



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9631 OF 2021

SHRENIK NAGNATHRAO DURUGKAR

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS**

...

Shri Thorat Chandrakant R., Advocate for the Petitioner.
Shri S.R. Wakale, AGP for Respondent Nos.1 to 4/State.
Shri P.D. Suryawanshi, Advocate for Respondent No.5.

...

CORAM : MANGESH S. PATIL

&

PRAFULLA S. KHUBALKAR, JJ.

DATE : 02nd January, 2025

Per Court :-

We have heard both sides finally.

2. The issue is whether, the petitioner is entitled to counting of service rendered by him as Mustering Assistant before he reached superannuation and is entitled to pension, having served with the respondent Zilla Parishad.

3. The Collector, Beed, by his communication dated 09.12.2020, has already passed the order by referring to the communications received from the State Government and in the

light of the order passed by the Maharashtra Administrative Tribunal and subsequent decisions of the Industrial and Labour Courts, and forwarded the list of employees containing *inter alia* the petitioner's name as persons to whom pension would be admissible by including the services rendered by them initially as Mustering Assistants.

4. It appears that in the light of some communication dated 28.10.2020 received by the Collector, Beed, from the Divisional Commissioner, by passing separate order on 10.12.2020, he stayed the operation of the order dated 09.12.2020.

5. It is being pointed out that by the communication dated 28.10.2020, the Divisional Commissioner has solicited an opinion from the Government by addressing a letter to the Principal Secretary of the concerned department. In fact, by communication dated 31.05.2019, the State Government has already informed all Divisional Commissioners that since the employees of the Zilla Parishads are also regulated by the Maharashtra Civil Services (Pension) Rules, 1982, by virtue of Rule 10 of the Maharashtra Zilla Parishads District Employment

Rules, 1968, the Divisional Commissioner concerned would be the authority to take appropriate decisions on behalf of the State Government.

6. Though it is being pointed out that this Court has, in similar cases, directed the services rendered as Mustering Assistants to be included while determining pension as has been the case in the matter of ***Kadu Mahadu Bhawar vs. The State of Maharashtra and others***, Writ Petition No.12043/2016 and connected matters decided on 06.09.2017, in all those matters individuals had approached the Industrial Court and there were specific orders passed in their respective matters. Only in couple of petitions decided at the principal seat bearing Writ Petition Nos.2946/1997 and 2236/1997 that the petitioners had approached the High Court directly and in which cases, they were merely permitted to make representations directing the concerned Divisional Commissioners to pass appropriate orders.

7. In the wake of such fact situation, we dispose of the Writ Petition by directing respondent No.3 Divisional Commissioner to take an appropriate decision in accordance with law on the first order passed by the Collector, Beed, dated

09.12.2020 without waiting for any opinion of the State Government pursuant to his communication dated 28.10.2020 (Exhibit A). The decision shall be taken as expeditiously as possible and in any case within five weeks.

kps

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)