

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

**WRIT PETITION NO.61 OF 2015**

[Sanjay s/o Motiramji Shahane .vs. State of Maharashtra and others]

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri A.R. Patil, Advocate for the petitioner,  
Ms. Tajwar Khan, A.G.P. for respondent nos.1 to 3.  
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**CORAM : SMT. VASANTI A. NAIK AND**  
**A.S. CHANDURKAR, JJ.**

**DATED : MARCH 02, 2016.**

Heard.

By this writ petition, the petitioner, who is appointed on the post of Peon in the year 1998, seeks a direction to grant approval to his appointment from the year 1998 onwards and to release his salary with increments along with interest.

It is the case of the petitioner that pursuant to an advertisement issued in October, 1998, he had applied for being appointed on the post of Peon. As the petitioner was duly qualified to hold the said post, he was duly appointed. According to the petitioner, his appointment was within the sanctioned strength of the institution, but his appointment had not been approved.

Shri A.R. Patil, the learned counsel for the petitioner, submitted that as the petitioner was appointed after following the due procedure and as his appointment was on a sanctioned post, it was necessary for the respondent nos.2 and 3 to have granted approval to the appointment of the petitioner. It is submitted that on 29.5.2010, a communication was issued by the

respondent no.2 seeking appropriate guidance from the respondent no.1 in the matter of granting approval to the petitioner's appointment, but the same has not been approved even thereafter. It is submitted that as the petitioner was not being paid his salary, due to financial constraints, he was not in a position to take immediate steps for redressal of his grievances.

Ms. T. Khan, the learned Assistant Government Pleader for respondent nos.1 to 3, submitted that by order dated 30.12.2008, the respondent no.3 had rejected the proposal for grant of approval to the petitioner's appointment. It is further stated that in view of such rejection, the subsequent communication dated 29.5.2010 issued by the respondent no.2 does not create any right in favour of the petitioner. It is further submitted that the petitioner has belatedly approached this court seeking aforesaid relief, inasmuch as he was seeking approval to his appointment from the year 1998 onwards and had remained silent for a considerable period of time.

Shri A.R. Patil, the learned counsel for the petitioner, in rejoinder, submitted that the order of rejection dated 30.12.2008 was received by the Head Master and was never communicated to the petitioner.

The facts on record indicate that the petitioner was appointed in the year 1998 and is stated to be working for more than 16 years. It cannot be believed that for long period of more than 16 years, the petitioner has worked without any salary. Even assuming that the petitioner seeks to rely upon the communication dated 29.5.2010 issued by the respondent no.2 to the respondent no.1, the same by itself cannot further the case of the petitioner, considering the fact that no steps were taken from 1998 onwards and even after 29.5.2010 to seek redressal of aforesaid grievances. It is not possible to accept the stand of the petitioner that he remained without salary for a period of more

than 16 years.

Thus, on account of unexplained delay and laches and as we are not inclined to accept the stand of the petitioner that he remained without salary for more than 16 years, there is no case made out for grant of any relief. The writ petition is dismissed. No costs.

**JUDGE**

**JUDGE**

Gulande