

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

908 WRIT PETITION NO.3800 OF 2018

**SAROJ SANJAY PAWAR
VERSUS
DHARMANATH VIDYA PRASARAK MANDALTHROUGH ITS
SECRETARY AND OTHERS**

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Advocate for Petitioner: Mr. Sangeet L. V.
Advocate for Respondent No. 1: Mr. V. S. Bedre
AGP for Respondents No. 3&4: Mr. A. R. Kale

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**CORAM: S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATE: 04th JANUARY, 2022

PER COURT:

1. We have heard Mr. Sangeet, learned Counsel for the Petitioner, Mr. Bedre, learned Counsel for the Management / Institution and the learned A.G.P. for Respondents No. 3 and 4.

2. It is not disputed that the Petitioner is appointed on compassionate ground as *Shikshan Sevak* w.e.f. 16.06.2014. On or about 16.06.2017, the Petitioner was not allowed to resume the duty and thereafter he was again allowed to resume duty on 12.02.2019.

3. The grievance of the Petitioner, it appears is that he has not been granted the continuity in

service, so also has not been paid the honorarium from December-2016 to June-2017.

4. It appears from the Affidavits filed on record that after the order was passed in Writ Petition No. 7962 of 2013, the approval has been granted to the appointment of the Petitioner as *Shikshan Sevak*. The contention, it appears is that the Petitioner was declared surplus because of the reduction in post. However, under the directions of the Deputy Director of Education the Petitioner was again allowed to join the duties. It is not disputed that the Petitioner is paid salary regularly from the coffers of the Government / Zilla Parishad.

5. Assuming that the Petitioner was declared surplus because of the reduction in post the Petitioner is entitled to be absorbed in the other Institution where the post is available. The services of the Petitioner were approved. The Petitioner has been directed to be absorbed in his parent Institution and is working since June-2017 again. It would appear that the Petitioner was not at fault. In light of that, the Petitioner would be entitled for continuity in service. The Petitioner has not physically worked for a period December-2016 to June-2017, as such, we are not inclined to grant honorarium for the said period,

however, the said period shall be considered for the purpose of continuity in service.

6. The Management has also forwarded the proposal for approval to the appointment of the Petitioner as Assistant Teacher. In case the said proposal (*Page No. 43*) is pending with the Education Officer, then the Education Officer shall take decision upon it on it's own merits, in accordance with law, expeditiously and preferably within a period of four (04) months.

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

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]

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