

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

WRIT PETITION NO.2260 of 2023

The State of Maharashtra and others.

vs.

Moreshwar Domaji Apturkar

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S.Fulzele, Additional Government Pleader petitioners/State.

CORAM :- A.S.CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE :- 21st APRIL, 2023

Rule. Rule made returnable forthwith.

Shri N.R.Saboo, learned counsel appears by waiving the notice for the respondent.

2. The challenge raised in this writ petition is to the order dated 23.02.2022 passed by the Maharashtra Administrative Tribunal, Nagpur, in Original Application No.276 of 2019 by which the Original Application preferred by the respondent has been allowed and the respondent has been directed to be absorbed as permanent employee from the date of his initial appointment as 'Muster Assistant' till the age of superannuation. The petitioners have been directed to grant pensionary benefits to the respondent as per Rules.

3. Shri A.S.Fulzele, learned Additional Government Pleader for the petitioners has invited our attention to the order passed by the Hon'ble Supreme Court in Civil Appeal No.6531-6533 of 2022 (*Shaikh Miya s/o Shaikh Chand etc. vs. State of Maharashtra*) decided on 07.09.2022 wherein the Hon'ble Supreme Court has directed that for the purposes of reckoning pensionable services, the date 31.03.1997 has to be taken into consideration. He submitted that a similar issue has been decided by this Court in Writ Petition 5746/2019 (Dilip s/o Laxman

Katlawar vs. State of Maharashtra and ors.) on 21.03.2023 and the relief has been modified accordingly. There was no justification on the part of the Tribunal in directing the services of the respondent to be taken into consideration from the date of initial appointment.

4. Shri N. R.Saboo, learned counsel for the respondent does not dispute the aforesaid fact and submits that the respondent would be satisfied, if he is granted pensionary benefits by treating the relevant date for the same as 31.03.1997.

5. Hence for the reasons contained in *Dilip s/o Laxman Katlawar* (supra), the order passed by the Maharashtra Administrative Tribunal in Original Application No. 276 of 2019 is partly modified. Instead of the directions issued by the Tribunal in the order dated 23.02.2022, it is held that the respondent would be entitled to pensionary benefits in accordance with law by treating his entry in service from 31.03.1997. The pensionary benefits in that regard be released within a period of three months from today.

6. Rule is made partly absolute in aforesaid terms with no order as to costs.

(M. W. CHANDWANI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.