

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

64 WRIT PETITION NO. 6392 OF 2018

MAGAN PANDITRAO IKHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Jadhav Hanumant P.
AGP for Respondent No. 1 : Mr. A.V. Deshkukh
Advocate for the respondent Nos. 2 and 3 : Mr.V.M. Chate.

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

DATE : JUNE 25, 2018

O R D E R :

1. Learned counsel for the petitioner seeks condonation of break in service for the period prior to his termination. The petitioner was in service with respondent no. 5 school from 1.11.1971 till 30.6.1976 and thereafter was terminated from service. The petitioner seeks condonation of break in service and requests for counting the service from 1971.

2. Request of the petitioner for counting his

service from 1.11.1971 to 30.6.1976 cannot be considered in view of the fact that the petitioner was terminated. Civil Suit filed challenging the termination is dismissed on the ground of jurisdiction. The petitioner has filed appeal before School Tribunal. Application seeking condonation of delay in filing appeal is rejected. According to the learned counsel for the petitioner, the petitioner has filed a writ petition challenging the order of the School Tribunal rejecting application for condonation of delay.

3. In view of Rules 45 and 48(4) of the Maharashtra Civil Services (Pension) Rules, upon termination, the past service stand forfeited.

4. In case, the petitioner succeeds in getting termination order set aside from appropriate forum, then petitioner may make request for condonation of break in service as per Rules of the Maharashtra

Civil Services (Pension) Rules.

5. Apart from that, if for the period other than the period from 1971 to 1976 the petitioner claims condonation of break in service, then the petitioner may approach the Competent Authority and file the application, which application would be considered by the Competent Authority on its own merits, expeditiously.

6. Writ petition is disposed of. No costs.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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