

19 June 2023.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 16007 OF 2022

Amsiddha Bamnna Hukkeri

....Petitioner

V/S.

The Secretary,
Planning Department,
Mantralay, Mumbai & Ors.

....Respondents

...

Mr. Y. B. Lengare for the Petitioner.

Mr. B. V. Samant AGP for Respondent no.1.

Mr. Anand S. Kulkarni for Respondent No.8 & 9.

**CORAM: DHIRAJ SINGH THAKUR, &
SANDEEP V. MARNE, J.**

Date : 19 June 2023.

P.C.:

. By this petition, Petitioner prays for consideration of his services from the date of initial appointment or from 1 October 1988 towards qualifying service for all pensionary benefits.

1. Petitioner claims that he was engaged as a Muster Assistant on 27 April 1987 under the Employment Guarantee Scheme. His services were terminated on 1 March 1988.

Petitioner therefore filed Complaint (ULP) No. 52/1997 before the Labour Court, Solapur on 19 June 1997. By judgment and order dated 15 May 2000, the Labour Court partly allowed the complaint and directed Petitioner's reinstatement in service alongwith continuity but without backwages. The Executive Engineer, PWD Solapur challenged the order of Labour Court before Industrial Court Solapur. During pendency of the Revision, Petitioner was reinstated in service by order dated 10 August 2000. The Industrial Court by judgment and order dated 31 December 2009 was pleased to allow the Revision Petition setting aside the order of the Labour Court and dismissing the Petitioner's complaint. Petitioner approached this Court by filing Writ Petition No. 861/2013, which came to be rejected by order dated 7 May 2014. However, this Court directed that Petitioner be given benefit of the decision dated 14 November 2011 governing all Muster Assistants. Petitioner was accordingly reinstated in service on 7 July 2014.

2. In pursuance of the Government Resolutions dated 1 December 1995 and 21 April 1999, Petitioner came to be absorbed as Muster Assistant w.ef. 1 June 2014. Petitioner has retired from service and has filed the present petition for counting his entire service from the date of his initial appointment as qualifying service for pension.

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3. The issue involved in the present petition is no longer *res-integra* and is covered by the decision of the Supreme Court in **Shaikh Miya s/o. Shaikh Chand V/s. State of Maharashtra** (Civil Appeal No. 6531-6533/2022 decided on 7 September 2022). The Apex Court has directed that Muster Assistants who are absorbed post 31 March 1997, should be granted the benefit of reckoning their services from 31 March 1997 towards pensionable service. Since Petitioner was merely directed to be reinstated in service by the Labour Court, he cannot seek counting of his services from 1 October 1988. He has been subsequently regularised in service w.e.f. 1 June 2014. therefore Petitioner's case would be governed by the judgment of the Supreme Court in ***Shaikh Miya s/o. Shaikh Chand***.

4. Following the dictum of the Apex Court, the present petition deserves to be partly allowed. Respondents are directed to compute Petitioner's services from 31 March 1997 onwards towards qualifying services for pension for all purposes and Petitioner be paid difference of pension and other pensionary benefits within a period of four months from today.

5. With the above directions, the Writ Petition is partly allowed. There shall be no order as to costs.

SANDEEP V. MARNE, J.**DHIRAJ SINGH THAKUR, J.**