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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.7083 OF 2019

Ramdas Bangar Patil,  
Age-65 years, Occu-Retired  
Government Servant,  
R/o At Post : Devbhane,  
Tq. and Dist.Dhule

-- PETITIONER

VERSUS

1. The State of Maharashtra,  
Through its Chief Secretary,  
Mantralaya, Mumbai – 32,

2. The Secretary,  
Planning Department,  
Mantralaya, Mumbai

3. The Divisional Commissioner,  
Nasik Division, Nasik,

4. The Collector,  
Collectorate Dhule,  
Tq. and Dist.Dhule

5. The Chief Executive Officer,  
Zilla Parishad, Dhule,  
Tq. and Dist. Dhule

6. The Executive Engineer,  
Zilla Parishad, Works Department No.5,  
Dhule, Tq. And Dist Dhule

7. The Block Education Officer,  
Panchayat Samiti, Dhule,  
Tq. and Dist. Dhule

-- RESPONDENTS

Mr.V.P.Golewar, Advocate for the Petitioner.

Mr.R.K.Ingole, AGP for Respondent Nos. 1 to 4.  
Mr.N.N.Desale, Advocate for Respondent Nos. 5 and 6.

**WITH  
WRIT PETITION NO.7152 OF 2019**

Bhagwantrao s/o Shamrao Ahirrao,  
Age-61 years, Occu-Retired Government Servant,  
R/o 36-A, Indrayani Nagar, Opposite Omshree Mall,  
Near Market Committee, Sakri,  
Tq. Sakri, dist. Dhule -- PETITIONER

**VERSUS**

1. The State of Maharashtra,  
Through its Chief Secretary,  
Mantralaya, Mumbai – 32,
2. The Secretary,  
Planning Department,  
Mantralaya, Mumbai
3. The Divisional Commissioner,  
Nasik Division, Nasik,
4. The Collector,  
Collectorate Dhule,  
Tq. and Dist.Dhule
5. The Chief Executive Officer,  
Zilla Parishad, Dhule,  
Tq. and Dist. Dhule
6. The Executive Engineer,  
Zilla Parishad, Works Department No.5,  
Dhule, Tq. And Dist Dhule
7. The Block Education Officer,  
Panchayat Samiti, Sakri,  
Tq. Sakri, Dist. Dhule -- RESPONDENTS

Mr.V.P.Golewar h/f Mr.Amol Sawant, Advocate for the Petitioner.  
Mr.V.M.Kagne, AGP for Respondent Nos.1 to 4.  
Mr.N.N.Desale, Advocate for Respondent Nos. 5 and 6.

**( CORAM : RAVINDRA V. GHUGE AND  
R.M. JOSHI, JJ.)**

**DATE : APRIL 18, 2024**

ORAL JUDGMENT : (Per Ravindra V.Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. These matters are taken up in the special drive to decide the pending pension cases. After considering the extensive submissions of the learned Advocates for the respective sides, upon perusing the Petition paper books and considering the law settled on the point of granting regularization to Mustering Assistant in the light of the Scheme of the State Government enshrined under the GR dated 01.12.1995, these Petitioners are entitled for reckoning their entire length of service strictly as per the scheme dated 01.12.1995, for the purposes of the Pensionary benefits.

3. We could have reproduced the observations of this Court

( Coram : Anoop V. Mohta and Ravindra V.Ghuge, JJ.) set out in the judgment dated 04.05.2017 delivered at the Principal seat in WP No.13220/2016 (**Mone Rashmi Shriram Vs. The State of Maharashtra and Others**), 2017(4) BCR 623. However, we do not wish to increase the length of this judgment. Suffice it to say that, the said judgment in Mone Rashmi (supra), dated 04.05.2017 was heavily relied upon by this Court at the Principal Seat in WP No.8908/2015 (**Kishor Digambar Gaikwad Vs. The State of Maharashtra and Others**), decided vide judgment dated 12.10.2018.

