

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

WRIT PETITION NO. 8307 OF 2018

Sambhaji Vaijinath Bedade .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Ms. Dr. Supriya L. Pansambal, Advocate for the Petitioner.
Shri S. B. Pulkundwar, A.G.P. for Respondent Nos. 1 to 3.
Shri P. R. Tandale, Advocate for the Respondent No. 4.
Shri Satish D. Bhosale, Advocate for the Respondent No. 5.
Shri J. M. Murkute, Advocate for Respondent Nos. 6 and 7.
Shri M. C. Swami, Advocate for Respondent Nos. 8 and 9.

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

DATE : 22ND APRIL, 2019.

FINAL ORDER :

. The petitioner seeks directions against the respondent Nos. 6 and 7 to submit his last pay certificate and service book with the respondent Nos. 4 and 5 and also pay arrears of salary for the period from March 2008 to March 2013.

2. Miss Pansambal, the learned advocate for the petitioner submits that, inspite of repeated requests, service book of the petitioner is not maintained and completed by respondent Nos. 6 and 7. Same is required to be submitted to the respondent No. 9.

The petitioner has been absorbed in the respondent No. 9/institution under order dated 22nd September, 2016 as the respondent No. 7 school was derecognized in the year 2013. According to the learned counsel, even salary is not paid to the petitioner since March 2008 to March 2013. The learned counsel further submits that, five member enquiry committee was constituted and they have also concluded that the Head Master of the school has not prepared the service book and because of which the increments are not granted.

3. Mr. Murkute, the learned counsel for respondent Nos. 6 and 7 submits that, the petitioner was absent after March 2008 till the date of derecognition and the services of the petitioner were terminated on 01.04.2008. All the documents have been submitted by respondent Nos. 6 and 7. In fact, the petitioner is required to be directed to join with the respondent No. 7 as the respondent No. 7 has been granted recognition.

4. Mr. Tandale, the learned counsel for the respondent No. 4 submits that, many times letters were given to respondent Nos. 6 and 7 to submit relevant documents, however, respondent Nos. 6 and 7 did not pay any heed to it. The respondent No. 4 thereafter granted last pay certificate of the petitioner and submitted the same to the respondent No. 9 for the year 2008. The petitioner is now absorbed with the respondent No. 9 and is

working with the respondent No. 9 since 2016.

5. The dispute is about the respondent Nos. 6 and 7 not maintaining the service book and not giving last pay certificate. There are rival contentions. According to the respondent No. 7, the petitioner did not report for work after March 2008, whereas the case of the petitioner is otherwise.

6. The respondent Nos. 6 and 7 shall prepare the service book of the petitioner as per its record and shall submit it to the respondent No. 4 within a period of two months from today.

7. The respondent No. 4 shall consider the stand of the petitioner and respondent Nos. 6 and 7 and take decision with regard to the presence of the petitioner with the respondent No. 7 from April 2008 till derecognition. Same shall be done within a period of three (03) months from today. Depending upon the conclusion of the respondent No. 4 as to the presence/absence of the petitioner from April 2008 till the date of derecognition, further decision shall be taken with regard to the payment of salary of the petitioner. After the respondent No. 4 comes to the conclusion that the petitioner was in service with respondent Nos. 6 and 7 during the period from April 2008 till derecognition continuously, then consider the said period for notional increments.

8. In view of the above, the writ petition is disposed of. No costs.

[A. M. DHAVALA, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 19