

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

WRIT PETITION NO. 7186 OF 2019

Shaikh Jahiroddin Shaikh Nasiroddin,
Age; 65 years, Occ; Retired,
R/o; Sompuri, Taluka Paithan,
District Aurangabad.

...PETITIONER

V E R S U S

1. The State of Maharashtra,
Through Secretary,
Department of Rural Development,
Mantralaya, Mumbai-32.
2. The Chief Executive Officer,
Zilla Parishad, Aurangabad.

...RESPONDENTS

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Advocate for the petitioner : Mr. S.S.Thombre h/f Mr. B.S. Bhale
AGP for the Respondent No. 1 : Mr. M.A. Deshpande
Advocate for Respondent No. 2 : Mr. Kartik D. Mundhe
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**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 03.10.2022

JUDGMENT : [PER : SANDEEP V. MARNE, J.]

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

2. The petition is filed for extension of the benefits envisaged under order dated 13.12.2017 in favour of the petitioner. He also prays for release of amount of pension and other retirement benefits. By order dated 13.12.2017, 108 Converted Regular Temporary Establishment (for short 'CRTE') employees of the Zilla Parishad, Aurangabad have been granted the benefits of pay and allowances in the applicable pay scales w.e.f. the dates of their initial appointments. The petitioner's name does not included in the order 13.12.2017 only on account of the fact that he was placed under suspension by the order dated 20.01.2011 and continued to remain under suspension till he attained age of superannuation on 31.10.2013. The short question that arises before us is whether, mere suspension would disentitle him to similar benefits granted to his colleagues by the order dated 13.12.2017.

3. Facts of the case are in narrow compass. The petitioner was working as daily wage worker in the Water Supply Department of Zilla Parishad, Aurangabad. The exact date of his initial engagement is not disclosed in the petition. By the order dated 06.03.2009, several daily wage workers including the petitioner were brought on CRTE from 01.07.2006. Upon being brought on CRTE, he became entitled to be paid the salary and allowances in the pay scales of Rs. 2550-55-2660-3200 w.e.f. 01.07.2006.

4. The petitioner was placed under suspension by the order

dated 20.01.2011, on account of FIR being registered against him with regard to an incident unconnected with performance of duties. The suspension continued till he attained the age of superannuation on 31.10.2013. On 13.12.2017, Zilla Parishad, Aurangabad issued order in pursuance of the judgment and order dated 18.11.2016 passed in Writ petition No. 6666 of 2006 by this Court, counting the services of 108 CRTE employees from the dates of their initial engagements. It was directed that they would be entitled to be paid difference of salary from the dates of their initial engagements till the date on which they were brought on CRTE. On account of his suspension the petitioner's name was not included in that order. If the petitioner was not under suspension, he would be granted benefits of counting his services from the date of his initial engagement till he was brought on CRTE i.e. till 01.07.2006 and would have been granted difference of pay and allowances during that period.

5. We find that even though the petitioner was placed under suspension by the order dated 20.01.2011, no decision was taken by the Zilla Parishad about the revocation of the suspension till he attained age of superannuation on 31.10.2013. He thus retired while under suspension. Mere placement under suspension would not sever employer -employee relationship, which continued till his retirement. The benefits conferred by the order dated 13.12.2017 are in respect of past service from the date of initial engagements till 01.07.2006. Admittedly, during that period the petitioner was not under suspension.

Even otherwise, he could not have been placed continue under suspension for indefinite period, that too in connection with criminal case having no relevance with performance of the duties.

6. In the result, we find that denial of benefits flowing out of order dated 13.12.2017 to the petitioner is unsustainable. Since the employer-employee relationship was not severed in any manner, he would also be entitled to all the retirement benefits as are paid to the CRTE employees. We are not made aware about the exact retirement benefits that a CRTE employee would be entitled to. Therefore we leave this aspect to the determination of the Respondent Zilla Parishad.

7. Consequently, we allow the petition and direct the Zilla Parishad, Aurangabad to extend all the benefits flowing out of the order dated 17.12.2017 to the petitioner. In case, Petitioner being CRTE employee, is eligible for any retirement benefits, the same shall also be extended to him and should not be denied only on the ground that he remained under suspension till his retirement. The consequential monetary benefits be paid to him within a period of two months from today. Writ Petition is allowed in above terms. Rule is made absolute.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE