

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

14 WRIT PETITION NO. 6434 OF 2015

CHANDRAKANT UMAKANTRAO HULSURKAR ..PETITIONER

VERSUS

THE COMMISSIONER OF HANDICAP WELFARE MAHARASHTRA
STATE PUNE AND OTHERS ..RESPONDENTS

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Mr. Milind M. Joshi, Advocate for the Petitioner.
Mr. N. T. Bhagat, AGP for Respondent-State.
Mr. U. B. Bondar, Advocate for Respondent No.2.
Mr. N. E. Deshmukh, Advocate for Respondent No.3.
Mr. U. R. Awate h/f. Mr. S. B. Talekar, Advocate
for the Respondent No.5.

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**CORAM : S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.**

DATED : 20th AUGUST, 2018.

PER COURT:-

1. The grievance of the petitioner with regard to the absorption now stands redressed, as the petitioner has been absorbed with another institution.

2. The only question is with regard to the payment of salary to the petitioner for the period from 01.06.2015 till 23.04.2017 and for the period from 30.09.2011 till 25.03.2012.

3. We have heard Mr. Joshi, learned counsel for the petitioner, Mr. Bondar, learned counsel for respondent no.2, Mr. Deshmukh, learned counsel for

respondent no.4 and Mr. Awate, learned counsel for respondent no.5.

4. It is not the matter of dispute that the petitioner was initially declared surplus in the year 2000, thereafter, the order of absorption was passed in the year 2007. The petitioner was allowed to join with respondent no.4 on 26.03.2012.

5. Thereafter, the petitioner was relieved by respondent no.4 on 01.06.2015. Thereafter, the present writ petition is filed by the petitioner against the order relieving him from service.

6. During the pendency of this writ petition, the respondent no.2 was directed to absorb the petitioner, as prima facie it appeared to the Court that, the order terminating service of the petitioner was illegal. Pursuant thereto the order of absorption of the petitioner is issued and the petitioner is absorbed.

7. As far as the salary for the period from 30.09.2011 till 25.03.2012 is concerned, the respondent no.4 shall submit salary bills to respondent no.2. On receipt of the salary bills, the respondent no.2 shall sanction the same and release in favour of the petitioner.

8. As far as the period from 01.06.2015 till 23.04.2017 is concerned, the same is on account of

the petitioner being relieved by respondent no.4. The order relieving the petitioner from service by respondent no.4 is certainly erroneous. The petitioner was directed to be absorbed by respondent no.4. The respondent no.4 on its own volition could not have relieved the petitioner. In fact, the same was to accommodate the respondent no.5.

9. The Deputy Commissioner for Persons with Disabilities had also filed an affidavit, thereby putting blame on the respondent nos.4 and 2 equally. The respondent no.2 is also held liable by the Deputy Commissioner in its act of accommodating respondent no.5.

10. The Deputy Commissioner in its affidavit has stated thus:

"10. It is further submitted that the management has wrongly relieved the Petitioner from his post and the respondent no.2 has not applied its mind properly at the time of decision dated 17.06.2015, while granting administrative approval to the respondent no.5. The decision of the management relieving the petitioner and respondent no.2 to accord the approval to respondent no.5 is may not be justifiable and against principle of natural justice and therefore, it may not be sustainable."

11. It appears that the petitioner was placed in the list of surplus candidates in the year 2015, but was not absorbed till the year 2017. Once

having been placed in the list of surplus candidates, naturally the petitioner would be entitled for the continuity and the salary. In view of that, for the period from 01.06.2015 till 23.4.2017, the petitioner shall also be paid the salary by respondent nos.2 and 3. The said period shall also be counted for the purpose of continuity.

12. Writ Petition accordingly disposed of. No costs.

(S. M. GAVHANE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-18