

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

WRIT PETITION NO. 2785 OF 2015

Maruti Shetiba Bansode
Since deceased through L.Rs.
Shoba Maroti Bansode and Others

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

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Mr. U.R. Awate, Advocate for petitioners.

Mr. S.K. Tambe, A.G.P. for respondent nos. 1 to 3.

Mr. V.S. Kodale, Advocate h/f Mr. V.D. Gunale, Advocate for respondent no.4.

Mrs. M.S. Mhase-Thube, Advocate for respondent no.5.

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 22nd OCTOBER, 2018

ORDER :

The husband of the petitioner – Maruti Shetiba Bansode was working as Assistant Teacher. He died on 24th July, 2011.

2. Mr. Awate, the learned Counsel for the petitioners submits that the husband of the petitioner was declared as surplus vide order dated 04th October, 2010 and directed to join with Sant Tukaram Vidyalaya, Jagalpur. However, that order of absorption of the petitioner's husband was never served on him. Same was submitted before this Court in Contempt Petition no. 319 of 2008 25th November, 2010. Subsequently, order dated 15th

December, 2010 was issued by the Education Officer directing respondent no.5 – school to absorb the husband of the petitioner. However, the order dated 15th December, 2010 of the Education Officer was issued on 04th May, 2011. The husband of the petitioner immediately approached respondent no.5, but he was not allowed to join. The husband of the petitioner approached Education Officer by representation dated 30th May, 2011. The Education Officer, on the same day, directed respondent no.5 to allow the husband of the petitioner to join. But thereafter also respondent no.5 did not allow the husband of the petitioner to join till 24th July, 2011. The husband of the petitioner is not paid salary from 04th October, 2010 till 23rd July, 2011.

3. Mrs. Mhase, the learned Counsel for respondent no.5 submits that the husband of the petitioner, at no point of time, approached respondent no. 5 – School. He never worked in the school nor the order declaring the petitioner surplus and directing to be absorbed in respondent no.5 – School was served upon respondent no.5 – School. According to the learned Counsel, respondent no.5 – School is not supposed to pay salary to the husband of the petitioner nor submit the salary bills thereof.

4. The Education Officer submits that the husband of the petitioner did not work for a period from 04th October, 2010 to 23rd July, 2011. As such, he is not entitled for salary for the said period.

5. We have considered the submissions. It appears that the order dated 04th October, 2010 issued by the Education Officer, thereby directing respondent no.5 to absorb the husband of the petitioner, was placed in Contempt Petition no. 319 of 2008 on 25th November, 2010 itself. Thereafter again on 15th December, 2010 fresh order was issued directing absorption of the husband of the petitioner with respondent no.5 – School, but same appears to be signed by the Education Officer on 04th May, 2011. There are applications placed on record by the petitioner to the effect that the husband of the petitioner requested respondent no.5 and the Education Officer to allow him to join with respondent no.5. The letter dated 30th May, 2011 issued by the Education Officer to respondent no.5 is also placed on record directing that the husband of the petitioner has complained him that he is not allowed to join by respondent no.5.

6. The present situation arises due to the orders passed by the Education Officer one after another and though second order was issued on 15th December, 2010, it appears that same is signed on 04th May, 2011. The contention of respondent no.5 is that the date, on which the husband of the petitioner approached respondent no.5 to join the duties, is of vacation when the school is closed. The husband of the petitioner, who is declared surplus on 04th October, 2010, would be entitled to salary from the date he is declared surplus till the date of absorption. From the record we could not find any

fault on the part of the husband of the petitioner.

7. In the light of the above and interest of justice, writ petition is allowed. Respondent no.5 shall submit salary bills in respect of husband of the petitioner from 04th October, 2010 to 24th July, 2011 to the Education Officer within a period of six weeks from today. On receipt of said salary bills, the Education Officer shall process the same and pay admissible salary for the said period within a period of six months from the date of receipt of the salary bills. The petitioner shall submit service book and other relevant documents of the husband of the petitioner to respondent no.5 within two weeks from today. Writ petition is accordingly disposed of. No costs.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

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