

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

WRIT PETITION NO. 6379 OF 2015

Dr. Shri Babasaheb Ganpat Wakle,
Age : 64 Years, Occu. : Nil,
R/o 35, "Mauli" Shrikrishna Nagar,
Shahnurwadi, New Osmanpura,
Aurangabad, Dist. 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,
Regional Office, Station Road,
Near Deogiri College, Aurangabad,
District Aurangabad. .. Respondents

Shri V. D. Sapkal, Advocate for the Petitioner.
Shri D. B. Bhange, A.G.P. for Respondents/State.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.
DATE : 25TH JUNE, 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. Sapkal, learned counsel for the Petitioner submits that the Petitioner attained the age of 60 years on 31st March 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 01.09.2012, the Government directed extension of age of retirement of the Petitioner. The Petitioner, thereafter, joined. However, the Petitioner is not paid salary from 01.04.2011 to 07th 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 01st April 2011 to 07th 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 01st April 2011 to 07th September 2012, as applicable after confirming itself about non payment of said already, expeditiously, preferably within a period of four (4) months.

II. If any pension amount is paid during that period, same be deducted.

III. 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.

IV. Rule is accordingly made absolute in above terms.
No costs.

Sd/-

[V. K. JADHAV, J.]

Sd/-

[S. V. GANGAPURWALA, J.]