

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 2042 OF 2015

Gulabrao Punja Wani,
Age-64 years, Occ- Service as a Principal,
R/o "Sameep", Swami Vivekanand Nagar,
Taluka – Chalisgaon, District – Jalgaon.

... **PETITIONER**

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai-32.
2. The Director of Higher Education,
Maharashtra State
Central Building, Pune.
3. The Joint Director of Higher Education,
Jalgaon Regional Office,
Jeevan Pradhikaran Building,
Near Akashwani Kendra, Jalgaon.

... **RESPONDENTS**

Mr. Nitin B. Suryawanshi, Advocate for the Petitioner.
Mr. A.S.Shinde, AGP for Respondent / State.

CORAM : **S. V. GANGAPURWALA and
V. L. ACHLIYA, JJ.**

DATE : 24th February, 2015.

ORAL JUDGMENT: (Per S. V. Gangapurwala, J.)

1 Rule. Rule made returnable forthwith. With the consent of
the learned counsel appearing for the parties, the petition is taken up for

final hearing.

2 Mr.Suryawanshi, learned counsel for the Petitioner submits that the Petitioner attained the age of 62 years on 31st May, 2013, and that was the original date of retirement. However, in view of the Government Resolution, the age of retirement of the Principal was extended to 65 years subject to certain conditions. The proposal was also forwarded. However, the decision was taken late by the Respondent – Authority and it is only on 14th October, 2013, the Government directed extension of age of retirement of the Petitioner. The Petitioner, thereafter, joined. However, the Petitioner is not paid salary from 1st June, 2013 to 21st October, 2013. According to the learned counsel, the principle of “no work no pay” is not applicable in this case. The learned counsel relies on the judgment of the Apex Court in a case of **State of Uttar Pradesh Vs. Dayanand Chakrawarti and others**, reported in **[(2013) 7 SCC 595]**. According to the learned counsel, even the Petitioner is entitled for two annual increments, which are also not paid.

3 We have heard learned AGP also.

4 In view of the judgment of the Apex Court in the case of *State of Uttar Pradesh Vs. Dayanand Chakrawarti and others (supra)*, the issue

is no longer *res-integra*. As the decision has been taken late by the Government, the Petitioner cannot be deprived with the salary for a period of 1st June, 2013 to 21st October, 2013.

5 In light of the above, we pass the following order:

- I. The Respondents shall pay the salary to the Petitioner for the period from 1st June, 2013 to 21st October, 2013, as applicable, expeditiously, preferably within a period of four months.
 - II. As far as annual increments are concerned, the Respondent – State shall take a decision on the representation made by the Petitioner within a period of four months, and if found eligible, shall pay the same to the Petitioner.
 - III. Rule is accordingly made absolute in above terms.
- No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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