

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

WRIT PETITION NO. 5234 OF 2018

Prakash Ramdas Sapkale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Paresh B. Patil, Advocate for the Petitioner.

Shri N. T. Bhagat, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.**

DATE : 06TH JUNE, 2018.

FINAL ORDER :

. The petitioner seeks salary for the intervening period from 01.06.2015 to 27.10.2015 that is for a period of two months.

2. Mr. Patil, the learned counsel for the petitioner submits that, the petitioner attained 60 years of age on 31.05.2015 and on the said date stood retired. The petitioner was granted extension for two years on 27.10.2015. The petitioner joined on 28th October, 2015. However, salary is not paid to the petitioner up to 27.10.2015. The petitioner claims salary for the said period.

3. Shri Bhagat, the learned Assistant Government Pleader

states that, for the period the petitioner has not worked from the date of his retirement till rejoining, the petitioner is not entitled for the salary for the said period in view of the Government Resolution dated 23.06.2016.

4. The Apex Court in a case of **State of Uttar Pradesh Vs. Dayanand Chakrawarty and others** reported in (2013) 7 SCC 595 has observed that, 'no work no pay' principle is applicable only to those employees who are not guided by any specific rule regarding absence from duty. The facts in the said case are similar to the facts of the present case. This Court in several matters has given the benefit of pay during the intervening period.

5. Considering the above, we pass following order.

6. The respondent authorities shall after confirming that the salary is not paid to the petitioner from 01.06.2015 to 27.10.2015 shall pay the salary as admissible to the petitioner for the said period. The writ petition accordingly is disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]