

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3796 OF 2016

State of Maharashtra, Thr. its Secretary, Revenue and Forest Dept. Mumbai and ors.

-vs-

Sadashio s/o Paikan Nagapure

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. M. Deshpande, Addl. GP, for petitioners.
Shri B. Kulkarni, Advocate for respondent.

**CORAM : B. R. GAVAI &
A. S. CHANDURKAR, JJ.**
DATE : April 26, 2017

The petitioners challenge the judgment and order passed by the learned Maharashtra Administrative Tribunal dated 12/01/2016 in Original Application No.61/2010 thereby holding the original applicant entitled to count the period of his service as Mustering Assistant on work charge establishment as qualifying service for the purpose of pension.

The learned Tribunal by the impugned judgment and order has further held that the original applicant would be entitled to pension for the period of his service from the date of his joining vide order dated 10/10/1995 till his retirement on 30/04/2007.

Shri A. M. Deshpande, learned Additional Government Pleader for the petitioners submits that the learned Tribunal has

grossly erred in allowing the original application. He submits that the learned Tribunal has failed to take into consideration that the initial appointment of the respondent-employee as Mustering Assistant was on purely temporary basis and for the first time he came to be appointed on a regular basis as a Peon on 30/03/1998. It is therefore submitted that his qualifying service has to be counted from 07/04/1998 that is the date on which he joined as Peon and as such his service falls almost nine months short to requisite period of ten years which is the qualifying service for pension.

The learned Tribunal found that respondent-employee was initially joined as Mustering Assistant on daily wages under Employment Guarantee Scheme from 29/12/1989. On 10/10/1995 he was appointed as Mustering Assistant on work charge establishment in regular pay scale of Rs.750-940. He was appointed in Group-D as a Peon on 30/04/1998. It could further be seen that the original applicant was also granted benefits of 5th Pay Commission and his service-book also shows that he has been in continuous service from 29/12/1989.

In this factual background that the original applicant's service-book shows that he is in continuous service from 29/12/1989 and as his appointment is shown as Mustering

Assistant on work charge establishment in the regular pay scale of Rs.750-940 from 10/12/1995, it cannot be said that the view taken by the learned Tribunal that he has completed more than ten years which is qualifying service for pension purposes is perverse nor it can be said that the learned Tribunal has taken a view which is not sustainable in law.

In that view of the matter, we find that the petition is without merits and is not liable to succeed. Needless to state that the petitioners/original respondents shall comply with the orders passed by the learned Tribunal within period of three months from today, failing which, they would be liable to face proceedings for contempt of the same.

Petition is therefore dismissed. No costs.

JUDGE

JUDGE