

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

WRIT PETITION NO.10761 OF 2015

Babulal s/o Eknath Kudal,
Deceased through L.Rs. namely,
Sulochana w/o. Babulal Kudal,
Age-61 Years, Occu. Household,
R/o. Koshti Galli, Sangamner,
Tq. Sangamner, Dist. Ahmednagar **PETITIONER**

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32.

[Copy to be served on G.P.
High Court of Bombay Bench
at Aurangabad]
- 2] The Education Officer [Secondary],
Zilla Parishad, Ahmednagar.
- 3] Accountant General,
Indian Audit and Accounts Department,
[Account & Entitlements],
Pratishtha Bhavan [Old C.G.O.Building],
101, Maharshi Karve Marg,
Mumbai-400 020.
- 4] Bhausahab Gunjal Patil Sahyadri
Vidyalaya, Sangamner, Tq.Sangamner,
District – Ahmednagar
Through its Head Master.
- 5] Sahyadri Bahujan Vidya Prasarak Samaj,
Sangamner,
Bhausahab Gunjal Patil Sahyadri

Vidyalaya Campus, Sangamner,
Tq.Sangamner, Dist. Ahmednagar
Through its Secretary **RESPONDENTS**

...

Mr.A.N.Nagargoje, Advocate for the petitioner
Mr.V.H.Dighe, AGP for Respondent Nos.1 to 3
Mr.V.R.Dhorde, Advocate for Respondent Nos.4
and 5.

...

**CORAM: S.S.SHINDE &
SANGITRAO S.PATIL,JJ.**

Date: 07.06.2016.

PER COURT:

1] This Petition is filed by the widow of the deceased Babulal Eknath Kudal [hereinafter referred to as "the deceased Babulal"] seeking directions to respondent nos.2 to 5 to regularize service of the deceased Babulal by condoning break in his service for the period from 30th September, 1993 to 31st March, 1998 [4 Years, 6 months and 1 day] by granting extra-ordinary leave and to grant him pensionary benefits.

2] We have heard the learned counsel appearing for the petitioner and the learned

counsel appearing for the respective respondents. Upon careful perusal of the documents placed on record, undisputedly, the deceased Babulal, who was working as Naik in the respondent school, remained absent from the duty during the period 1st October, 1993 to 20th August, 1995. For his unauthorized absence, his services were terminated. He died on 13.11.1998. His widow [i.e. the petitioner] filed an application before the respondents praying therein for withdrawal of termination order so that she would be entitled to receive the pension for her survival. It further appears that, the respondent management, taking lenient view in the matter, has withdrawn the order of termination vide resolution dated 20.03.2007.

3] As already observed, for the aforementioned period, the deceased Babulal remained unauthorizedly absent. According to the petitioner for the said period, he was

suffering from some serious ailment. In our opinion, such contention cannot be accepted and when it is admitted position that the deceased Babulal did not even challenge his termination on the ground of his unauthorized absence from duty for the afore-mentioned period. In that view of the matter, this Court cannot issue directions to the respondents to condone the said break. The learned counsel appearing for the petitioner has not brought any legal provision to our notice, which would enable this Court to give directions to the respondents to condone such unauthorized absence for more than 2 years that too after about 27 years of the death of Babulal. The Writ Petition is devoid of any merits, and the same stands rejected. No costs.

Sd/-
[SANGITRAO S.PATIL]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE