

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9560 OF 2019
WITH
WRIT PETITION NO.10710 OF 2019

Shri Neelkanth Gulabrao Phadatar.

....Petitioner

Versus

The State of Maharashtra & Ors.

....Respondents

Appearances :

Mr. Y. B. Lengare, for Petitioner.

Mr. N. K. Rajpurohit, AGP a/w. Mr. B. V. Samant, AGP for Respondent-State.

CORAM: DHIRAJ SINGH THAKUR &
SANDEEP V. MARNE, JJ.

DATE : 21 JUNE 2023.

P. C.:

By this petition, Petitioners have challenged judgment and order dated 26 June 2017 passed by the Maharashtra Industrial Tribunal (**Tribunal**) in Original Application No.592 of 2016 and 593 of 2016. Petitioners seek relief of counting their services from 20 June 1982 and 31 March 1979 respectively towards qualifying services for pension.

2. The issue involved in the present petition is no longer *res integra* and is covered by the judgment of Apex Court in **Shaikh Miya s/o. Shaikh**

Chand etc. Vs. State of Maharashtra, Civil Appeal No.6531-6533/2022 decided on 7 September 2022. The Apex Court held that Muster Assistants absorbed over a period of time post 31 March 1997 are required to be granted benefit of computing their qualifying services from 31 March 1997 as pensionable services.

3. In the present petition though Petitioners claim to have been initially engaged on 20 June 1982 / 31 March 1979, their services were terminated. They approached Labour Courts which only granted a limited relief of reinstatement without back wages. Petitioners were not directed to be regularised in services by the Labour Court. Petitioners were absorbed in services after 31 March 1997. Therefore the cases of the Petitioners are fully covered by the judgment of the Apex Court in **Shaikh Miya s/o. Shaikh Chand etc. Vs. State of Maharashtra**. They therefore cannot seek computation of service from 20 June 1982 and 31 March 1979. Their services can be computed as pensionable service from 31 March 1997 as directed by the Apex court.

4. Impugned orders passed by the Tribunal is therefore set aside. The Respondents are directed to count services of the Petitioners from 31 March 1997 towards qualifying services for pension and pensionary benefits. Resultant arrears of pension and pensionary benefits be paid to them within 4 months from today. With the above directions, Writ Petitions are disposed of. There shall be no order as to costs.

SANDEEP V. MARNE, J.

DHIRAJ SINGH THAKUR, J.