

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

Writ Petition No.4697 of 2008

* Chatrabhuj S/o Eknath Bachpai,
Age 60 years,
Occupation: Pensioner,
R/o 578, 'Matru-Sadan',
M.G. Road Dharangaon,
Taluka Dharangaon,
District Jalgaon. **.. Petitioner.**

Versus

- 1) The State of Maharashtra
Through its Secretary,
Department of Education,
Mantralaya, Mumbai - 32.
- 2) The Deputy Director of Education,
Nashik Division, Nashik.
- 3) The Education Officer (Secondary)
Zilla Parishad, Jalgaon.
- 4) P.R. High School, Dharangaon,
Taluka Dharangaon,
District Jalgaon,
Through its Head Master. **.. Respondents.**

Shri. S.S. Jadhavar, Advocate, for petitioner.

Shri. A.S. Shinde, Assistant Government Pleader, for
respondent Nos.1 to 3.

Shri. G.V. Wani, Advocate, for respondent No.4.

**Coram: T.V. NALAWADE &
SANGITRAO S PATIL, JJ.**

Date: 16 June 2017.

ORAL JUDGMENT (Per T.V. Nalawade, J.)

1) The petition is filed to challenge the order of respondent Nos.2 and 3 and also for giving directions to them to see that the petitioner gets reimbursement in respect of the bills of medicines and treatment. Both the sides are heard.

2) The submissions made show that the petitioner was working as the Headmaster in the school of respondent No.4 and he retired due to superannuation on 31-1-2006. As per provision of rule 17(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules 1981 he was given re-employment for second academic term as he retired in midst of the term. It is his case that during his tenure after his re-employment he was required to spend on medicines and treatment of his wife and for himself and he had submitted the bills for reimbursement but the authority has rejected the claim by giving reason that during

re-employment period such reimbursement cannot be given. This order of the Education Officer dated 5-5-2008 is challenged and further prayer is made to give directions to these respondents to see that the reimbursement is given.

3) In the reply affidavit for the respondent No.3 the aforesaid reason is again given. In short, it is the case of these respondents that during the period of re-employment such benefit cannot be given. The learned Assistant Government Pleader placed reliance on some observations made by this Court at Nagpur Bench in the case reported as **2014(4) Mh.L.J. 457 (Syed Ishaque Syed Nabi v. State of Maharashtra)**. This Court has carefully gone through the observations made by this Court at Nagpur Bench. The facts were totally different and the point involved was also different. The learned Assistant Government Pleader drew attention of this Court to the other part of Rule 17 showing that the service rendered due to re-employment by such employee cannot be counted for pension purpose etc. There cannot be dispute that the pension will be fixed on the basis of last pay

drawn by the employee when he retires due to superannuation. Present benefit is of different nature and there is nothing in the MEPS Rules 1981 showing that such benefit to the employee cannot be given only because he was working after re-employment.

4) The provision of giving reimbursement is beneficial provision made in favour of employees and it cannot be said that the employee cannot get reimbursement during the period of such re-employment. This Court holds that the order made by the Education Officer needs to be set aside and further direction needs to be given as claimed by the petitioner. However, the record shows that the reimbursement is claimed in respect of the period which is beyond 30 April 2006 also. The re-employment was given for the remaining period of second term of the academic year. As per definition of School Terms given in Secondary Schools Code the second term ends on 30 April. Ordinarily results are declared on 1 May and after that there is vacation period and then in the month of June new term begins. In view of this, in view of provision of re-employment it can be said that there is no

need to continue the appointment in the month of May and further under the aforesaid rules the re-employment period comes to and when the second term of academic year comes to an end. In view of these circumstances, this Court holds that direction to give reimbursement of the bills of medicines and treatment produced by him which are in respect of the period ending 30 April 2006 can be given. The bills which are of subsequent period are not to be reimbursed.

5) The petition is partly allowed. Respondent Nos.1 to 3 to pay the amount claimed as reimbursement in respect of medical treatment of the petitioner and his wife upto the period ending on 30-4-2006. The claim in respect of the period which is beyond 30-4-2006 is not allowed. Interest at the rate of 8% per annum on the amount which needs to be paid by the respondents is allowed from 30-6-2008 till deposit of the amount in the Court. The amount is to be deposited within three months from today. Rule made absolute in those terms.

Sd/-
(SANGITRAO S PATIL, J.)
rsl

Sd/-
(T.V. NALAWADE, J.)