

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

WRIT PETITION NO. 10335 OF 2010

Balbhim Laxmanrao Jaher

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Rajendra S. Deshmukh, Advocate for the Petitioner.

Shri R. V. Dasalkar, A.G.P. for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 18TH AUGUST, 2017.

FINAL ORDER :

. Mr. Deshmukh, the learned counsel for the petitioner submits that, the petitioner was appointed on 06.05.1965 as a Junior Engineer in irrigation department. Thereafter on 10th July, 1971, the petitioner was promoted to the post of Deputy Engineer and on 07.05.1974 the petitioner was promoted to the post of Sub Divisional Officer. In November, 1977 the petitioner submitted resignation, however, did not receive any further communication. According to the learned counsel on 22.06.2007, the petitioner filed an application with the respondent No. 3 seeking pension. The respondent No. 2 rejected the application for pension on the ground that as per Rule 46 of the Maharashtra Civil Services (Pension) Rules, (for short "Pension Rules") the

petitioner is not entitled for pension.

2. The learned counsel further submits that, the petitioner has put in twelve years of service and as such ought to have been paid pension. The learned counsel further submits that, the petitioner is entitled for pension. The learned counsel in alternate submits that, the petitioner ought to have been paid compassionate pension as laid down under Rule 101 of the Pension Rules.

3. The learned Assistant Government Pleader for respondents submits that, on resignation, the petitioner forfeits his right to pension. The petitioner has also not worked for a period of twenty years so as to be entitled for pension. The qualifying service for pension is twenty years as per Rule 30 of the Pension Rules and the petitioner has completed only twelve years of service.

4. It is not disputed that, upon completion of twelve years of service, the petitioner tendered his resignation and thereafter did not attend the office of the respondents.

5. Rule 46 of the Pension Rules states that, upon resignation, the right to receive pension shall stand forfeited. Considering the fact that, the petitioner had not rendered qualifying service

as laid down under Rule 30 of the Pension Rules, so also considering Rule 46 of the Pension Rules, the case of the petitioner cannot be considered.

6. The writ petition as such is dismissed. No costs. Rule discharged.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Aug. 17