

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

962 WRIT PETITION NO.7366 OF 2019

Nagnath S/o Maloji Shinde
Age; 46 years, Occ; Service as a
Block Education Officer,
R/o; Beed Road, Shivajinagar,
Behind Marathi School,
Jamkhed, Tq. Jamkhed,
District; Ahmednagar.

...Petitioner.

VERSUS

1. The State of Maharashtra,
Through Secretary,
Rural Development Department,
Mantralaya, Mumbai – 32.

2. The Additional Divisional Commissioner,
Nashik, Division, Nashik.

3. The Chief Executive Officer,
Zilla Parishad, Ahmednagar.

4. The Education Officer (Primary)
Zilla Parishad, Ahmednagar.

...Respondents.

...

Advocate for Petitioner : Mr.Maniyar Irfan D.
AGP for Respondents-State : Mrs. V.N.Patil (Jadhav)
Advocate for Respondent Nos. 3 & 4 : Mrs. Manjushri Shendage-
Narwade

...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 21.09.2022.

ORAL JUDGMENT : (PER - SANDEEP V. MARNE, J.)

1. Rule. Rule made returnable forthwith. With the consent of the learned Advocates for the respective parties, heard finally at the stage of admission.

2. The petitioner was placed under suspension by order dated 5.04.2011 in contemplation of disciplinary proceedings, in which the penalty of withholding of one increment with cumulative effect was imposed on him by order dated 11.11.2010. However, the appellate authority allowed his appeal and set aside the penalty by its order dated 24.02.2013. The grievance of the petitioner is that despite penalty being set aside, his suspension period from 26.06.2009 to 02.02.2010 has not been treated as duty.

3. Mrs. Shendage-Narwade, learned Counsel appearing for respondent Nos. 3 and 4 submits that the suspension order has not been set aside by the appellate authority and the same would continue to operate. She also submits that the petitioner is required to file appeal against suspension order dated 05.04.2011 under the provisions of Maharashtra Zilla Parishad (Discipline and appeal) Rules 1964.

4. We find that both the objections are stated only to be rejected. It is settled law that once an employee is exonerated in the

disciplinary proceedings, during pendency of which he is placed under suspension, the suspension period is required to be treated as duty for all purposes. On account of the appellate authority setting aside the penalty order, the petitioner is deemed to have been exonerated in the disciplinary proceedings. Therefore, the suspension period is required to be treated as duty for all purposes.

5. Accordingly, we allow the petition. The suspension period from 26/06/2009 to 02/02/2010 is directed to be treated as duty for all purposes. Consequential monetary benefits arising out of treatment of suspension period as duty period be paid to the petitioner within four weeks from today.

6. Rule is made absolute in above terms.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE