

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3704 OF 2015***

Mr. Abdul Rashid Shaikh Mohammed
Kaunchali

Petitioner

Versus

Chief Executive Officer,
Raigad Zilla Parishad, Raigad & Ors.

Respondents

Mr. Amol B. Desai, a/w Mr. Vaibhav Jagdale i/b. Soham Hatkar,
for the Petitioner.

Mr. V. M. Mali, AGP, for the State.

Mr. G. P. Gavnekar for Respondent Nos. 1 & 2.

***CORAM : RANJIT MORE &
SMT. SADHANA S. JADHAV, JJ.
DATE : 13th March, 2018.***

P.C. :

Heard the learned counsel appearing for the respective parties.

2. By this petition, the petitioner is challenging the orders dated 13.10.1993 and 19.5.2014 passed by the Chief Officer, Zilla Parishad, Raigad and the Additional Commissioner, Konkan Division, Navi Mumbai. By the first order, the petitioner's services were terminated and by the second order, the petitioner's appeal

was dismissed.

3. The petitioner was appointed in the year 1978 with the Respondent No.1 Zilla Parishad as a primary teacher. His services were confirmed in the year 1993. The petitioner has not reported to the place of service since 9.2.1992. Thereafter, the Chief Officer, Zilla Parishad issued a show cause notice on 6.9.1993 as to why the petitioner's services should not be terminated. The petitioner was served by affixing the notice on his house as neither he nor his family members were staying at the address given in the service report. The Chief Officer, therefore, terminated the services of the petitioner by his order dated 13.10.1993.

4. The petitioner, for the first time, in the year 2011, preferred an appeal before the Addl. Commissioner, Konkan Division, Navi Mumbai, challenging his termination order. His appeal was dismissed on merits as well as on the ground of inordinate delay. Being aggrieved, the petitioner has approached this Court.

5. It is the case of the petitioner that since 1992, he was mentally unstable and therefore could not report on duty. It is

further case of the petitioner that he took treatment from a Psychiatrist and mental hospital and recovered in the year 2010 and therefore wanted to join the services as a primary teacher with Respondent No.1 – Zilla Parishad. The petitioner's services, as stated earlier, were already terminated and thereafter he preferred an appeal which was dismissed.

6. The fact remains that the appeal is preferred by the petitioner after an inordinate delay of 18 years i.e. period between 1992 and 2010. For the period of 18 years, the petitioner has not approached the Zilla Parishad. Besides, the petitioner never apprised Respondent No.1 about his illness.

7. The issue of limitation is considered by this Court in the case of **Suresh Bapu Sankanna & Ors. vs. State of Maharashtra & Ors. [2017 SC (Mah)1581]**. The Division Bench in para 19 of the said Judgment held thus :-

“19. The law of limitation is a matter of public policy, which lays down that stale claims cannot be agitated, and there has to be time limit, within which an aggrieved person can successfully raise his grievance. The Hon'ble Supreme Court has held in the case of Pundlik Jalam Patil (Dead) by LRS. vs. Executive Engineer, Jalgaon Medium Project & Anr. (2008) 17 SCC 448 as follows :

"26. Basically the laws of Limitation are founded on public policy. In Halsbury's Laws of England, 4th Edn., Vol.28, p.266, para 605, the policy of the Limitation Acts is laid down as follows :-

605. Policy of the Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitation, namely, (I) that long dormant claims have more of cruelty than justice in them, (ii) that a defendant might have lost the evidence to disprove the stale claim, and (iii) that persons with good causes of actions should pursue them with reasonable diligence."

8. We also enquired with Mr. Gavnekar, learned counsel for respondent Nos. 1 and 2 regarding the qualifying service for pension and whether the petitioner has completed the same. Mr.Gavnekar replied that qualifying service is 21 years for being entitled to pensionary benefits. The petitioner has put in service for 10 – 12 years. Therefore, he is not entitled for pension.

9. In the light of above, no case is made out for interference under Article 226 of the Constitution of India. The petition is dismissed.

[SMT. SADHANA S.JADHAV, J.]

[RANJIT MORE, J.]