

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

WRIT PETITION NO. 4354 OF 2018

Satish S/o. Ramrao Kore

.... Petitioner

Versus

The State of Maharashtra & Ors.

.... Respondents

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Shri. M. P. Tripathi, Advocate for the petitioner

Shri. P. S. Patil, AGP for respondents No. 1 to 3

Shri. S. B. Pulkundwar, Advocate for respondent No. 4

Shri. Gajanan S. Shembole, Advocate for respondents No. 5 & 6

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 04TH FEBRUARY, 2019

ORAL ORDER:

1. The petitioner was appointed on 04.04.2012 as a Shikshan Sevak. His appointment was also approved by the Education Officer. It appears that, under letter dt. 05.08.2015, the Education Officer (Primary) directed the employer to terminate the services of the petitioner as the post had become excess. This Court had set aside the order of termination and directed that the petitioner shall be kept in the list of surplus candidates to be absorbed. The said order is passed on 19.12.2016 in Writ Petition No. 9368 of 2015.

2. The petitioner is declared surplus under Rule 26 of the M.E.P.S. Rules, meaning thereby that even till the date of his absorption he will be entitled for the salary.

3. Mr S. B. Pulkundwar, the learned counsel for respondent/Zilla Parishad submits that, the salary is paid pursuant to the Shalant Pranali on-line and till the petitioner is absorbed, his name cannot be included in the Shalant Pranali.

4. As the post did not remain admissible, the petitioner was declared surplus. Till the petitioner is absorbed in other institution by the Education Officer, the petitioner's name will never be brought on Shalant Pranali. However, as per Rule 26 of the M.E.P.S. Rules, if a person is declared surplus, he is entitled for continuity and salary even till the date of his absorption.

5. In light of that, the anomalous situation will have to be resolved. The respondents No. 5 & 6 shall submit the salary bills of the petitioner from the date he is declared surplus. The Education Officer shall consider the same and make the payment off-line if it cannot be included in Shalant Pranali or if the name can be included

in Shalant Pranali after the salary bills are submitted by the respondents No. 5 & 6, the same shall be paid on-line, however, the respondents shall not withhold the salary of the petitioner on the ground that his name is not included in Shalant Pranali. Respondents No. 5 & 6 shall submit the salary bills of the petitioner as admissible within four weeks to the Education Officer. The Education Officer shall, after following the proper procedure, process the salary bills and direct payment, as is admissible.

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

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde