

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 WRIT PETITION NO.14629 OF 2023

HARIBHAU TARACHAND DUDHADE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND

32 WRIT PETITION NO.14633 OF 2023

BALASAHEB KACHARU KALE DECEASED
THR LRS MEENA BALASAHEB KALE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND

34 WRIT PETITION NO.14635 OF 2023

JANKU DHONDIBA NAGARE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS

...

Mr. A. D. Shinde a/ow Mr. K. B. Jadhav, Advocates for Petitioners
Ms. Priya R. Bharaswadkar, Mr. S. K. Tambe and Mr. P. K. Lakhotiya,
AGPs for Respondents State

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 4th December, 2023

ORDER:

1. In all these petitions, the Petitioners were working as Mustering Assistants and they are governed by the scheme that was presented vide the Government Resolution dated 01.12.1995, before the Honourable Supreme Court, which accepted the scheme on 01.12.1996. All these Petitioners are, therefore, governed by the said

Government Resolution insofar as their regularization and service benefits are concerned.

2. Some of the identically placed employees had approached the Honourable Supreme Court in Civil Appeal Nos.6531-6533 of 2022 **(Shaikh Miya s/o Shaikh Chand etc. etc. vs. State of Maharashtra)**. By the order dated 07.09.2022, the Honourable Supreme Court has held as under:-

“It is trite to say that the question of payment of pension would arise only if the pensionary service is completed. Thus the question would be as to what is the period of service which will have to be counted for such pensionable service.

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.”

3. In view of the above, there is no scope for this Court to show any indulgence, save and except, direct the State Authorities to consider these cases in the light of the Government Resolution dated 01.12.1995 and the above reproduced directions of the Honourable Supreme Court. Let such decision be arrived at within a period of 90 days from today.

4. **The Writ Petitions are, accordingly, disposed off.**

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan