

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

WRIT PETITION NO. 658 OF 2018

Rahul S/o. Lakhichand Mahajan Petitioner
Versus
The State of Maharashtra & Ors. Respondents

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Shri. Ajay G. Talhar, Advocate for the petitioner
Shri. P. S. Patil, AGP for respondent/State
Shri. P. R. Katneshwarkar, Advocate for respondents No. 4 & 5
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**CORAM : S. V. GANGAPURWALA
AND
A. M. DHAVAL, JJ.**

DATE : 1ST APRIL, 2019

ORAL ORDER:

1. One of the prayers of the petitioner is to take action against respondent No. 4 for not implementing the order of respondent No. 2 dt. 09.05.2017.
2. The contention of the respondent-Institution is that, the petitioner is terminated from service in March - 2016 and along with the affidavit the letter directing termination of the petitioner dt.29.03.2016 is filed.
3. According to the petitioner, for the first time, along with the affidavit the said letter dt. 29.03.2016 terminating the petitioner

from the service is filed on record. Prior to that the petitioner was never served with copy of the termination letter.

4. In case the services of the petitioner have been terminated, the petitioner has a remedy before the School Tribunal under the law. In view of that, we are not going into the merits of the same.

5. The another prayer of the petitioner is with regard to the payment of unpaid salary. The contention of the respondents is that the petitioner has been paid salary.

6. It appears that, the appointment of the petitioner as a Laboratory Attendant is approved by the Dy. Director of Education under order dt. 01.03.2017 from 15.06.2011 in the pay scale of Rs.5200-20200/- with Grade Pay of Rs. 2000/-.

7. Naturally the Institution has to pay salary to the petitioner for the period the petitioner has worked with the respondent-Institution. There are rival claims. The petitioner shall approach the Dy. Director of Education with regard to his arrears of salary **till the service of the notice of termination/till the date of termination.** The Dy. Director of Education shall consider the grievance of the petitioner as would be raised by the petitioner before him. He shall

also call for the say from Institution. The respondent No. 2 shall scan the record that may be produced by the parties and then arrive at the conclusion whether the petitioner has been paid salary or not. In case the Dy. Director of Education comes to the conclusion that the petitioner is entitled for payment or that the salary as per the pay scale approved by respondent No. 2 is not paid to the petitioner then respondents No. 4 & 5 shall pay the same to the petitioner within three months from the date of the decision by the Dy. Director of Education.

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

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde