

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6782 OF 2015

Dr. Siddharth Gangaram Darbare	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

Mr. Rajesh Kolge for Petitioner.
Mr. N. C. Walimbe – AGP for State - Respondents.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 19 JUNE 2018

ORAL JUDGMENT :

- 1] Heard the learned counsel for the parties.

- 2] Rule. With the consent of and at the request of the learned counsel for the parties, Rule is made returnable forthwith.

- 3] The challenge in this petition is to the judgment and order dated 26th March 2014 made by the Maharashtra Administrative Tribunal (MAT) dismissing Original Application No. 727 of 2013 instituted by the petitioner

seeking directions for release of salary for the period from April 2012 onwards.

4] Mr. Kolge, the learned counsel for the petitioner states that the petitioner had produced before the MAT documents which would establish that the petitioner had discharged duties between April 2012 and August 2012. He submits that these documents have not been considered by the MAT and therefore the impugned judgment and order warrants interference.

5] The MAT in the impugned judgment and order has no doubt observed that the prayer of the petitioner for disbursement of his salary from April 2012 onwards needs to be rejected. However, immediately thereafter, the MAT has granted the petitioner liberty to file appropriate applications for sanction of leave with proper documentation in support and has further directed the respondents to consider the same and to take suitable decision thereon as per the rules. There is a further direction that the issue of disbursement of salaries may be examined by the respondents subsequently, also keeping in

view the conclusions of the enquiry report of the Additional District Health Officer.

6] The aforesaid observations / directions are set out in paragraph 7 of the impugned judgment and order, which reads as follows :

“7. It is, therefore, quite clear that the applicant has not been able to adduce any evidence to show that he has actually worked on the days of his alleged absence. On the contrary the enquiry report shows that as against his claims of having worked he has worked only for few days from April 2012 to August 2012 and subsequently he has remained absent. He has neither submitted medical certificates nor fitness certificates for the periods he had applied for medical leave. There is no reliable document on record which shows that he has been suffering from spine injury for the last 3-4 years. He has not appeared before the medical board once he was initially examined by the board. Therefore, the prayer for disbursement of his salaries from April, 2012 onwards needs to be rejected. The applicant may file appropriate applications for sanction of leave with proper documentation in support and the respondents may consider the same and take suitable decision as per rules. The issue of disbursement of salaries may be examined by the respondents subsequently, also keeping in view the conclusions in the enquiry report of the Additional District Health Officer.”

7] From the aforesaid, it is clear that the MAT has not finally rejected the relief as applied by the petitioner in his

Original Application. All that the MAT has held is that the petitioner may make appropriate applications for sanction of leave with proper documentation in support and depending upon the outcome of such applications, the issue of disbursement of salary may be subsequently decided.

8] Accordingly, we see no good ground to interfere with the impugned judgment and order, since, there is no final decision as such in the matter.

9] Mr. Kolge, the learned counsel for the petitioner submits that some time bound directions be issued to the respondents to consider the petitioner's applications for sanction of leave and thereafter, to take some decision on the issue of disbursement of salaries. Mr. Kolge is however unable to make a statement as to whether the petitioner has already made such applications to the respondents or not.

10] Taking into consideration the request made, we direct the respondents to dispose of applications if already made by the petitioner within three months from today. If no such

application is made by the petitioner as yet, we grant liberty to the petitioner to make such applications along with supporting documents within a period of three months from today and thereafter we direct the respondents to dispose of such applications within a period of three months from the date of receipt. The decision to be communicated to the petitioner.

11] With the aforesaid directions and liberty, we dispose of this petition. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA