

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

WRIT PETITION NO. 14749 OF 2017

Satish s/o Manikrao Suryawanshi

Age : 53 Yrs., Occ. Service,

R/o : Plot No. 15-A, Sudarshan,

Nagar, N-11, HUDCO,

Aurangabad, Dist. : Aurangabad.

.... PETITIONER

VERSUS

1. The State of Maharashtra
Through Secretary to
School Education Department,
Mantralaya, Mumbai.

2. The Director of Education
Maharashtra State, Pune
Dist. Pune.

3. The Deputy Director of Education
Aurangabad Region, Aurangabad
Dist. Aurangabad.

4. The Head Master
Shri Saraswati Bhuvan
Madhyamik Va Uchha Madhyamik
Vidyalaya, Pimpiriraja,
Tq. and Dist. Aurangabad.

.... RESPONDENTS

.....

Mr. S.M.Vibhute, Advocate for Petitioner.

Mr. M.M.Nerlikar, A.G.P. for Resp. - State.

.....

CORAM : S.V.GANGAPURWALA &

V.L.ACHLIYA, JJ.

DATE OF JUDGMENT : 20th DECEMBER, 2017

.....

ORAL JUDGMENT : [PER – S.V.GANGAPURWALA, J.]

. Mr. Vibhute, learned counsel for the petitioner submits that the petitioner was working with the respondent No. 4/college. The recognition of the said college was withdrawn. The petitioner was paid salary till derecognition. The petitioner preferred many representations for absorbing him in other institution. The petitioner filed Writ Petition. This Court directed the respondents to include the name of the present petitioner in the wait list of the teachers of the de-recognized junior college and to absorb in the recognized junior college as and when vacancy is available for the teachers. The petitioner was allowed to join only in November, 2003 pursuant to the order of absorption dated 20/09/2009.

According to the learned counsel, the other lecturers who were juniors to the petitioner were absorbed prior in point of time. The respondents did not follow the seniority. The respondents be directed to pay salary to the petitioner from the date of de-recognition till absorption and to grant all other consequential benefits.

2. The learned Assistant Govt. Pleader states that the college was de-recognized as such the petitioner's services stood terminated on de-recognition of the college. After holding enquiry it was found that the petitioner was not responsible for the de-recognition of the college. Thereafter has been absorbed vide order passed on 20/11/2009. No error has been committed by respondents.

3. We have considered the submissions canvassed by learned counsel for respective parties.

4. The junior college where the petitioner was working stood de-recognized. As such, the petitioner's services stood terminated due to retrenchment. In the present case, Rule 25 of the Maharashtra Employees of Private Schools [Condition of Service] Rules would apply.

No doubt, the respondents are required to consider the cause for de-recognition and if the employee is not responsible for de-recognition of the said college, then the employee can be absorbed in other recognized college. Upon enquiry, it was found that employees were not responsible for de-recognition of the college and as such steps were taken to absorb the petitioner. In view of the relevant rules the petitioner is not entitled for the salary for the period, the petitioner is terminated on account of retrenchment till his absorption, as the same is under Rule 25-A of the M.E.P.S. Rules. The fact would have been different, if the petitioner would have been retrenched under Rule 26 of the M.E.P.S. Rules.

5. In view of that, request of the petitioner for payment of salary for the said period can not be accepted. However, the services from the date of decognition of the junior college, where the petitioner was working till his absorption shall be considered for the purpose of continuity in service and other benefits. The petitioner may accordingly apply for pay fixation. The authorities shall consider the same in the light of the Judgment passed in the present petition.

Rule accordingly made absolute in above terms.

[V.L.ACHLIYA, J.]

[S.V.GANGAPURWALA,J.]

KNP/W.P. 14749.2017 - [J]