4. For the purposes of these Petitions, the following sequence of events would be relevant.

**[A] WP No.7083/2019 (Ramdas Bangar Patil)**

- (a) The Petitioner joined duties as a daily wager for maintaining the attendance register on 25.02.1983.
- (b) He was discontinued on 07.04.1986.
- (c) He preferred complaint (ULP) No.131/1994, which was allowed by the judgment dated 19.09.1997, delivered by the Labour Court and he was reinstated with continuity and full back wages. He superannuated on 31.01.2014.

**[B] WP No.7152/2019 (Bhagwantrao Shamrao Ahirrao)**

- (a) He was appointed on daily wages to maintain the attendance register on 20.05.1986.
- (b) He was terminated on 08.08.1989.
- (c) He preferred Complaint (ULP) No.146/1989, which was allowed by judgment dated 28.09.1992.
- (d) He was reinstated in service with continuity and full back wages.
- (e) He superannuated on 01.05.2018.

5. In the judgment delivered in Kishor Gaikwad (supra), the Division Bench at the Principal Seat, upon placing reliance on Mone Rashmi (supra), recorded in paragraph Nos. 10 and 11 as under :-

*“10. We are of the view that the interest of justice would be served if the Petitioners are absorbed from the date of the reference or filing of the complaints before Labour Courts/Industrial Tribunal as the case may be. The said date would undoubtedly have a rationale as the date when the dispute in respect of the petitioners’ termination has taken to the Labour Court/Tribunal. However, we are conscious of the fact that the grant of absorption from the dates of filing of the reference/complaints would impose a financial burden on the State Government, we would therefore modulate the relief insofar as the*

*liability on account of the arrears that would arise. We therefore, allow the petitions and issue the following directions :-*

*(i) The petitioners would be entitled to absorption in Government service from the date of filing of the reference/Complaint in the Labour Court/Industrial as the case may be, as shown in the tables hereinabove produced. The date should be assigned is the 1st of June of the particular year. For example in respect of the petitioner Kishor Digambar Gaikwad the date would be 01/06/1992.*

*(ii) That the petitioners would not be entitled to any monetary benefits in the form of arrears on the said basis but the said date would be taken into consideration for notionally fixing the salary of the petitioners/Pension of such of the petitioners who have retired, for the purposes of seniority and promotional benefits, if applicable. The exercise of notionally fixing the salary of the petitioners who are in service, and pension of the petitioners who have retired would be done latest by 31st January 2019.*

*(iii) Insofar as the petitioners who are in service, they would be paid salary after carrying out the exercise of notional fixation. The revised salary would be payable from December 2018.*

*(iv) Insofar the petitioners whose petitions are pending in this Court, the date of absorption as stipulated by the instant Judgment would be subject to outcome of the said petitions.*

*11. The petitions are allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their own costs.”*

6. In view of the above, we deem it appropriate to follow the

course adopted by this Court in Mone Rashmi (supra) and in Kishor Gaikwad (supra).

7. The learned Advocate Mr.Desale has placed reliance upon an order passed by this Court at Aurangabad, dated 09.03.2022 in WP No.13860/2018, 13863/2018 and 13864/2018 (Arun Baliram Devre Vs. The State of Maharashtra and Others). It is obvious that the view taken by this Court in **Mone Rashmi Shriram** (supra), **Kishor Gaikwad** (supra) and the judgment delivered in **WP No.12043/2016 at Aurangabad in Kadu Mahadu Bhawar Vs. The State of Maharashtra and Others**, decided on 06.09.2017, was not referred to. So also, the judgment of this Court at Aurangabad delivered in WP No.2946/1997, which was confirmed by the Hon'ble Supreme Court taking into account the date of joining as 01.10.1988, was also not referred to.

8. In view of the above, **these Writ Petitions are partly allowed** in terms of paragraph Nos. 10 and 11 in Kishor Gaikwad (supra) reproduced above and the notional date for considering the absorption of these Petitioners, would be the dates of the filing of their ULP complaints, i.e. 131/1994 and 146/1989, respectively.

9. Rule is made partly absolute in the above terms.
10. The notional fixation of salary of the Petitioners and calculation of the pensionary benefits, so as to complete the pension papers and commence the payment of pension, shall be done in 90 days time by the Zilla Parishad / Respondent.

( R.M.JOSHI, J. )

( RAVINDRA V. GHUGE, J.)