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

904 WRIT PETITION NO.10416 OF 2019

**BALAJI KISANRAO MALI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr S. S. Jadhavar, Advocate for petitioner;
Mrs M. A. Deshpande, A.G.P. for respondent Nos.1 & 2
Mr J. R. Patil, Advocate for respondent Nos.3 & 4

**CORAM : RAVINDRA V. GHUGE
AND
S. G. DIGE, JJ.**

DATE : 5th April, 2022

PER COURT:

1. We have considered the submissions of the learned Counsel for the respective sides.
2. There is no dispute that Appeal No.454/2004 filed by the petitioner before the learned School Tribunal was allowed by the Judgment dated 30/11/2005. His termination dated 15/12/2004 was quashed and set aside and he was granted reinstatement in service with continuity and full backwages. The Deputy Director of Education has preferred Writ Petition No.6522/2006 and the Management has preferred Writ Petition No.3374/2006, for challenging the Judgment of the School Tribunal. Both these

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petitions have been admitted by this Court and the Judgment of the School Tribunal is stayed only to the extent of the backwages.

3. It is undisputed that the petitioner subsequently was declared surplus, upon reinstatement, on 15/10/2009 and he did not join the place where he was directed to be absorbed till 14/06/2017. He joined on 15/06/2017 and superannuated on 31/08/2021.

4. The petitioner's grievance is as regards his unpaid salaries for the period he has worked and the pension. His unpaid salaries are for the period of July 2020 to February 2021 and as is voiced below paragraph 23 in the memo of the petition.

5. When it comes to money matters, it does not call for any debate that this Court would not act as an Executing Court or deal with the writ petition, as if it is a recovery suit. Unless amounts are plainly admitted and there is no dispute about the amounts to be paid, that this Court would not indulge in issuing a direction.

6. We noticed from paragraph 23 that, there is some dispute between the Management and the petitioner as well as the Management and the Education Department as regards the

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individual approval of the appointment of the petitioner. We, therefore, grant liberty to the petitioner to approach the Education Department and place adequate material to indicate that he was not paid for the periods or was paid as a part-timer, as is set out under paragraph 23.

7. Insofar as pensionary benefits of the petitioner are concerned, as the Judgment of the School Tribunal is the subject matter of adjudication in the two petitions mentioned above that have been admitted by this Court, we are permitting the Management to process the pension papers of the petitioner to the extent of releasing the provisional pension, since it is a matter of speculation as to when would the two petitions be decided considering the pendency before this Court.

8. In view of the above, this petition is disposed off with the following directions :-

(a) With regard to the grievance set out in paragraph 23 of this petition, the petitioner is at liberty to approach the Education Department or avail of a remedy as may be permissible in law, for seeking recovery of the said amounts.

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(b) The Education Department shall forthwith clear the salary bills of the petitioner for the period July 2020 till February 2021 and ensure that payment is made, on or before 10/05/2022.

(c) The Management would process the pension papers of the petitioner to the extent of provisional pension and the competent authority would process the same so as to ensure that the provisional pension is paid to the petitioner, on or before 30/06/2022.

(d) The proposal forwarded by the Management to the Education Department, seeking an approval of the petitioner, which is unconnected with the reason of his termination, shall also be processed by the Education Department on its own merits and the decision be arrived at, on or before 31/05/2022.

9. It be noted that, if the petitioner suffers an adverse Judgment before the learned Single Judge in the above mentioned two petitions, and consequentially is held to be dis-entitled for the pensionary benefits, the provisional pension being paid to him under the order of this Court shall not be recoverable.

(S. G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)

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