

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

919 WRIT PETITION NO.9238 OF 2019

ANURADHA RAOSAHEB GAJARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Ramesh I. Wakade
AGP for Respondent / State: Mr. A.S. Shinde
Advocate for Respondent No.3 : Mr. U.S. Mote
Advocate for Respondent Nos.4 to 6 : Mr. S.S. Thombre

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

DATE : 08-09-2022

ORAL ORDER (PER SANDEEP V. MARNE, J.) :

. By the present petition, the petitioner seeks payment of subsistence allowance during the period from 18.09.2014 to 30.11.2018. The petitioner's services were terminated on 18.09.2014. The termination order was set aside by the School Tribunal by order dated 03.08.2017. The petitioner was held to be entitled for subsistence allowance as per the rules.

2. By the order dated 01.03.2019 passed in Writ Petition No.468 of 2018 this Court directed conduct of *de novo* enquiry. In respect of the period from 01.12.2018 onwards, the Management was directed to forward proposal for payment of subsistence allowance and there is no dispute that subsistence allowance for the period from 01.12.2018

onwards has been paid. In respect of the period from the date of termination i.e. 18.09.2014 till 30.11.2018, this Court directed in its order dated 01.03.2019 that the same would be subject matter of further litigation and the petitioner was granted liberty to put forth such a claim before the appropriate Court. In pursuance of the said liberty, this petition has been filed.

3. It is axiomatic in service jurisprudence that when an enquiry is set aside on the ground of non-following of the principles of natural justice and the same is remanded, the intervening period is required to be treated as suspension. Since the period is to be treated as suspension, natural corollary is to pay subsistence allowance. There is no doubt that the employer employee relationship subsisted upto 30.06.2020 when the petitioner has been again terminated and such termination is a subject matter of challenge before the Tribunal. Since the employer employee relationship subsisted till 30.06.2020 and since the period between 18.09.2014 to 30.11.2018 has to be treated as suspension, the petitioner is required to be paid subsistence allowance in respect of that period.

4. In view of the above, the Respondent - Management is directed to submit a proposal of the petitioner for payment of subsistence allowance during the period from 18.09.2014 to 30.11.2018

within a period of four weeks from today. Upon receipt of such proposal, the Respondent - Education Officer to decide the same within a period of four weeks from the date of receipt of such proposal.

5. Writ Petition is allowed accordingly.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE