

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 6460 OF 2004
WITH
CIVIL APPLICATION NO. 11405 OF 2005

Santhosh S/o Kalyanrao Karanjkar,
Age: 28 Years, Occu: Service,
R/o Bhagyanagar, Kallam,
Tq. Kallam, Dist. Osmanabad.**Petitioner.**

Versus

1. The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya, Mumbai-32
2. The Education Officer (Secondary)
Zilla Parishad, Osmanabad.
3. Mahatma Gautam Shikshan
Prasarak Mandal, Kallam,
Dist. Osmanabad
Through its Secretary
(To be served through Headmaster,
Jan Jagrati Madhyamik Vidyalaya,
Kallam, Dist. Osmanabad).
4. The Head Master,
Jan Jagrati Madhyamik Vidyalaya,
Kallam, Dist. Osmanabad.**Respondents**

Mr. V.P. Golewar, Advocate for Petitioner.
Mrs. V.N. Patil (Jadhav), AGP for Respondents/State.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : June 21, 2017.

ORAL JUDGMENT : [PER T.V. NALAWADE, J.]

. The petition is filed for relief of giving direction to

respondent No. 2 – Education Officer (Secondary), Zilla Parishad, Osmanabad for giving approval to the appointment of petitioner with effect from 4.10.1995 on the post of Peon in respondent No. 4 – School and for giving further directions to release the salary of petitioner as per the pay scale from 4.10.1995. Heard the learned counsel for the petitioner and the learned A.G.P. for respondent No. 1/ State. Nobody turned up for the school.

2. The record is produced by the petitioner to show that he had applied to the school for giving him appointment on the post of Peon on 10.9.1995 and the appointment was given to him on 25.9.1995. The record is produced to show that from 25.9.1995 till 4.10.1995 he was continuously in service, but that certificate was issued on 20.10.2002. This posting to the petitioner was given on the post of Peon which had fallen vacant due to promotion given to previous Peon. The proposal was made in the year 1999 for giving approval to the appointment of petitioner on the said post. The petitioner himself had sent the grievance to the Education Officer that the school was not taking steps for getting approval to his appointment. Some queries were made by the Education Officer which were as follows :-

- (i) Whether the appointment of the present petitioner was on sanctioned post ?

- (ii) Whether the reservation policy was followed ?
- (iii) Whether the procedure was followed for appointment ?
- (iv) Why the institution had not taken steps for getting the approval to the appointment ?

3. No record is produced to show that compliance of aforesaid matter was done by the employer. One letter dated 4.5.2002 of the institution is produced by the petitioner in which the Headmaster had expressed regret for not doing anything and he had expressed that he was not in a position to do anything. Correspondence is produced of the Secretary of the institution showing that the service of the petitioner was continued by the school, but he was not allowed even to sign the muster roll.

4. On one hand, the aforesaid record can be said to be in favour of the petitioner showing that appointment was actually given and on the other hand, it can be said that the petitioner joined hands with the institution for getting the approval and to help the petitioner, such record was created and that way the liability will come to the Government to pay the salary as the school is receiving grants. There is no record whatsoever with the petitioner on the aforesaid queries made by the Education Officer. Apparently, the

appointment was not made by following procedure prescribed. In any case, if at all petitioner is in service and he has worked for the school, the salary needs to be paid as per the pay scale given for Peon. But that needs to be paid by the school and not by the Government. If there is some dispute on factual aspect, period, that dispute can be taken to the Education Officer on this point. But, the basic responsibility to pay the salary as per the scale will be of the school, if the petitioner has really worked in the school as a Peon as per his case.

5. So, the petition is partly allowed. Respondent Nos. 3 and 4/employer are directed to pay the salary of the petitioner as per the pay scale from 4.10.1995 and they are to pay salary as per the pay scale regularly every month to the petitioner. If at all any dispute is there with regard to the period for which the petitioner has worked, it can be taken to the Education officer. The relief of giving directions to the Education Officer for issuing approval is however refused. Civil Application is disposed of.

Rule is made absolute in aforesaid terms.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/