

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
906 WRIT PETITION NO.13612 OF 2019**

NILESH SUDHAKAR PALVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr.S.R. Andhale, advocate for the petitioner
Mr.S.G. Sangle, AGP for respondent nos.1 to 3.
Mr.P.P. Nangare, advocate for respondent nos.4 and 5.

...

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

DATE : 31.03.2022

P.C. :

1. We have briefly heard this matter.
2. It is an admitted position that the petitioner was voluntarily unauthorizedly absent from 2012 till 2018 for six years. The school Management did not initiate action against him, nor did it conclude that the petitioner had abandoned employment. He was reinstated in June, 2018. The learned advocate for the Management further submits that since July, 2019, the petitioner is unauthorizedly absent till today.
3. The learned advocate for the petitioner submits by way of an explanation that from 24.07.2019, he was initially absent as he was disturbed.
4. By this petition, the petitioner has put-forth

prayer clauses “A” and “B” as under :-

“A. By issuing writ of mandamus or any other writ, order or directions in the like nature, this Hon’ble Court may be pleased to direct the respondents to pay the entire unpaid monthly salary along with arrears to the petitioner and also to direct the respondents to include the name of petitioner in Shalartha Pranali by removing the deficiencies.”

B. Pending hearing and final disposal of this Writ-Petition, this Hon’ble Court may be pleased to direct the respondents to pay the entire unpaid monthly salary along with arrears of the petitioner.”

5. We find that there are several disputed issues raised in this petition. Firstly, as to whether the continued admitted unauthorized absent of the petitioner from 2012 till 2018 could create a break in service. Secondly, whether he would be entitled for continuity of service after, the Management allowed him to report for duties from June, 2018. Thirdly, whether, the Management prevented him from reporting for duties or whether he has been absent from 24.07.2019 on account of being disturbed. Fourthly, whether this could amount to an oral termination at the behest of the Management.

6. In the backdrop of such issues, we do not find that we can exercise our extraordinary jurisdiction by directing the Education Officer to include the name of the

petitioner in the Shalarth Pranali.

7. In this circumstances, as the petitioner has not tendered the requisite documents to the Management, which were necessary for sending his proposal for inclusion in the Shalarth Pranali, we direct the petitioner to submit the necessary documents, to which he is agreeable, within 15 days to the Headmaster of the school who would not refuse to accept the documents. The learned advocate for the petitioner submits, on instructions, that he would also tender an undertaking that he would regularly attend the school, mark his attendance and perform duties of the post on which he has been appointed.

8. As such, the Management shall forward the proposal of the petitioner to the Education Officer for his inclusion in the Shalarth Pranali and the Education Officer shall deal with the said proposal strictly in accordance with it's merits and the rules applicable. If the Education Officer clears the proposal of the petitioner, the issue of payment of arrears of salary will be looked into strictly in accordance with the rules.

9. The Writ Petition is disposed off in the above terms.

(S.G.DIGE, J.)

(RAVINDRA V. GHUGE, J.)