

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

WRIT PETITION NO.5950/2015

Shri Purushottam s/o Dattuji Talware

...Versus...

Divisional Commissioner, Amravati (Maharashtra State) and others

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

Court's or Judge's orders

Shri Nitin Autkar, Advocate for petitioner
Shri S.J. Kadu, AGP for respondent no.1
Shri J.Y. Ghurde, Advocate for respondent no.2

**CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.**

DATE : 21.12.2015

By this petition, the petitioner seeks a direction to the respondents to allow the petitioner to resume his duties in the primary school, Kohada, Panchayat Samiti, Ner. The petitioner also seeks a direction to the respondents to release the salary of the petitioner from February, 2015, till the filing of the writ petition.

The petitioner was transferred from Yavatmal to Ner by the order dated 13.8.2014. The petitioner did not join at Ner and challenged the order of the respondent before the Divisional Commissioner. The Divisional Commissioner dismissed the case of the petitioner and upheld the order of transfer. The respondents were only directed to consider transferring the petitioner as per his request, in future. From the date of transfer till the Divisional

Commissioner decided the appeal of the petitioner on 25.8.2015, the petitioner did not join his duties at Ner. The petitioner had not worked anywhere during the said period. It is the case of the petitioner that though the petitioner was ready to join at Ner from February, 2015, the respondents did not permit the petitioner to join at Ner. The said fact is, however, disputed by the respondent no.2. It is stated on behalf of the respondent no.2 that the petitioner was required to be sent to the Medical Board in pursuance of the Government Resolution as he remained absent from duties for more than three months and after the Medical Board opined that the petitioner was fit to resume his duties on 7.10.2015, the respondent no.2 permitted the petitioner to join the duties on 17.12.2015. It is stated that the petitioner would be entitled to the salary from the date of issuance of the medical certificate i.e. 7.10.2015. It is stated that the respondent no.2 would be liable to pay the salary to the petitioner from 7.10.2015.

Since the petitioner has now joined his duties w.e.f. 17.12.2015, one of the grievances of the petitioner would stand redressed. As regards the prayer of the petitioner for a direction to the respondent no.2 to pay the salary from February, 2015, we intend to direct the respondent no.2 to pay the salary to the petitioner w.e.f. 7.10.2015. Admittedly, the petitioner had remained absent from duties after the transfer order was issued in June, 2014. It is the case of the petitioner that the petitioner was ready to join the duties from February, 2015 but the said fact is seriously disputed by the respondent no.2. There is word against word and therefore, in the circumstances of the case the petition

could be disposed of with a direction to the respondent no.2 to regularly pay the salary of the petitioner for the period from 7.10.2015.

Hence, in the circumstances of the case, we dispose of the writ petition with a direction to the respondent no.2 to pay the arrears of salary to the petitioner w.e.f. 7.10.2015, within a period of one month and continue to pay the regular salary of the petitioner.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar