

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12061 OF 2016

Siddiqui Aminoddin Gulam Rasool

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mr.A.V. Patil advocate for the petitioner

Mr.K.D. Mundhe, AGP for Respondents

CORAM : R.M. BORDE &

SANGITRAO S. PATIL, JJ

(Date : 5th December, 2016.)

PER COURT :-

1 The petitioner was employed on 26.5.1964. He was on medical leave from 5.8.1975 to 3.9.1975. He applied for continuation of medical leave by submitting an application, which was tendered on completion of three years of the earlier leave period. The petitioner did not take any step until the date of his superannuation. The petitioner was absent for a period of 10315 days between 5.7.1975 to 31.10.2003. The petitioner claims that, he was in employment for a period of ten years and as such, he is entitled to claim pension.

2 Reliance is placed on rule 47 of the Maharashtra Civil Services (Pension) Rules, 1982 and it is contended that an interruption in the service of a Government servant entails

forfeiture of his past service except in the following cases:-

- (a) Authorized leave of absence
- b) Unauthorized absence in continuation of authorized leave of absence so long as the post held by the Government servant is not filled substantially.

3 It is contended that the past service rendered by the petitioner cannot be forfeited.

4 The petitioner did not turn-up after 1975, after filing application, seeking leave and abandoned service. The petitioner has neither retired on superannuation, nor was permitted to retire voluntarily. As the petitioner has abandoned his service, he is not entitled to claim benefits of the past service. Considering the belated approach of the petitioner to the tribunal in 2015, the request of the petitioner for grant of pension, cannot be considered. We do not find any reason to cause interfere in the order passed by the Tribunal, in exercise of powers under article 226 & 227 of the Constitution of India.

5 The petition is devoid of substance and stands dismissed.

(SANGITRAO S. PATIL, J)

(R.M.BORDE, J)