

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3622 OF 2016

Dilipsingh S/o Govindsingh Tawar

-VS-

Commissioner, Amravati Division, Amravati and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Shweta D. Wankhede, counsel h/f Mr. S.S. Dhengale, counsel for the petitioner.
Mr. V.P. Maldhure, AGP for the respondent No.1.

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 29.06.2016.

By this writ petition, the petitioner seeks a direction to the Additional Commissioner Amravati Division, Amravati and the Chief Executive Officer, Zilla Parishad, Akola to treat the period of suspension between 17/06/1998 to 29/08/2006 as service period and further grant the annual increments to the petitioner from 17/06/1998.

The petitioner was appointed as an Assistant Teacher in Zilla Parishad, Akola and was promoted to the post of Headmaster in the year 1996. The petitioner was suspended, pending enquiry and he was dismissed from service by the order, dated 27/05/2005 with effect from 17/06/1998 after the culmination of the departmental enquiry. The petitioner preferred an appeal against the order of his dismissal before the respondent No.1-Additional Commissioner, Amravati. The Additional Commissioner, by the order, dated 13/04/2006, directed the reinstatement of the petitioner. Since the Additional Commissioner found that some of the charges against the petitioner were proved beyond doubt, his two annual increments were permanently stopped and he was held to be entitled for leave due admissible. The Additional Commissioner directed only reinstatement of the petitioner and did not hold that the petitioner was entitled to the salary for the period during which he was out of service. The order of the Additional Commissioner, dated 13/04/2006 is not challenged till date. Only some representations were made by the petitioner to the Block Development

Officer in 2009 seeking some monetary benefits for the period during which he was out of service. Since According to the petitioner, the respondents have not acted on the representations made by the petitioner, the petitioner has approached this Court seeking the aforesaid direction.

The prayer made in the writ petition cannot be granted in the circumstances of the case. The petition suffers from laches. The petitioner was suspended in the year 1998 and was dismissed from service in the year 2005. The appeal filed by the petitioner was partly allowed by the Additional Commissioner and it was directed that the petitioner should be reinstated. The two annual increments of the petitioner were permanently stopped and it was held that the petitioner would be entitled only to the leave that was due and admissible. The order of the Additional Commissioner was not challenged by the petitioner before any authority or in this Court by filing a writ petition under Article 227 of the Constitution of India. The petitioner also did not approach this Court seeking the monetary benefits for the period from which he was out of service till he filed this writ petition on 16/05/2016. The writ petition is filed more than eleven years from the date of dismissal of the petitioner from service and more than ten years after the appeal filed by the petitioner was partly allowed by the Additional Commissioner. There is no explanation for the inordinate delay of more than ten years, except the averment that the petitioner had made representations to the Block Development Officer in the year 2009. Mere making of a representation to an authority, that was not competent to decide the matter in the year 2009, would not stop the limitation. It was necessary for the petitioner to have filed appropriate proceedings immediately in the year 2006-07 for seeking the relief that is sought by the instant petition by challenging the order of the Additional Commissioner. The petitioner has filed the writ petition after he stood retired on attaining the age of superannuation. Hence, the relief sought by the petitioner cannot be granted.

In the circumstances of the case, we dispose of the writ petition with no order as to costs.

JUDGE

JUDGE