorption in service for the purpose of pay fixation, qualifying service for pension & for all purpose as regular govt. servant.*
- iii) By appropriate order be pleased to direct the respondents to delete condition laid down in para 4 of order dated 30.07.18b issued by Collector, Bhandara at Annexure A-7, as well to modify order dated 20.09.19 at Annexure-A-9 issued by District Supply Officer, Bhandara with direction to count service period of applicant from initial date of appointment as Mustering Assistant while fixing the pay of applicant.*

*iii) To grant any other remedy, which this Hon'ble Court deems fit and proper, in the interest of justice.*

**INTERIM RELIEF :-**

*Pending disposal of O.A. by appropriate order be pleased to direct the Respondents to release salary of applicant by with direction to fix the pay of applicant by counting service period of applicant from initial date of appointment as Mustering Assistant while fixing the pay of applicant.*

3. The O.A. is opposed by the respondents. It is submitted that the applicant's service as Mustering Assistant cannot be counted for the purpose of pension. The applicant is entitled to get the pension from the date of absorption. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for the applicant has pointed out the decision of this Tribunal in O.A.No.689/2022 decided on 11.08.2023. The said O.A. was decided on the basis of the Judgment of the Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra.** 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 Mustering Assistant shall be treated regular for the purpose of pension and pensionary benefits w.e.f. 31.03.1997. The applicant was absorbed in a regular service in the year 2018. The applicant was continued in the service as Mustering Assistant as per

the order of Labour Court. The applicant was initially engaged in the year 1985 as Mustering Assistant. In view of the Judgment of the Hon'ble Supreme Court in the case of **Shaikh Miya S/o Shaikh Chand etc. Vs. State of Maharashtra** (cited supra). The applicant is entitled to get his service regularised w.e.f. 31.03.1997. Hence, the following order.

**ORDER**

1. The O.A. is allowed.
2. The respondents are directed to treat the service of the applicant as regular service w.e.f. 31.03.1997 for the purpose of pensionary benefits and accordingly pay the pension and pensionary benefits if the applicant is eligible for the same.
3. No order as to costs.

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

**Dated - 21/06/2024.**  
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 Vice Chairman.  
Judgment signed on : 21/06/2024.

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