

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

WRIT PETITION NO. 3288 OF 1997

Nehru Nagnath Bare & Ors. Petitioners

Vs.

The State of Maharashtra & Ors. Respondents

**WITH
WRIT PETITION NO. 7058 OF 2012**

Nikam Hanumant Vitthal & Ors. Petitioners

Vs.

The State of Maharashtra & Ors. Respondents

**WITH
WRIT PETITION NO. 7060 OF 2012**

Sharad Savalaram Nakate & Ors. Petitioners

Vs.

The State of Maharashtra & Ors. Respondents

Mr. M. V. Thorat with Mr. Amar Bodke I/b. Mr. V. V. Thorat for the
Petitioners

Mr. Anand S. Kulkarni for Respondent Nos.2 and 3 in Writ Petition
Nos.3288/97 and 7058/2012

Mr. B. V. Samant, AGP for the State

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : APRIL 27, 2023

P.C.

1. The Petitioners are appointed as Muster Assistants. Many of the Petitioners filed complaint ULP before the Labour Courts and / or

the Industrial Courts. The details are given by the Petitioners.

2. The Government Resolution dated 1st December 1995 was issued, wherein the Muster Assistants were directed to be absorbed, as One Time Measure. The said scheme was approved by the Apex Court. The Apex Court, in the recent judgment ***dated 7th September 2022 in the case of Shaikh Miya s/o. Shaikh Chand etc. Vs. State of Maharashtra in Civil Appeal No.6531-6533 of 2022*** observed that if a person is absorbed over a period of time, then the notional date of absorption ought to be 31st March 1997 and the same should be taken into consideration for determining the date for computing the pensionable service.

3. In light of that, we pass the following order:

a. The Employer shall verify the case of each of the Petitioners.

b. If the Labour Courts and / or the Industrial Courts have granted them permanency and / or regularization then their services shall be counted from the dates the Labour Courts and / or the Industrial Courts granted them permanency and /or regularization.

c. If the Labour Courts and / or the Industrial Courts have

not granted permanency and/or regularization and these Muster Assistants are absorbed subsequently then their notional date for computation of pensionable service shall be considered from 31st March 1997.

d. The Respondents shall complete the aforesaid exercise preferably within four months.

e. The Respondents will also consider the absorption of the Petitioners as per the scheme of 1st December 1995.

f. Rule is accordingly made absolute. The Writ Petitions stand disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)