



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

WRIT PETITION NO. 3468 OF 2024

- 1) Yashwant Wasudeo Raut,
Aged about 61 years, Occupation- Retired,
R/o P.S. Kurkheda, District – Gadchiroli.
- 2) Bhaskar s/o Atmaramji (Antaram)
Bhagadkar, Aged about 61 years,
Occupation – Retired,
R/o P.S. Kurkheda, District-Gadchiroli.
- 3) Purushottam s/o Kawdu Janbandhu,
Aged about 60 years, Occupation - Retired,
R/o Post Talegaon, Tahsil – Kurkheda,
District Gadchiroli.

.... PETITIONERS

VERSUS

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Planning, Mumbai-400 032.
- 2) Collector, Gadchiroli,
District Gadchiroli.

.... RESPONDENTS

Mr. N.R. Saboo, Counsel for the petitioners,
Mr. A.M. Kadukar, AGP for the respondents.

CORAM : NITIN W. SAMBRE
& ABHAY J. MANTRI, JJ.
DATED : 8th AUGUST, 2024

ORAL JUDGMENT : (Per : NITIN W. SAMBRE, J.)

Heard. Rule. Rule made returnable forthwith by consent of the
learned Counsel for the parties.

2. The challenge in the petition is to the judgment dated 31-1-2024 passed by the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur (for short, “the Tribunal”) in Original Application No.1082/2019 wherein the claim of the petitioners for extending the service benefits which are made available to other Muster Assistants, is denied on the ground that the petitioners have approached the Tribunal at belated stage.

3. It is the case of the petitioners that the petitioners were appointed in between 1985 to 1987 under the Employment Guarantee Scheme and have discharged the duties of Muster Assistants.

4. The petitioners claim that in Original Application Nos.316/2016 and 317/2016 vide order dated 05-7-2016 a declaration is given that the employees like the petitioners should be notionally shown in the service on the relevant date i.e. 31-5-1993 and as such by granting continuity of service they can be entitled for drawing benefit under the Government Resolutions dated 01-12-1995 and 21-4-1999.

5. According to Mr. N.R. Saboo, all the petitioners stood superannuated during the pendency of the original application.

6. According to Mr. N.R. Saboo, the Tribunal while dealing with the claim of the petitioners has noted that since the respondents have registered the claim alleging that the petitioners were not working from 26-5-1993 to 31-5-1993 and having regard to the dismissal of the writ petition preferred by the petitioners in earlier round of litigation, the petitioners are held to be not entitled for reliefs.

7. Mr. N.R. Saboo would urge that the Tribunal has proceeded to record a finding that the petitioners have made a time barred claim as they have not approached before the Tribunal within the reasonable time.

8. According to Mr. N.R. Saboo, the original application preferred by the petitioners though was decided on 31-1-2024, the decision to dismiss the original application was rendered only after the original application was admitted for final hearing. He would claim that the original application was admitted on 04-2-2021 and in such an eventuality, the issue of limitation ought not to have been considered against the petitioners. Drawing support from the judgment of the Single Bench of Madras High Court in the matter of *S. Loganathan and another v. Special Officer of the Management of the T.U.C.S. Ltd. and another*, 1984 SCC OnLine Mad 420, particularly paragraph 13 and the

Division Bench judgment of the Patna High Court in the matter of *The Management of Navashakti Publishing Co. Ltd. v. The Presiding Officer & another*, 1976 SCC OnLine Pat 42, particularly paragraph 11, it is claimed that once the original application was admitted, the Tribunal ought to have decided the matter on merit.

9. As against above, Mr. A.M. Kadukar, learned Assistant Government Pleader while opposing the prayer, would urge that merely because the original application was admitted, the issue of limitation cannot be said to be concluded in favour of the petitioners. According to him, the petitioners in earlier round of litigation before this Court were unsuccessful and as such benefits were rightly denied to the petitioners. As such, dismissal is sought.

10. It is borne out of the record, particularly from the additional affidavit placed on record by the petitioners that the original application was admitted on 04-2-2021 and put up for final hearing. Once the original application was admitted by the Tribunal, the issue of limitation cannot be gone into at the stage of final hearing as it has to be presumed that the issue of limitation is already gone into and considered in favour of the party who is assailing such cause on merit. Rightly so, Mr. N.R. Saboo has drawn support from the judgments referred above of the Madras and Patna High Courts.

11. As far as the other reasons furnished by the Tribunal in the judgment impugned are concerned, we hardly see that the relief which was claimed by the petitioners in the earlier round of litigation was matching with that of the relief granted in favour of the allegedly similarly placed employees.

12. The list that is expected of the Tribunal is to deal with the claim of the petitioners in the light of pronouncement made in relation to other similarly placed employees as is claimed by the petitioners particularly when from above discussion it can be held that by admitting the original application the delay was condoned.

13. That being so, we deem it appropriate to quash and set aside the judgment dated 31-1-2024 delivered in Original Application No.1082/2019. The Original Application No.1082/2019 stood restored to the file of the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur before whom the petitioner is permitted to appear on 19-8-2024.

14. The Tribunal shall decide the claim of the petitioners on merit without going into the issue of limitation in the light of observations made hereinabove.

15. The petition stands partly allowed in the above terms.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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