

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

WRIT PETITION NO. 9954 OF 2017

Deepak Raosaheb Shirsath .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri. Ramesh I. Wakade, Advocate for Petitioner.

Smt. Vaishali N. Patil-Jadhav, A.G.P. for Respondent Nos. 1 to 3.

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

DATED : 12th February, 2018

PER COURT:

. Mr. Wakade, the learned counsel submits that the petitioner is appointed as a Peon with the Respondents in the year 2007. Thereafter again the appointment order is issued on 25.12.2008. The petitioner was orally terminated. The petitioner approached the School Tribunal. The appeal of the petitioner is allowed. The Institution is directed to

reinstate the petitioner with continuity, still, the Respondents are not forwarding the proposal of the petitioner nor paying the salary.

2. Mr. Shinde, the learned advocate for the respondent Institution submits that the order of the School Tribunal is challenged by the Respondents by filing a Writ Petition. The petitioner had abandoned the service and upon the services being abandoned by the petitioner, Institution appointed Respondent Nos. 6 and 7. Their services are also approved by the Education Officer and thereafter the appeal filed by the petitioner is allowed by the School Tribunal which is subjudice before the learned single judge in writ petition. The said writ petition is now fixed for hearing on 27.02.2018.

3. It is not disputed that pursuant to the order of the School Tribunal the Institution has reinstated the petitioner on 02.12.2016. If the petitioner is working on the post of Peon he is certainly entitled for the salary as laid down in the M.E.P.S Rules. The institution is bound to make the payment as per Rules.

4. The respondent Institution shall pay the petitioner, the salary since the date, the petitioner is working upon being reinstated viz.

02.12.2016 as per rules subject to the decision in writ petition filed by the Respondents challenging the order of the Tribunal passed in appeal filed by the petitioner. The regular salary as laid down in the Rules shall be paid from 01.03.2018 and the arrears shall be paid within six months. The aforesaid order is passed subject to the decision that will be taken in the Writ Petition bearing No.12563 of 2017 filed by the Institution against the order of the School Tribunal. The aspect of the Management sending the proposal for the approval naturally will depend upon the decision given by the learned single judge in writ petition filed by the Institution, challenging order of the School Tribunal. The petitioner is at liberty to take steps with regard to the approval of Respondent Nos. 6 and 7, after the orders are passed in Writ Petition No.12563 of 2017.

6. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]