

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

WRIT PETITION NO.602 OF 2005

Hambirrao Dagadu Chavan,
Age : 59 years, Occupation : Nil,
R/o Chikhaltana, Taluka Kannad,
District Aurangabad.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra,
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
- 2 The Additional Divisional Commissioner,
Aurangabad Division, Aurangabad.
- 3 The Chief Executive Officer,
Zilla Parishad, Aurangabad.
- 4 The Education Officer (Primary),
Zilla Parishad, Aurangabad.

...RESPONDENTS.

**WITH
CIVIL APPLICATION NO. 6245 OF 2015
IN
WRIT PETITION NO.602 OF 2005**

**HAMBIRRAO DAGADU CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner/ Applicant : Shri D.R.Markad h/f Shri A N Kakade.
AGP for Respondents 1 and 2 : Shri P.G.Borade.
Advocate for Respondents 3 and 4 : Shri U.B.Bondar and Shri V.C.Patil.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th August, 2016

Oral Judgment :

1 The Civil Application No.6245/2015 is for listing Writ Petition No.602/2005 for final hearing out of turn. Considering the issue involved, the Civil Application is allowed and by the consent of the learned Advocates for the respective sides, this Writ Petition has been taken up for final hearing.

2 I have considered the strenuous submissions of Shri Kakade and Shri Bondar along with the learned AGP. I have gone through the petition paper book and various documents placed on record, with their assistance.

3 The following admitted factors are noteworthy:-

- (a) The Petitioner had joined the School as an Assistant Teacher in 1964.
- (b) He worked till 27.08.1986 thereby putting in more than 22 years in service.
- (c) From 28.08.1986, he has remained continuously absent on account of illness of his wife as well as his own illness.
- (d) On 21.02.2000, Respondent No.3/ Employer issued the show

cause notice to the Petitioner intimating that he was unauthorizedly absent.

- (e) Thereafter, a departmental enquiry was conducted as per the Rules applicable.
- (f) By an order issued in February, 2002, the Petitioner has been dismissed from service on account of unauthorized absenteeism for a period of about 15 years.
- (g) The Petitioner had moved an appeal before Respondent No.2 for challenging the order of dismissal.
- (h) By order dated 14.10.2004, the said appeal was dismissed.

4 The Petitioner concedes that he was absent for 15 years and 05 months without obtaining leave. He, however, submits that since he has worked for more than 22 years, his case may be considered for retiral benefits as per the Rules applicable.

5 The learned Advocate for Respondent Nos.3 and 4 submits that the Petitioner may move an application to the Zilla Parishad and the same will be considered strictly in accordance with the Service Rules and the conditions of employment.

6 I do not find that the impugned order could be termed as

being perverse or erroneous taking into account the fact that there is no dispute that the Petitioner was unauthorizedly absent for about 15 years and 05 months. This Writ Petition is, therefore, dismissed. Rule is discharged.

7 However, the Petitioner is at liberty to make an application to Respondent Nos.3 and 4 praying for retiral or any other benefits considering that he has put in 22 years in service. In the event, such a representation is filed, the concerned Respondents shall consider the same in accordance with the Rules and pass appropriate orders.

8 In view of disposal of the Writ Petition, the pending Civil Application, if any, is also disposed of.

kps

(RAVINDRA V. GHUGE, J.)