

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7200 OF 2007

Dr. Mirza Azmatulla Baig s/o Mirza Hashmatulla Baig, Aged 67 years, Occupation Nil, Resident of Mirza Line, Ashti, Taluka Ashti, District Beed **Petitioner**

V E R S U S

1] The State of Maharashtra, Through Secretary, Public Health Services, Mantralaya, Mumbai - 400 032 **Respondents**

2] District Health Officer, Zilla Parishad, Aurangabad

3] The Accountant General, A & E-II, Maharashtra State, Nagpur

Mrs. A.N. Ansari, Advocate for the petitioner
Mr. S.D. Kaldate, AGP for respondent no.1/State

**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATE : 10th September, 2015

ORAL JUDGMENT [Per A.V. Nirgude, J.] :-

1. The petitioner by filing this petition seeks direction to the State of Maharashtra to pay him retirement benefits.

2. *The facts mentioned in the petition, are as under:-*

In 1965, the petitioner was employed as Medical Officer by the State of Maharashtra and was posted at Parbhani. In 1978, the petitioner, due to his difficulties in family life, submitted his resignation. By that time, the petitioner had completed 13 years of service. After resignation, the petitioner received his Provident Fund amount. In 2006, the petitioner sought pension from the State of Maharashtra, but in-vain. On this cause of action, the petition was filed.

3. During pendency of the petition, the petitioner also contended that as per the record of the State Government, his services stood terminated w.e.f. 18th November, 1981. He was neither dismissed nor removed from service. Therefore, his qualifying service ought to be calculated since 1965 to 1981. He thus submitted that he had completed qualifying service of 16 years 8 months and 6 days. According to the petitioner, he became entitled to pension because he had completed 10 years of qualifying service for grant of pension. The question is, whether the petitioner is entitled to pensionary benefits in the facts and circumstances of the case. The answer to this is in negative. On perusal of Rules 46, 66 and other relevant rules of the Maharashtra Civil Services Pension Rules, 1982, it appears that the petitioner ought to have put in 20 years of qualifying service to become entitle to pension. Before completing such 20

years of qualifying service, if the petitioner either resigned or his services were terminated, the petitioner would not be entitled to any benefit. The petitioner cannot assume that he had completed 10 years of qualifying service and therefore he was entitled to pension. Rule of qualifying service of 10 years is applicable to the employees who reached age of superannuation prior to complete 20 years of service. The petition should therefore fail. In view of above, this Writ Petition stands dismissed.

(**V.K. JADHAV, J.**)

(**A.V. NIRGUDE, J.**)