

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5836 OF 2019

SMT PARVATI FAKIRCHAND KOLTE
VERSUS
THE CHIEF EXECUTIVE OFFICER AHMEDNAGAR AND
OTHERS

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Mr. B.R. Waramaa, Advocate for the petitioner.
Mr. A.D. Aghav, Advocate for respondent Nos. 1 and 2.
Mr. A.S. Shinde, A.G.P. for respondent – State.

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CORAM : C.V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.

DATE : 12 JULY 2022

ORDER :

This petition is filed for the following substantive
reliefs :

“A) By issuing Writ of Mandamus or appropriate writ or directions in the like nature, the respondent no.1 and 2 may please be directed to issue necessary orders of regular posting of teacher at Zilla Parishad Kendriya School, Shivajinagar, Kedgaon, Ahmednagar to discharge the duties as teacher or at the place of service nearest to Ahmednagar if found necessary.

B) By issuing Writ of Mandamus or appropriate writ or directions in the like nature, the respondent no.1 and 2 may please be directed to release salary

w.e.f. 27.11.2015, 27.7.31.7.2018 and 13 days salary of July, 2017”.

2. The learned Counsel for the petitioner states that since after filing of this petition, the petitioner has retired on superannuation on 31 May 2022. Thus, the prayer clause (A) does not survive.

3. In so far as prayer clause (B) is concerned, it is contended that the petitioner was required to proceed on leave on account of certain incidents which had happened at the place of her posting at Ranmala. It is submitted that for certain period as mentioned in the prayer clause, she was also on medical leave and Zilla Parishad is now insisting for a fitness certificate countersigned by the Civil Surgeon after she joined the service. Learned Counsel for the petitioner has pointed out a letter dated 6 July 2022 by which Block Development Officer of the Panchayat has asked for compliance on two counts; (1) to produce medical fitness certificate countersigned by the Civil Surgeon and (2) the joining report after the petitioner joined service on 1 August 2018. Learned Counsel for the petitioner submitted that the second requirement is already complied with. In so far as the certificate countersigned by Civil Surgeon is concerned, it is submitted that the petitioner is unable to obtain the same at this distance of time.

4. Learned Counsel for the Zilla Parishad has pointed out that apart from the said period, there was also certain period which

has been treated as absence without leave for which he has pointed out letter dated 28 November 2017.

5. We have considered the submissions made. If at all the petitioner had availed of leave on medical ground and claims to have resumed on 1 August 2018, it is for the petitioner to produce the fitness certificate as required by the Rules as may be applicable. We are, thus, unable to find that any exemption can be granted to the petitioner in this regard. As noticed earlier, prayer clause (A) has become infructuous. We, thus, dispose of the petition. It will be open to the petitioner to comply with the requisitions / requirements as made by the Block Development Officer and if such compliance is made, the respondent - Zilla Parishad shall process the pension papers / proposal and other retiral benefits of the petitioner as may be available, as expeditiously as possible.

No costs.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.