

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (ST.) NO.38693 OF 2018
IN
WRIT PETITION NO.11309 OF 2017
(The Municipal Council, Jalna through Office
Superintendent, Jalna Vs. Mohd. Amanullah Khan Mohd.
Bakshullah Khan Durani)

Mr. Jiwan J. Patil, Advocate for the review petitioner
Mr. Vivek Dhage, Advocate for the respondent

CORAM : S.V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.

DATE : 15th MARCH, 2019

ORDER :

Heard Mr. J.J. Patil, learned counsel for the petitioner and Mr. Vivek Dhage, learned counsel for the respondent.

2. Mr. Patil, learned counsel for the review petitioner submits that this Court while partly allowing Writ Petition No.11309 of 2017 under order dated 5th September, 2018, had observed that Govt. resolution dated 8th March, 1999 was not brought to the notice of the non-applicant (writ petitioner) and that order does not mention any such clause. So also, the order of appointment dated 7-8/7/1999 clearly refers

to the Govt. Resolution dated 8th March, 1999. In view of that, it was not necessary to separately incorporate condition in the appointment order. According to the learned counsel, this aspect was not considered by the Court while disposing of the Writ Petition and passing the order under review. Learned counsel further submits that even in the case of ***State of Haryana and others Vs. Piara Singh and others***, reported in ***AIR 1992 SC 2130***, the Apex Court had observed that the Government can issue orders with regard to regularisation prescribing date by which the prescribed period of service should have been put in. The terms and conditions of regularisation can be put forth by the Government. According to the learned counsel, as the Government Resolution specifically provided that the past service was not be counted for any purpose and the same shall not be counted for pensionary benefits.

3. Mr. Dhage, learned counsel for the respondent supports the order sought to be reviewed.

4. We had considered all the arguments advanced by the learned counsel for the parties while delivering judgment under review. It is not that the aforesaid aspects were not considered by us. We had considered

that the Maharashtra Civil Services (Pension) Rules, 1982 apply to the services of the non-applicant (writ petitioner) and we have considered Rule 57 Note-1 of the Maharashtra Civil Services (Pension) Rules, 1982, so also the effect of Clause "E" of the Government Resolution. After considering the same, we had allowed Writ Petition, directing the review applicant to compute the services rendered by the non-applicant (writ petitioner) on daily wages as half for the purpose of pensionary benefits only. The said Govt. Resolution nowhere states that the said period cannot be counted for the pensionary purposes as provided under Rule 57 Note-1 of the Maharashtra Civil Services (Pension) Rules, 1982. In view of that, we do not find any error apparent on the face of record. The Review Application is rejected. No costs.

[SUNIL K. KOTWAL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE