

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

WRIT PETITION NO. 5152 OF 2022

Ramchandra S/o Govindrao Madje,
Age : 68 Years, Occ. Retired,
R/o. At post Tirth (Bk), Tq. Tuljapur,
Dist. Osmanabad. .. Petitioner

VERSUS

1. The State of Maharashtra,
Through Collector,
Employment Guarantee Scheme (EGS)
Osmanabad, Dist. Osmanabad.
2. Deputy Collector,
Employment Guarantee Scheme (EGS)
Osmanabad, Dist. Osmanabad.
3. Superintending engineer/Administrator
Command Area Development Authority,
Latur.
4. Executive Engineer,
Osmanabad Irrigation Department No.2,
Umerga, Dist. Osmanabad. .. Respondents

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Advocate for the petitioner : Sachin S. Deshmukh
AGP For Respondent Nos. 1 and 2 : Mr. A. S. Shinde
Advocate for Respondent Nos. 3 and 4 : Mr. S.G. Bhalerao

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**CORAM : R. G. AVACHAT AND
SANDIPUKUMAR C. MORE, JJ.**

DATED : MARCH 27, 2025

ORDER:-

1. Leave to correct the name of the petitioner.

2. Heard the learned counsel for the petitioner and learned Advocate for the respondent as well.

The petition has been filed mainly for the following reliefs :-

(A) By issuance of writ of mandamus or writ in the like nature, it be directed to the respondent authorities to confer the service benefits upon the petitioner in its entirety, while conferring the service benefits from the initial date of appointment till the date of attaining the age of superannuation in the light of the proposal submitted by the respondent authorities forthwith; and for that purpose issue necessary directions.

(A1) By issuance of appropriate writ order in the like nature quash and set aside the impugned communication dated 12.07.2022 Exh-F and consequential communication if any refusing the service benefits upon the petitioner with further directions to confer the service benefits in its entirety; and for that purpose, issue necessary directions.

3. The petitioner was one of the accused, in Session Case, No. 195/1999 tried for the offences punishable under Sections 302, 147 & 148 read with Section 149 of the Indian Penal Code.

4. The learned Adhoc Sessions Judge, Osmanabad convicted the appellant. The respondent-Department suspended the petitioner vide order dated 7.7.2009 with retrospective effect from the date, the petitioner was arrested in connection with the crime i.e. on 2nd March 1999. Due to the petitioner's conviction, the Department/Competent Authority terminated/dismissed him from the service. The petitioner was successful in appeal against conviction. His appeal was allowed by the High Court vide its judgment and order dated 12th February

2018.

5. Consequently, the respondent-Department issued the order revoking the petitioner's dismissal, vide order dated 20th March 2020. The said order is, however, silent as regards counting of service of the petitioner during which he was not on duty on account of suspension and consequential dismissal, due to his conviction.

6. The learned Advocate for the contesting respondents would submit that the factum of arrest of petitioner was suppressed by him from the Department, during the period from the period 2.3.1999 to 17.3.2006, and therefore, the order was justified.

7. In our considered view, when the petitioner has been acquitted of the offence and no Departmental Enquiry was held against the petitioner, he would be entitled for restoration of all the benefits, of which he was deprived, on account of order of his dismissal from service. However, in our view, the principle of '*no work no pay*' would govern the field in this case and petitioner shall not be given actual monetary benefits for the period of his absence on duty.

8. Now it is informed that the petitioner superannuated on 31st March 2011. In view of the same, we make it clear that the period during which he had actually served with the Department and has been paid with the salary therefor shall not be recovered from him. We hold that the petitioner entitled for fixation of his pay notionally to the date of his superannuation and grant of pensionary benefits,

accordingly.

9. With this, Writ Petition stands disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(R. G. AVACHAT)
JUDGE

Y.S. Kulkarni