



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

WRIT PETITION NO. 1798 OF 2024

1. The State of Maharashtra,
through its Secretary,
Employment Guarantee Scheme,
Mantralaya, Mumbai 32,

2. The Collector, Chandrapur

.....PETITIONERS

...V E R S U S...

Pradeep Diwakarrao Karkade,
Aged about 60 yrs, occ. Service,
R/o. Near the Bank of Maharashtra,
Tahsil Mul, District Chandrapur

.....RESPONDENT

Ms. Deepali Sapkal, Asstt. Government Pleader for the petitioners

CORAM:- NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.

DATE : 14.03.2024

JUDGMENT (Per: Abhay J. Mantri, J.)

The original respondents being disgruntled with the order dated 10.3.2023, passed by learned Member Judge, Maharashtra Administrative Tribunal (for short- "*the Tribunal*"), in Original Application No. 191/2019 (SB), whereby held that the respondent is entitled to receive the benefits from the date of his absorption/regularization i.e. 31.03.1997, have preferred this petition.

2. Succinctly, the facts of the case are as under:

(a) On 20.04.1985 respondent/Original applicant in Original Application No. 191/2019 joined services as a Mustering Assistant. With some technical breaks, he continued in service till 1992. Due to the said technical breaks, he approached the Labour Court at Chandrapur by filing ULP (Complaint) No. 107/1992. Which came to be disposed of on 09.08.1995 as petitioner No. 2 – collector vide communication dated 29.07.1995 informed the Executive Engineer to reinstate the Mustering Assistants on duty.

(b) The respondent continued in service till his retirement on superannuation on 30.11.2021. It is claimed that under the Government Resolutions dated 01.12.1995 and 21.04.1999, he was entitled to get benefits, therefore, in the years 2018 and 2019, he made representation to the petitioners to grant him benefits. Since the representations were not considered, he approached the learned Tribunal to grant the same. The learned Tribunal, after considering the facts of the case and the law laid down in the case of *Shaikh Miya s/o.*

Shaikh Chand Vs. State of Maharashtra in *Civil Appeal No. 6531-6533/2022* ("*Shaikh Miya s/o. Shaikh Chand*"), allowed the application holding that the respondent is entitled to get the benefits from the determination of the date of his absorption/regularization 31.03.1997. Hence this petition.

3. Learned Assistant Government Pleader Ms. Deepali Sapkal has strenuously argued that the learned Tribunal has not considered the fact that there was discontinuation/break in the services of the respondent and therefore, the respondent is not entitled to the benefits as claimed. It is further contended that Mustering Assistants were not recognized as Government Servants till their absorption into Government and therefore, the previous service period of the employee cannot be taken into consideration for pensionary benefits, hence, G. R. dated 1.12.1995 and 1.4.1999 do not apply to the case of the respondent. Lastly, it is submitted that the learned Tribunal has not taken into consideration the objection raised by the petitioners and thereby erred in passing the order impugned. As such, she has prayed for setting aside the order.

4. We have considered the submissions advanced, perused the Government Resolutions, documents placed on record, judgment in Writ Petition No. 5748/2019, and the authority cited *supra*.

5. It seems that the learned Tribunal upon considering the facts, has observed that the issue involved in the case is covered by the judgment in the case of ***Shaikh Miya s/o. Shaikh Chand*** and allowed the petition. Apart from the above, it emerges that by virtue of an order passed in ULP Complaint No. 107/1992, the respondent was taken on duty as Mustering Assistant, and he continued in service till his retirement on superannuation on 30.11.2021. It further appears that as per Government Resolutions dated 1.12.1995 and 1.4.1999, he was absorbed into Government Service on 31.03.1997.

6. Having considered the facts of the case, it reveals that the issue involved is no longer *res integra* but the same is covered by the law laid down in the case of ***Shaikh Miya s/o. Shaikh Chand***. When we confronted, nothing could be brought

on record so as to draw an inference that the relief granted by the learned Tribunal is not in tune with the law laid down by the Hon'ble Apex Court in the aforesaid case. That being so, we are of the view that no illegality has been committed by the learned Tribunal while passing the impugned order.

7. In the aforesaid background, we hardly see any reason to cause interference in the impugned order. As a result, the petition sans merits, stands dismissed.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Belkhede