

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 4208 OF 2019

(Syed Mujahid Syed Basit ..vs.. The Chief Executive Officer, ZP, Yavatmal and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.R. Deshpande, Counsel for the petitioner,
None for the respondents.

**CORAM : ROHIT B. DEO &
ANIL L. PANSARE, JJ.**
DATED : 03-08-2022

Heard Mr. A.R. Deshpande, learned Counsel for the petitioner.

2. The petitioner is seeking a direction to the respondents to release the amount of salary for the period 09-9-2016 to 02-3-2017.

3. The backdrop is that vide order dated 28-7-2016 the petitioner was transferred from Zilla Parishad Urdu Primary School, Wadgaon Road, Yavatmal to Zilla Parishad Urdu School, Ralegaon, Yavatmal, which order was served on 08-9-2016. According to the respondents, the petitioner was relieved from the school at Wadgaon Road on 08-9-2016, and was expected to join the place of transfer immediately.

4. The petitioner approached this Court in Writ Petition 5482/2016 challenging the order of transfer,

which petition was allowed vide order dated 02-3-2017.

5. The petitioner is claiming salary for the period mentioned supra, on the premise that he was always ready and willing to join at the transferred post at Ralegaon, and as a fact was not allowed to join. The petitioner is relying on communications dated 05-1-2017 and 09-1-2017 addressed to respondent 1 and respondent 3 respectively.

6. The respondents have stated on oath that it was only on 05-1-2017 that the petitioner expressed willingness to join at the place of transfer, and while he would be paid the salary for the period 05-1-2017 to 02-3-2017, he is not entitled to salary for the period 09-9-2016 to 04-1-2017 on the principle of 'no work no pay'.

7. It would not be possible for us to resolve the disputed question of fact. We note that apart from the statement on oath, there is no documentary material at this stage, or for that matter any other corroborative material to show that the petitioner was ready and willing to join at the place of transfer even on the day he was relieved. We are clearly faced with a situation in which there is an oath against oath.

8. We, therefore, dispose of the petition with a direction to the respondents to pay the petitioner salary

for the period 05-1-2017 to 02-3-2017 and reserve liberty with the petitioner to take out appropriate proceedings in an appropriate forum for the claim for the period 09-9-2016 to 04-1-2017.

9. The petition is partly allowed and disposed of accordingly.

(ANIL L. PANSARE, J.)

(ROHIT B. DEO, J.)

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