

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7427 OF 2015

SOPAN GOPINATH PURNALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for petitioner : Mr. H. D. Deshmukh
AGP for respondents : Mr. K. J. Ghute Patil
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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 23rd JULY, 2015

P.C. :-

1. The learned counsel for the petitioner submits that the respondents granted the petitioner the benefit of age relaxation and the age of retirement of the petitioner was enhanced from 60 years to 62 years. The petitioner attained the age of 60 years on 31.05.2012. On 04.12.2012, the orders were received from the Government that the benefit of extension of age of retirement has been given to the petitioner. The petitioner joined the services and thereafter, retired on 31.05.2014. However, the respondents have not paid the salary to the petitioner from 01.06.2012 to 06.12.2012 on the ground that the petitioner had received the pension. The learned counsel submits that the petitioner is entitled for the salary for the said period.

2. The learned counsel relies on the judgment of the Apex Court in a case of **State of Uttar Pradesh Vs. Dayanand Chakrawarty and others**, reported in **2013 (7) SCC 595**.

3. The learned AGP submits that as the petitioner had started receiving the pension, the petitioner is not entitled for the salary during the interregnum period. The controversy involved in the present writ petition is no longer *res-integra* in view of the judgment of the Apex Court in the case of *State of Uttar Pradesh (supra)*. If the orders are received late on account of the delay on the part of the Government, then the principle of “no work no pay” is not applied as per the judgment of the Apex Court in the case of *State of Uttar Pradesh (supra)*. The petitioner can be paid salary for the said period i.e. 01.06.2012 to 06.12.2012, after deducting the amount of pension, which is received by the petitioner.

4. In light of the above, we pass the following order :

- I. The respondents shall pay the salary to the petitioner during the extended age of retirement i.e. from 01.06.2012 to 06.12.2012, after adjusting the amount of pension if already paid during the said period and for calculating the retiral benefits, the age of the petitioner shall be calculated on 31.05.2014.

II. As far as increment is concerned, respondent No. 2 shall take steps in respect of increment of the petitioner pursuant to the representation made by the petitioner and forwarded to respondent No. 2 (page 62) expeditiously and preferably within a period of six (6) months.

III. The writ petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

vrel/