

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.6980/2015

Vinod Babulal Lot & another.

...Petitioners..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri N.R. Thorat, Advocate h/f Shri G.B. Kadlag, Advocate
for petitioners.

Shri M.B. Bharaswadkar, AGP for respondent no.1.

Shri D.K. Rajput, Advocate for respondent no.2.

.....

**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 24.08.2016

ORDER :

1] Learned counsel for the petitioners states that the institution, where the petitioners were working, is closed. The petitioners approached this Court. This Court protected the petitioners. The closure of the institution, where the petitioners were working, was in March, 2011. The petitioners were absorbed in March, 2013. During the interregnum, the petitioners were not paid the salary. The learned counsel submits that the

- 2 -

petitioners were never terminated from the service. As the petitioners were never terminated, the petitioners are entitled for the salary during the interregnum.

2] The learned counsel for the respondent no.2 states that the petitioners were working in a private institution. The petitioners were subsequently absorbed in another school. Since the date the petitioners are absorbed, the salary is being regularly paid to them. As it is a case of closure, the petitioners would be entitled for salary.

3] If the closure of the institution takes place, then Rule 25A of the MEPS Rules applies. In that case, there is termination of the employee. If the provisions of Rule 26 apply, then it is a case of retrenchment and before retrenchment, the employee is required to be absorbed with the other institution. As it is a case falling under Rule 25A of the MEPS Rules, the salary asked for by the petitioners cannot be granted though technically the petitioners were not terminated because of the protection granted by this Court. However, it is also not disputed that the petitioners did not work for the said period even for a day.

- 3 -

4] However, it needs to be considered that there were orders passed by this Court in the earlier writ petition. In view of that, the petitioners shall be given the benefit of the continuity in service and the said period shall be considered as in-service and for further benefits including increments, if any.

5] Writ petition is accordingly disposed of with the aforesaid observations and directions. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)