

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

WRIT PETITION NO. 4705 OF 2017

Swami Omprakash Sharanayya ... Petitioner

VERSUS

State of Maharashtra & Ors. ... Respondents

.....
Mr Mohit Deshmukh, Advocate for the petitioner
Mrs Vaishali N. Patil-Jadhav, AGP for respondent/State
.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 22ND JANUARY, 2018.

ORDER:

1. The petitioner seeks direction as against respondents no. 6 and 7 to forward the proposal of the petitioner for voluntary retirement to respondents No. 4 and 5.

2. Mr. Deshmukh, the learned counsel for the petitioner submits that, on 23.03.2016, the petitioner submitted application for voluntary retirement to take effect after three months of the said notice. The respondent-employer sat over the said application of the petitioner for voluntary retirement and did not take steps to forward it to respondents no. 4 and 5. The learned counsel submits that, as

per Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982, if the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the notice, the retirement shall become effective from the date of expiry of the said period.

3. Mr Patil, learned counsel for the employer submits that, the petitioner was consistently absent from October-2013. This fact was intimated to the petitioner and also to the respondents no. 4 and 5. The petitioner was absent without permission and as such, is not entitled for any relief.

4. Rule 66(1) and (2) of the MCS (Pension) Rules, 1982 reads thus:

66. Retirement of completion of 20 years qualifying service.

(1) At any time after a Government servant completed twenty years qualifying service, he may, by giving notice of three months in writing to the appointing authority, retire from service.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority.

5. It is not disputed that, the employer/respondents no. 6 & 7 at no material point of time communicated to the petitioner about

non-acceptance of his notice of voluntary retirement. The period stated in the notice has lapsed.

6. It is also not disputed that the employer did not initiate any departmental inquiry against the petitioner during this period nor terminated the services of the petitioner on the ground of abandonment of the service. Proviso to sub-rule 2 of Rule 66 of MCS (Pension) Rules would squarely apply and the retirement would become effective from the date of expiry of the notice period.

7. The learned counsel for respondents No. 6 & 7 submits that the proposal for voluntary retirement of the petitioner would be forwarded to respondents no. 4 and 5 within three weeks from today. The said statement is accepted.

8. Writ Petition is, accordingly, disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE