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

WRIT PETITION NO.6985 OF 2023

1. The State of Maharashtra,
Through its Principal Secretary,
Water Supply and Sanitation Department,
Mantralaya, Mumbai.
...Orig.Resp.No.1
2. The Commissioner,
Ground of Ground Water Survey
and Development Agency, Bhujal
Bhawan, Shivaji Nagar, Pune.
...Orig.Resp.No.2
3. The Deputy Director,
Department of Ground Water Survey
and Development Agency, Jivan
Pradhikaran Building, Telangkhedi,
Civil Lines, Nagpur.
...Orig.Resp.No.3
4. Senior Geologist,
Department of Ground Water Survey
and Development Agency, Jivan
Pradhikaran Building, Telangkhedi,
Civil Lines, Nagpur.
...Orig.Resp.No.4
5. Senior Geologist,
Department of Ground Water Survey
and Development Agency, Near Sawarkar
Square, Chandrapur.
...Orig.Resp.No.5

..... PETITIONERS

// VERSUS //

1. Chandraprakash s/o Jagoji Shende
Aged about 60 years, Occ: Retired
R/o Panchsheel Chowk, Indira Nagar,
Mul Road, Chandrapur.

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...Orig.Applicant

2. Deputy Engineer,
Mechanical Sub-Division,
Zilla Parishad, Chandrapur.

...Orig. Resp.No.6

.... **RESPONDENTS**

Shri N.R. Patil, AGP for petitioners.

Shri G.G. Bade, Advocate for respondent No.1.

**CORAM : AVINASH G. GHAROTE AND
M.W. CHANDWANI, JJ.**

DATED : 09.08.2024

ORAL JUDGMENT : [PER: M.W. CHANDWANI, J.]

1. **Rule.** Rule made returnable forthwith. Heard finally
by consent of the learned counsel for the parties.

2. The petition challenges the order dated 07.07.2022
passed by the learned Vice Chairman, Maharashtra Administrative
Tribunal, Nagpur Bench, Nagpur (for short, "Tribunal") in Original
Application no.126 of 2022 thereby directing the petitioners to
calculate the service of respondent no.1 from 07.12.1992 till the
date of his retirement for the purpose of pensionary benefits and
give pensionary benefits according to such calculation.

3. Respondent no.1 was working as Choukidar on daily
wages with the petitioners. His services were terminated.
Respondent no.1 challenged the said termination order before the

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learned Labour Court in Complaint (ULPA) No.55 of 1992. Pending said complaint before the Labour Court, his termination was revoked by the petitioners on 07.12.1992 and since then he was in continuous service. Since services of respondent no.1 were temporary, he filed Complaint (ULPA) No.74 of 2007 for regularization of service. The said complaint was allowed by order dated 22.07.2010. Accordingly, the petitioners regularized the services of respondent no.1 with effect from 22.07.2010. Respondent no.1 is now retired. Since his post-retiral benefits were not taken into consideration by the petitioners for pensionary benefits, he approached the Tribunal by filing Original Application No.126 of 2022. The said original application came to be allowed with aforesaid directions. The petitioners feeling aggrieved with the said impugned order filed present writ petition.

4. Heard Shri N.R. Patil, learned Assistant Government Pleader for the petitioners as well as Shri G.G. Bade, learned counsel for respondent no.1.

5. Perusal of the order passed by the learned Tribunal goes to show that the Tribunal, relying on Rule 30 of the

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Maharashtra Civil Services (Pension) Rules, 1982 (for short, “MCSR Rules, 1982”) allowed the original application. It is a matter of record that respondent no.1 alongwith other employees was working on daily wages without any break since 1992 and with the intervention of the Industrial Court, petitioners were directed to absorb the services of respondent no.1 as Converted Regular Temporary Employee (CRTE) in accordance with directions issued in the Gazette dated 24.11.2000 and 24.04.2001, since he had completed five years. The petitioners by issuing Government Resolution absorbed the services of respondent no.1 with effect from 22.07.2010. Respondent no.1 retired, however, petitioners did not give any pension to him on the ground that he has not completed qualifying service of minimum ten years provided under the MCSR Rules, 1982 for pensionary benefits. Rule 30 reads as under:

“(30) Commencement of qualifying service.

Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity:

Provided that at the time of retirement he shall hold substantively a permanent post in Government service or holds a suspended lien or certificate of permanency:

Provided further that, in cases where a temporary Government servant retires, on Superannuation or on being declared permanently incapacitated for further

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Government service by the appropriate medical authority after having rendered temporary service of not less than ten years, or voluntarily after completion of twenty years of qualifying service, shall be eligible for grant of Superannuation, Invalid or, as the case may be, Retiring Pension; Retirement Gratuity; and Family Pension at the same scales as admissible to a permanent Government servant.

Exception-

The rules regarding grant of terminal benefits to temporary Government servants [except those mentioned in the second proviso] who retire without being confirmed in any post in Government service are embodied in Appendix II."

6. Thus, from the above Rule it is crystal clear that for the purpose of qualifying services for pensionary benefits, services of a Government employee shall commence from the date he takes charge of the temporary post to which he is first appointed. The only criteria which is required is that, on the date of retirement he shall hold substantively, a permanent post in Government service. In the present case, respondent no.1 was working with the petitioners since 07.12.1992, though his services were regularized with effect from 22.07.2010. Therefore, his earlier temporary service shall be taken into consideration for the purpose of pensionary benefits.

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7. Therefore, the petition is devoid of merits. No interference is required in the impugned order. The petition is dismissed with no costs.

Rule is discharged.

(M.W. CHANDWANI, J.)

(AVINASH G. GHAROTE, J.)

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