

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

WRIT PETITION NO. 5922 OF 2019

Pandit Uttam Nerpagar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Paresh B. Patil, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 11TH JUNE, 2019.

FINAL ORDER :

. The petitioner seeks salary for the intervening period from 01.06.2012 to 07.08.2012 i.e. for a period of sixty eight (68) days.

2. Mr. Patil, the learned counsel for the petitioner submits that the petitioner attained 60 years of age on 31.05.2012 and on the said date stood retired. The petitioner was granted extension for two years on 06.08.2012. The petitioner joined on 07.08.2012. However, the salary is not paid to the petitioner up to 07.08.2012.

3. The learned Additional Government Pleader states that for

the period the petitioner has not worked from the date of his retirement till rejoining, the petitioner is not entitled for the salary for the said period in view of the Government Resolution dated 23.06.2016.

4. The Apex Court, in the case of **State of Uttar Pradesh Vs Dayanand Chakrawarty and others** , reported in **(2013) 7 SCC 595** , has observed that 'no work, no pay' principle is applicable only to those employees who are not guided by any specific rule regarding absence from duty. The facts in the said case are similar to the facts of the present case. This Court in several matters has given the benefit of pay during the intervening period.

5. Considering the above, we pass the following order.

6. The respondent Authorities shall, after confirming that the salary is not paid to the petitioner from 01.06.2012 to 07.08.2012, shall pay the salary as admissible to the petitioner for the said period.

7. The Writ Petition is accordingly disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb / June 19