

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No.5135 OF 2015

Shri.M.A.A.R.Ahamadi.

...Petitioner

Vs.

1.The State of Maharashtra & Ors.

... Respondents

Mr.K. K. Waghmare, for the Petitioner.

Mr.C. P. Yadav, AGP for Respondent Nos.1 to 3.

**CORAM : ANOOP V. MOHTA &
G.S. KULKARNI, JJ.**

DATE : 5th JANUARY, 2016.

ORDER :

1. Rule.

2. Heard finally.

3. The petitioner has challenged the impugned order passed by the Maharashtra Administrative Tribunal (MAT) dated 12th March, 2015 by which a claim of notional increment was rejected, as admittedly he could not join service after expiry of Extraordinary leave even on medical ground. In the present case a specific reliance

was placed on Rule 39(2)(b)(ii) “Extraordinary leave on medical grounds”.

4. We are not inclined to entertain the present Writ Petition after going through the Rule so read including the communication dated 29th February, 2012 and letter dated 16th November, 2012 as the MAT after considering the whole issue including the aspect of grant of increment has rightly observed as under:-

“6. The Government had held that if a Government servant does not rejoin duties after expiry of EOL, and retires, he is not eligible to get his increments, notionally for the period of leave. We find this interpretation to be quite reasonable. In the present case, the Applicant admittedly was granted EOL for 7 years and 10 months and he never joined duties after expiry of leave. Rule 39 deals with normal circumstances. In the present case, the Applicant was granted more than 5 years of continuous leave in relaxation of Rule 16 of the Maharashtra Civil Services (Leave) Rules, 1981. Normally, after period of deputation or leave etc., a Government servant resumes duties. In the present case, the Applicant did not join duties after expiry of leave of almost 8 years. He cannot claim grant of increments when he was absent for such an inordinately long period. Rule 63 of the Maharashtra Civil Service (Leave) Rules, 1981 does not contemplate grant of EOL for exceeding 24 months, except when the rule is relaxed. There is no doubt that the case of the Applicant is not a normal case. A person who remained

absent from duty for almost eight years and who retired before rejoining duty has been held not eligible for grant of increments notionally by the Government in exercise of power under Rule 3 of Maharashtra Civil Services (Pay) Rules, 1981. We do not find anything wrong in the action of the Respondents.”

5. We find after hearing the petitioner and after going through the Rules and the letters so placed on record and the reasons so mentioned that no case is made out to interfere with the reasoned order so passed. The reasons are well within the framework of law.

6. The petition is dismissed. No costs.

(G.S.KULKARNI, J.)

(ANOOP V. MOHTA, J.)