

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

WRIT PETITION NO. 2907 OF 2015

Devkaran S/o Tulshiram Madan,
Age : 64 Years, Occu. - Retired,
R/o 10, "Bhagirathi",
Shivsamadhan Colony, Itcheda,
Paithan Road, Aurangabad. .. 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,
Aurangabad Regional Office,
Station Road, Near Deogiri College,
Aurangabad. .. Respondents

Shri Nitin B. Suryawanshi, Advocate for the Petitioner.
Shri S. B. Pulkundwar, A.G.P. for All Respondents.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.
DATE : 13TH MARCH, 2015.**

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

. 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 60 years on 31st January, 2011, and that was the original date of retirement. However, in view of the Government Resolution, the age of retirement of the Assistant Professor was extended to 62 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 01st September, 2012, the Government directed extension of age of retirement of the Petitioner. The Petitioner, thereafter, joined. However, the Petitioner is not paid salary from January 2012 to September 2012. 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 annual increment of July 2012, which is also not paid.

3 We have heard learned Assistant Government Pleader 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 from January 2012 to September 2012.

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 January 2012 to September 2012, as applicable, expeditiously, preferably within a period of four (4) months.
- II. As far as annual increment for July 2012 is 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.

Sd/-

[V. L ACHLIYA, J.]

Sd/-

[S. V. GANGAPURWALA, J.]