



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

WRIT PETITION NO. 4577 OF 2024

PETITIONER :

Balram Shriram Turaskar, Aged about
years, Occupation – Service, R/o.Main
Road, Bada Bazar, Bhandara, Tah. and
District Bhandara.

-Versus-

RESPONDENTS :

1. State of Maharashtra, Through its
Principal Secretary, Rural Development
Department, Construction Building, 25,
Mezban Path, Fort, Mumbai.
2. Zilla Parishad Bhandara, Through its Chief
Executive Office, District – Bhandara.
3. Block Development Officer, Panchayat
Samiti, Lakundur, District – Bhandara.

Ms Bhagyashali Abhyankar, Adv. for the petitioners.
Ms Kavita Bhondge, AGP for the respondent-State.
None appears for respondent Nos.2 and 3.

**CORAM: SMT. M. S. JAWALKAR &
RAJ D. WAKODE, JJ.**

DATE : 11TH SEPTEMBER, 2025

ORAL JUDGMENT (Per : Smt. M. S. Jawalkar, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. Though the respondent Nos.2 and 3 are served, none present. Heard finally with the consent of the learned counsel for the parties.

3. The present petition filed for quashing and setting aside the order dated 27/07/2023, whereby respondent No.1 rejected the claim of the petitioner for counting the services rendered by him with Zilla Parishad Bhandara for pensionary benefits under the provisions of Maharashtra Civil Services Rules, 1982.

4. The petitioner came to be appointed as Computer Programmer on contract basis vide order dated 02/11/1998 for one year by Zilla Parishad Bhandara. In the year 2001, there is nine posts created including the post of Senior Assistant (Account) vide letter dated 12/10/2001 by respondent No.2-Zilla Parishad Bhandara. The petitioner came to be appointed by order dated 04/01/2002 on temporary basis as per condition laid down in the appointment order. The order dated 02/11/1998 (Annexure-2) and appointment order dated 04/01/2002 (Annexure-4) are placed on record. Vide communication dated 28/12/2004, the Chief Executive Officer, Zilla Parishad Bhandara sought approval to the absorption of the petitioner on vacant post of Extension Officer (Statistics) from the Deputy Secretary, Village Development Department. Accordingly, the

petitioner was absorbed on the post of Senior Assistant (Statistics) vide order dated 10/04/2007 (Annexure-7), however, his earlier services were not taken into account while calculating pensionable service.

5. The learned counsel for the petitioner placed reliance on the judgment of this Court in **Parshuram Vithoba Bhandare v. State of Maharashtra and another**, reported in **2001 (4) Mh.L.J. 587**, wherein Rules 30 and 57 of the Maharashtra Civil Services (Pension) Rules, 1982 considered. It is held that a reading of Rule 30 clearly shows that the petitioner is entitled to the pensionary benefits. A reading of Rule 57 proves that the petitioner's case is not covered by the exceptions mentioned in that Rule 57. It is nowhere the case of Government of Maharashtra that the salary of the petitioner paid to him as daily wages from 1964 to 1980 was drawn from the contingency fund of the State and it is only when the salary or wages paid to the employees are drawn from contingency fund that the exception is made in relation to the case of grant of terminal benefits. In the present matter, the petitioner initially came to be appointed in the year 1998. Thereafter, he came to be appointed on 04/01/2002 on sanctioned post. Subsequently, he absorbed in the year 2007. The services which he has rendered since 2002 till his absorption though

was on temporary basis, it was against the sanctioned post and therefore, the said service tenure is required to be counted for calculating the pensionable service. Rule 30 read with Rule 57 Note-1 for the sake of convenience is reproduced 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 Government service by the appropriate medical authority after having rendered temporary service of not less than 10 years, or voluntary after the completion of 20 years of qualifying service, shall be eligible for grant of superannuation. Invalid or, as the case may be, Retiring Pension: Retirement Guaranty; and family Pension at the same scale as admissible to permanent Government Servant.]

Exception –

The rules regarding grant of terminal benefits to temporary Government servant (except those mentioned in the second proviso) who retire being confirmed in any post in Government service are embodied in Appendix II.

57. Non-Pensionable service.

As exceptions to rule 30, the following are not in pensionable service:

- (a) Government servants who are paid for work done for Government but whose whole time is not retained for

the public service,

- (b) Government servants who are not in receipt of pay but are remunerated by honoraria,
- (c) Government servants who are paid from contingencies,
- (d) Government servants holding posts which have been declared by the authority which created them to be non-pensionable,
- (e) Holders of all tenure posts in the Medical Department, whether private practice is allowed to them or not, when they do not have an active or suspended lien on any other permanent posts under Government,

Note 1- In cases of employees paid from contingencies who are subsequently brought on a regular pensionable establishment by the conversion of their posts, one-half of their previous continuous service shall be allowed to count for pension.”

6. As such, the petitioner is entitled to take into account his part of service when he was on temporary basis to be counted in qualifying pensionable service.

7. Respondent Nos.2 and 3 have not filed any reply. Though respondent No.1 opposed the petition, however, State has not denied the issuance of temporary orders of appointment and further regularization of the petitioner. As such, the petition is allowed.

8. The impugned order dated 27/7/2023 rejecting the claim of the petitioner for counting the services rendered by him with Zilla

Parishad Bhandara for pensionable benefits is hereby quashed and set aside.

9. The respondent No.2 is hereby directed to count the services of the petitioner, which he has rendered on sanctioned post, but on temporary basis, as a pensionable service as per the provisions of law.

10. Rule is made absolute in the above terms. No costs.

(RAJ D. WAKODE, J)

(SMT.M. S. JAWALKAR, J)