

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

949 CIVIL APPLICATION NO.2732 OF 2022
IN WRIT PETITION NO.2679 OF 2020

QUAZI RAFIUDDIN QUAZI ZAKIUDDIN
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Advocate for the applicant : Mr.V.A.Dhakne
AGP for Respondent-State : Mr.A.S.Shinde

...
**CORAM : S.V.GANGAPURWALA &
S.G.DIGE, JJ.**

DATE : 25.02.2022

P.C. :

1] Mr.Dhakne, learned counsel for the applicant submits that salary for the period from 2014 to 2018 i.e. the petitioner was declared surplus and was not absorbed, has remained to be claimed in the Writ Petition. The same is sought by way of amendment.

2] According to the learned counsel for the applicant, in the year 2014 only order was passed by the Education Officer to absorb the applicant in Saleem Urdu High School, Shivana, Tq.Sillod, but respondent did not allow petitioner to join the said school. The applicant is not at fault.

3] The applicant was declared surplus pursuant to Rule 25-A of the Maharashtra Employees of Private School [Conditions of Service] Rules, 1981. In that event, the applicant stands retrenched. He would not have right to claim retrenchment till the date of absorption. The applicant was absorbed under order of the year 2014. However, it is the contention of the applicant that the applicant was not allowed to join the school. Subsequently, fresh order is issued in the year 2018. The applicant is paid salary from the year 2018. It appears that the order of absorption is accepted by the applicant and also had not made any grievance in the Writ Petition, that was pending on the said date i.e. Writ Petition No.6772 of 2016. As such the applicant now cannot turn around or contend otherwise.

4] In case the applicant was directed to be absorbed and not absorbed, then the claim of the petitioner can be considered on merits. For the payment of salary during the said period, the applicant is permitted to amend the petition and prayer clause to that extent only.

5] Civil application is disposed of.

[S.G.DIGE, J.]

[S.V.GANGAPURWALA, J.]