

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No.901 of 2014

(Shrikant s/o. Shankarrao Karnase .vs. Director General of Sashatra Seema Bal & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.M.M.Sudame, Adv. for the petitioner.
Mr.Rohit Deo, ASGI for respondent nos. 1 to 4.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 5th JANUARY, 2015.

Heard.

The order passed on 4.2.2011 by respondent no.4 is questioned before this Court. Mr.M.M.Sudame, learned Counsel for the petitioner submits that the language employed therein is slightly confusing. He submits that the period during which the petitioner was away from his duty i.e. the period from 23.11.2007 till 23.1.2011 afternoon has been treated as extraordinary leave; but, immediately after the said words, in bracket words '*dies non*' have been added. He submits that this may adversely affect the pension of the petitioner and as per rule 54 of the Fundamental Rules, the respondents ought to have passed a reasoned order after giving the petitioner an opportunity in that respect.

Mr.Rohit Deo, learned Assistant Solicitor General of India for respondent nos. 1 to 4 is relying upon reply-affidavit. He submits that, after intervention

by the Hon'ble Apex Court, lesser punishment has been inflicted and as the petitioner did not have necessary leave to his credit, the period of absence has been regularised as noted supra. He, however, adds that, in absence of specific challenge about possibility of pension getting adversely affected, the reply is silent in that respect. He also seeks time to obtain necessary instructions.

Considering the situation afore-mentioned, since the order itself does not show that the period between 23.11.2007 to 23.1.2011 shall not be treated as duty period and the fact that in reply filed before this Court, respondent no.4 has in paragraph 9 at page no.9 stated that "the said period will neither count as service nor be construed as break in service", we find it appropriate to direct respondent no.4 to pass specific order in this respect. The order shall indicate as to whether the qualifying service and therefore, pension of the petitioner is, in any way, be adversely affected because of treatment accorded to the period of absence.

The said order be passed within a period of six months from today.

With this direction, the petition is disposed of. No costs.

JUDGE

JUDGE