



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

WRIT PETITION NO. 9815 OF 2013

Shesherao S/o. Pandurang Jagtap
Age- 61 years, Occu. Retired Gr. D. (Osmanabad H.O.),
R/o. Bhoom, Tal- Bhoom, Dist. Osmanabad.**PETITIONER**

VERSUS

1. The Union Of India Through The Secretary
To Ministry Of Communication And Information
Technology Department of Post, Dak Bhavan,
Sansad Marg, New Delhi- 110 001.
2. The Chief Postmaster General,
Maharashtra Circle, Mumbai- 400001.
3. The Postmaster General, Aurangabad
Region, Aurangabad, Dist. Aurangabad.
4. The Superintendent of Post Offices,
Osmanabad Division Osmanabad,
Dist. Osmanabad.

.....**RESPONDENTS**

.....
Mr. S.P. Salgar h/f Mr. A.R. Devakate, Advocate for the Petitioner
Mr. U.B. Bondar, Standing Counsel for Union of India
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**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL JADHAV, JJ.**

DATE : 14th NOVEMBER, 2025

ORAL JUDGMENT : [PER NITIN B. SURYAWANSHI, J.]

1. This petition filed under Article 226 and 227 of the
Constitution of India takes exception to the judgment and order dated
05.08.2013 passed by the Central Administrative Tribunal, Bombay

Bench, Mumbai, in Original Application No. 56 of 2012, by which direction was sought by the petitioner for grant of pensionary benefits.

2. Admitted facts on record are that;

Petitioner entered in contractual service with Postal Department on 11.06.1974 and joined Group 'D' post on 07.02.2002. The petitioner stood superannuated on 31.07.2011. On Group 'D' post petitioner has rendered service of 09 Years 05 Months and 24 Days, which fell little short of 10 Years, which is a period of qualifying service.

3. The Central Administrative Tribunal dismissed the application of the petitioner observing that department of Post has not yet framed any scheme under which benefit of earlier contractual service as E.D.B.P.M. could be given to regular Group 'D' employees. Petitioner was granted liberty to seek fresh relief in case the department of Post frames any scheme of counting the service of E.D.B.P.M. either towards the purpose of pension for the Group 'D' category or by way of an independent pension scheme for E.D.B.P.M.

4. Learned advocate for the petitioner has relied on *Union of India & Others Vs. Gandiba Behera*¹ wherein the Apex Court has considered Rule 88 of Central Civil Services (Pension) Rules, 1972.

¹ (2021) 14 SCC 786

Relevant observations are as follows:

“26.This should deserve sympathetic consideration for grant of pension. But we cannot trace our power or jurisdiction to any legal principle which could permit us to fill up the shortfall by importing into their service tenure, the period of work they rendered as GDS or its variants. At the same time, we also find that in the case of *Union of India v. The Registrar* (2021) 14 SCC 803 though the incumbent therein (being respondent no. 2) had completed nine years and two months of service, the Union of India had passed orders granting him regular pension. This Court in the order passed on 24-11-2015 had protected his pension though the appeal of Union of India was allowed.

27.

28. We are also of the opinion that the authorities ought to consider their cases for exercising the power to relax the mandatory requirement of qualifying service under the 1972 Rules if they find the conditions contained in Rule 88 stand fulfilled in any of these cases. We do not accept the stand of the appellants that just because that exercise would be prolonged, recourse to Rule 88 ought not to be taken. The said Rules is not number specific, and if undue hardship is caused to a large number of employees, all of their cases ought to be considered. If in the cases of any of the respondents' pension order has already been issued, the same shall not be disturbed, as has been directed in the case of *Union of India v. Registrar*.

29. We, accordingly allow these appeals and set aside the judgments under appeal, subject to the following conditions:—

29.1 In the event the Central Government or the postal department has already issued any order for pension to any of the respondents, then such pension should not be disturbed. In issuing this direction, we are following the

course which was directed to be adopted by this Court in the case of Union of India v. Registrar.

29.2 In respect of the other respondents, who have not been issued any order for pension, the concerned ministry may consider as to whether the minimum qualifying service Rule can be relaxed in their cases in terms of Rule 88 of the 1972 Rules.”

5. In the light of aforesaid observations, particularly direction in para 29.2, we dispose of the present petition by directing the respondents to consider as to whether the minimum qualifying service rule can be relaxed in the case of petitioner in terms of Rule 88 of 1972 Rules.

6. Respondent No. 4 to forward the proposal of the petitioner for relaxation of Rule to respondent Nos. 1 and 2 and same may be decided within 12 weeks from the date of receipt of writ of this order.

Rule is made absolute in above terms.

(VAISHALI PATIL JADHAV, J.)

(NITIN B. SURYAWANSHI, J.)